



No.  
Nelson Registry

**In the Supreme Court of British Columbia**

Between

Royal Bank of Canada

Petitioner

and

Eric Espersen  
Karen Espersen  
Mike Hewitt

Respondents

**PETITION TO THE COURT**

Name and address of each petitioner

Royal Bank of Canada  
Transit #06114  
2nd Floor, Tower 2  
6880 Financial Dr.  
Mississauga, Ontario  
L5N 7Y5

ON NOTICE TO:

Name and address of each person to be served

See Schedule

**This proceeding has been started by the petitioner(s) for the relief set out in Part 1 below.**

- If you intend to respond to this petition, you or your lawyer must
- (a) file a response to petition in Form 67 in the above-named registry of this court within the time for response to petition described below, and
  - (b) serve on the petitioner(s)
    - (i) 2 copies of the filed response to petition, and
    - (ii) 2 copies of each filed affidavit on which you intend to rely at the hearing.

**Orders, including orders granting the relief claimed, may be made against you, without any further notice to you, if you fail to file the response to petition within the time for response.**

**Time for response to petition**

A response to petition must be filed and served on the petitioner(s),

- (a) if you were served with the petition anywhere in Canada, within 21 days after that service,
- (b) if you were served with the petition anywhere in the United States of America, within 35 days after that service,
- (c) if you were served with the petition anywhere else, within 49 days after that service, or
- (d) if the time for response has been set by order of the court, within that time.

(1) The address of the registry is:  The Law Courts 320 Ward Street, Nelson, BC V1L 1S6
(2) The ADDRESS FOR SERVICE of the petitioner is:  McMILLAN LLP, Barristers and Solicitors Suite 1500, 1055 West Georgia Street P.O. Box 11117 Vancouver, BC V6E 4N7 (Attention: Lindsay D. Goldberg)  Fax number address for service (if any) of the petitioner: (604) 685-7084
(3) The name and office address of the petitioner's lawyer is:  Same as address for service.

CLAIM OF THE PETITIONER(S)

**Part 1: ORDER(S) SOUGHT**

1. A Declaration that the mortgage ("Mortgage") dated August 17, 2007, made between the Respondents, Eric Espersen and Karen Espersen, as mortgagors and the Petitioner, as mortgagee, and registered in the Nelson Land Title Office on August 22, 2007 under number CA544609 is a Mortgage charging those lands and premises ("Lands") within the Province of British Columbia, more particularly known and described as:

Nelson Trail Assessment Area Parcel Identifier: 013-753-177 The West 1/2 of the Northwest 1/4 of Section 12 Township 69 Kootenay District Except Parcel A (See 164186I)

in priority to any right, title or interest of any of the Respondents in the Lands.

2. A Declaration that the Mortgage is in default and of the amount of money due and owing under the Mortgage and of the amount of money required to redeem the Lands.
3. An Order that the last date for redemption be one day after the date of pronouncement of any order made herein.
4. An Order that the Respondents, Eric Espersen and Karen Espersen, and each of them, forthwith pay to the Petitioner, the sum of \$367,868.37 due as at September 27, 2012 under the Mortgage plus interest accruing after September 27, 2012 at the rate of 5.35% per annum, calculated half-yearly, not in advance together with the Petitioner's costs of this proceeding to the date of the hearing of the petition assessed on a party and party basis plus such further costs as may be awarded thereafter.
5. An Order that the Petitioner's costs of this proceeding to the date of the hearing of the petition assessed on a party and party basis plus such further costs as may be awarded thereafter form a part of the amount of money required to redeem the Lands.
6. An Order that upon the Respondents, or any of them, paying to the solicitor of record for the Petitioner or, if no such solicitor exists then either to the Petitioner or into Court to the credit of this proceeding at the Court Registry, Courthouse, Nelson, in British Columbia, the amount required to redeem the Lands as aforesaid, together with the costs of this proceeding to the date of the hearing of the petition assessed on a party and party basis plus such further costs as may be awarded thereafter, on or before pronouncement of either Order Absolute of Foreclosure or an Order confirming the sale of the Lands, the Petitioner shall reconvey the Lands free and clear of all encumbrances in favour of it or by any person claiming by, through or under it to the Respondent or Respondents that made payment.
7. An Order that if the Lands not be redeemed, the Petitioner shall be at liberty to apply for an Order Absolute of Foreclosure and upon pronouncement of Order Absolute of Foreclosure the Respondents and all persons claiming by, through or under them shall henceforth stand absolutely debarred and foreclosed of and from all right, title, interest and equity of redemption in and to the Lands and that thereupon the Petitioner do recover vacant possession of the Lands.

8. An Order that the Petitioner be granted liberty to apply to this Court for a further summary accounting of any amounts which become due to the Petitioner for interest, taxes, arrears of taxes, insurance premiums, costs, charges, expenses or otherwise since the date of pronouncement of this Order.
9. An Order that the Petitioner's entitlement to costs in this proceeding awarded after the date of the hearing of the petition, including any award for future costs to be assessed at a rate in excess of that allowed at the hearing of the petition, be reserved.
10. A Certificate of pending litigation.
11. An Order for possession of the Lands.
12. An Order for Sale of the Lands, subject to the approval of this Honourable Court, with the Petitioner having exclusive conduct of sale.
13. An Order for the appointment of a Receiver.
14. A Declaration that the 1967 Knight, Knight Schmidt manufactured home, serial number 6312717 *Manufactured Home Act* registration number 008480, is affixed to, and forms part of, the Lands.

**Part 2: FACTUAL BASIS**

1. The Petitioner, Royal Bank of Canada, is a chartered bank having an address at Transit #06114, 2nd Floor, Tower 2, 6880 Financial Dr., Mississauga, Ontario.
2. The Respondents, Eric Espersen and Karen Espersen, are the registered owners of the Lands.
3. Pursuant to the Mortgage, the Respondents, Eric Espersen and Karen Espersen, did grant and mortgage unto the Petitioner the Lands.
4. The Mortgage is in default because the Respondents, Eric Espersen and Karen Espersen, failed to make instalment payments of principal and interest when due under the Mortgage.

5. By virtue of the provisions of the Mortgage, upon such default the whole of the amount secured by the Mortgage becomes immediately due and payable at the option of the Petitioner and the same is now due and payable but has not been paid.

6. The principal sum advanced under the Mortgage was \$380,000.00 and the total sum due under the Mortgage is \$367,868.37 as at September 27, 2012.

7. The interest due upon the said sum of \$367,868.37 is at a rate of 5.35% per annum, calculated half-yearly not in advance, which is an amount of \$65.96 per day as at September 27, 2012.

8. The said amounts claimed under the Mortgage do not include any penalty, bonus, legal expenses incurred in connection with this proceeding or other protective disbursements.

9. The Respondent, Mike Hewitt, occupies the Lands as a residential tenant.

10. The 1967 Knight, Knight Schmidt manufactured home, serial number 6312717 *Manufactured Home Act* registration number 008480, is affixed to, and forms part of, the Lands.

11. There are no other persons having an interest in the Lands with respect to which the Mortgage has priority.

**Part 3: LEGAL BASIS**

1. *Rules of Court*, Rules 10-2 and 21-7 and 22-5.

**Part 4: MATERIAL TO BE RELIED ON**

1. Affidavit #1 of Rima Ramchandani, to be sworn.

The petitioner estimates that the hearing of the petition will take 1 minute if unopposed.

Date: November 19, 2012

“Alistair D. Taylor”

\_\_\_\_\_  
Signature of lawyer for petitioner(s)

Alistair D. Taylor

***To be completed by the court only:***

Order made  
 in the terms requested in paragraphs \_\_\_\_\_ of Part 1 of this petition  
 with the following variations and additional terms:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Date: \_\_\_\_\_

Signature of  Judge  Master

**ENDORSEMENT ON ORIGINATING PROCESS  
FOR SERVICE OUTSIDE BRITISH COLUMBIA**

The petitioner claims the right to serve this pleading/petition on the respondents or any of them outside British Columbia on the ground that the proceeding is brought to enforce, assert, declare or determine proprietary or possessory rights or a security interest in property in British Columbia that is immovable or movable property and to enforce any deed, will, contract or other instrument in relation to property in British Columbia that is immovable or movable property (*Court Jurisdiction and Proceedings Transfer Act*, s. 10(a)).

## Schedule

Eric Espersen  
301 Langille Road  
RR1 Site 4 Comp 4  
Edgewood, BC  
VOG 1J0

Karen Espersen  
301 Langille Road  
RR1 Site 4 Comp 4  
Edgewood, BC  
VOG 1J0

Mike Hewitt  
307 Langille Road  
(Mobile Home)  
Edgewood, B.C.  
VOG 1J0

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Nelson Registry

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**In the Supreme Court of British Columbia**

Between

Royal Bank of Canada

Petitioner

and

Eric Espersen and others

Respondents

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**PETITION**

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**Lindsay D. Goldberg**  
**McMILLAN LLP**  
Barristers & Solicitors  
Suite 1500  
1055 West Georgia Street  
P.O. Box 11117  
Vancouver, BC  
V6E 4N7  
(604) 689-9111

File No.: 45303-212758

LDG:sb