



Court of Appeal File No.  
Supreme Court File No. S132760  
Supreme Court Registry: Vancouver

**COURT OF APPEAL**

AMONG:

JEKE ENTERPRISES LTD. as representative  
of approximately 300 owners/leaseholders  
in Riverside Villas, Hillside Villas and  
Riverview Villas in Fairmont Hot Springs

Appellant  
(Owner)

AND:

PHILIP K. MATKIN PROFESSIONAL CORPORATION

Respondent  
(Petitioner)

AND:

NORTHMONT RESORT PROPERTIES LTD.

Respondent  
(Respondent)

**NOTICE OF APPEAL**

Take Notice that the Appellant, Jeke Enterprises Ltd. hereby appeals to the Court of Appeal for British Columbia from the Order of The Honourable Madam Justice Loo of the Supreme Court of British Columbia pronounced the 15<sup>th</sup> day of November, 2013 at Vancouver, British Columbia.

1. The appeal is from a:

- Trial Judgment     Summary Trial Judgment  
 Order of a Statutory Body     Chambers Judgment

2. If the appeal is from an appeal under Rule 18-3 or 23-6(8) of the Supreme Court Civil Rules or Rule 18-3 or 22-7(8) of the Supreme Court Family Rules, name the maker of the original decision, direction or order: N/A

3. Please identify which of the following is involved in the appeal:

Constitutional/Administrative  Civil Procedure  Commercial

Family -  Divorce  Family Relations Act  Corollary Relief in a Divorce Proceeding

Motor Vehicle Accidents  Municipal Law  Real Property

Torts  Equity  Wills and Estates

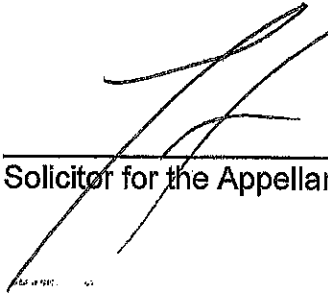
(The Divorce Registry will, as applicable, be notified by the Court of Appeal Registry on filing if the appeal involves divorce, corollary relief in divorce proceeding or matters under the *Family Relations Act*)

And further take notice that the Court of Appeal will be moved at the hearing of this appeal for an Order that:

1. The Order of Madam Justice Loo be set aside.
2. The special case based on hypothetical assumptions is not appropriate and should not have been decided.
3. The facts comprising the special case were insufficient to answer the questions presented in the special case.
4. In the alternative, the answers to the questions stated in the special case be answered as follows:
  - a) Northmont Resort Properties Ltd. is not entitled to levy the cancellation fee.
  - b) Northmont Resort Properties Ltd. is not entitled to levy the renovation project fee.
5. For costs in this Court and in the Court below.

The hearing of this special case occupied 3 days.

Dated at Victoria, British Columbia, this 12<sup>th</sup> day of December, 2013.



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Solicitor for the Appellant

To the Respondent: Philip K. Matkin Professional Corporation  
And to its solicitor: W. B. Millman

To the Respondent: Northmont Resort Properties Ltd.  
And to its solicitors: J.E. Virtue and C. Pearce

This Notice of Appeal is given by:

L. John Alexander and Lindsay R. LeBlanc

Whose address for service is:

Cox, Taylor,  
Barristers and Solicitors  
Third Floor, Burnes House  
26 Bastion Square  
Victoria, British Columbia  
V8W 1H9

and by:

Michael W. Geldert

Whose address for service is:

Geldert Law  
2704A, 930 Seymour Street  
Vancouver, British Columbia  
V6B 1B4

To the Respondents:

IF YOU INTEND TO PARTICIPATE in this appeal, YOU MUST GIVE NOTICE of your intention by filing a form entitled "Notice of Appearance" (Form 2 of the Court of Appeal Rules) in a Court of Appeal registry and serve the Notice of Appearance on the Appellant WITHIN 10 DAYS of receiving this Notice Appeal.

IF YOU FAIL TO FILE A NOTICE OF APPEARANCE

- (a) you are deemed to take no position on the appeal, and
- (b) the parties are not obliged to serve any further documents on you.

The filing registries for the British Columbia Court of Appeal are as follows:  
Central Registry:

B.C. Court of Appeal  
The Law Courts  
800 Smithe Street  
Vancouver, British Columbia  
V6Z 2E1

Other Registries:

B.C. Court of Appeal  
The Law Courts  
P.O. Box 9248 STN PROV GOVT  
850 Burdett Avenue  
Victoria, BC V8W 1B4

B.C. Court of Appeal  
223 - 455 Columbia Street  
Kamloops, BC V2C 6K4

Inquiries should be addressed to (604) 660-2468  
Fax filings: (604) 660-1951