

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

**IN THE MATTER OF THE *CONSTRUCTION LIEN ACT*,
R.S.O. 1990, c. C.30, AS AMENDED**

**AND IN THE MATTER OF AN APPLICATION MADE BY 144 PARK LTD.
FOR THE APPOINTMENT OF A TRUSTEE UNDER SECTION 68(1) OF THE
CONSTRUCTION LIEN ACT, R.S.O. 1990, c. C.30, AS AMENDED**

MOTION RECORD
(returnable August 16, 2016)

August 11, 2016

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**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

**IN THE MATTER OF THE *CONSTRUCTION LIEN ACT*,
R.S.O. 1990, c. C.30, AS AMENDED**

**AND IN THE MATTER OF AN APPLICATION MADE BY 144 PARK LTD.
FOR THE APPOINTMENT OF A TRUSTEE UNDER SECTION 68(1) OF THE
CONSTRUCTION LIEN ACT, R.S.O. 1990, c. C.30, AS AMENDED**

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TAB 1

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

IN THE MATTER OF THE *CONSTRUCTION LIEN ACT*,
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AND IN THE MATTER OF AN APPLICATION MADE BY 144 PARK LTD.
FOR THE APPOINTMENT OF A TRUSTEE UNDER SECTION 68(1) OF THE
***CONSTRUCTION LIEN ACT*, R.S.O. 1990, c. C.30, AS AMENDED**

NOTICE OF MOTION
(returnable August 16, 2016)

COLLINS BARROW TORONTO LIMITED (“CBTL”), in its capacity as Court-appointed *Construction Lien Act* (Ontario) (the “*CLA*”) trustee in this proceeding (the “**Trustee**”) will make a motion to a Judge of the Commercial List on Wednesday August 16, 2016 at 10:00 a.m., or as soon after that time as the motion can be heard, at 330 University Avenue, Toronto, Ontario.

PROPOSED METHOD OF HEARING: The motion is to be heard orally.

THE MOTION IS FOR:

- (a) an order abridging the time for service of this notice of motion and the motion record so that the motion is properly returnable on August 16, 2016;

- (b) an order authorizing the Trustee to utilize, at its discretion, certain marketing initiatives suggested by Mint Realty Inc. Brokerage ("**Mint Realty**") to generate additional interest in the Remaining Units (as defined below);
- (c) an order vesting the right, title and interest of 144 Park Ltd. ("**144 Park**") in residential condominium unit known as suite 609, and locker unit known as unit 37, level 2, in and to Michael George Green free and clear of all claims and encumbrances (except for permitted encumbrances) upon delivery of a Trustee's certificate to the purchaser;
- (d) an order amending the Vesting Order (re suite 1902) dated July 21, 2016 (the "**Vesting Order Suite 1902**") to correct a typographical error in Schedule "B" to the order;
- (e) an order amending the Vesting Order (re suite 810) dated July 21, 2016 (the "**Vesting Order Suite 810**") to include the middle name of the purchaser in the order;
- (f) an order authorizing the Trustee to withdraw from the Reserve (as defined below) the amount of \$10,400.86 and to deposit these funds into the Trustee's trust account to pay for costs of administration or for future distribution to mortgagees; and
- (g) such further and other relief as counsel may request and this Honourable Court may permit.

THE GROUNDS FOR THE MOTION ARE:

Background

1. 144 Park was the owner of a 19-storey residential condominium project containing 148 residential units and a guest suite.
2. On January 22, 2015, CBTL was appointed as Trustee under the *CLA* with respect to lands and premises owned by 144 Park known municipally as 142, 144 and 148 Park Street and 21 Allen Street West, Waterloo, Ontario, and legally described in Schedule “A” to the Appointment Order (the “**Property**”) pursuant to the Order of The Honourable Mr. Justice Penny dated January 22, 2015.
3. There were 128 units that were the subject of agreements of purchase and sale between 144 Park and purchasers (“**144 Sale Agreements**”), and 20 unsold units (the “**Unsold Units**”).
4. Upon its appointment, the Trustee was authorized and empowered by the Court to, among other things, complete the sale transactions with respect to the 144 Sale Agreements.
5. Pursuant to the Order of The Honourable Mr. Justice Newbould dated August 5, 2015 (the “**August 5th Order**”), the Trustee was authorized by the Court to retain and engage Mint Realty to market any of the Unsold Units.
6. To date, the Trustee has closed the sale of 125 residential units. Of the remaining 23 residential units, five (5) units are subject to agreements of purchase and sale with the Trustee.

7. In the event that these sale transactions are closed by the Trustee, there will be eighteen (18) residential units still to be sold by the Trustee (the “**Remaining Units**”).

Marketing of the Remaining Units

8. The first and second mortgagees of the Property have communicated their preference for the Trustee to decrease the amount of time it takes to complete sale transactions for the Remaining Units.
9. Minty Realty has recommended the following three marketing initiatives to the Trustee as potential ways to increase the rate of sales of the Remaining Units: (i) increase in the amount of commission paid to cooperating agents; (ii) purchaser cash back incentive offers; and (iii) increase in marketing budget.
10. The mortgagees are supportive of the Trustee implementing one or all of the proposed marketing initiatives. The Trustee is requesting the Court’s authorization to utilize the marketing initiatives at its discretion.

Sale of Suite 609

11. As of the date of the Appointment Order, there were 128 units that were the subject of 144 Park Sale Agreements, which included suite 609.
12. Pursuant to the Order of Justice Newbould dated October 16, 2015, the Trustee was authorized, if necessary, to terminate the existing agreement of purchase and sale for suite 609.
13. Following the granting of the Order and discussions with the Trustee, the purchaser agreed to terminate its agreement of purchase and sale and have its deposit returned.

14. Pursuant to the Order of The Honourable Madam Justice Mesbur dated December 3, 2015, the Trustee was authorized by the Court to sell, convey, or transfer the “Remaining Units” (which was defined to include suites 609) or any part or parts thereof without the approval of the Court if the purchase price is within 95% of the listing price for the residential unit or the Trustee has obtained the written consent of the first mortgagee of the Property or its assignee.
15. The Trustee has entered into an agreement of purchase and sale with respect to suite 609 with a purchase price that is 99% of the listing price.
16. To complete the sale, the Trustee requires the Court to grant a vesting order with respect to the transaction.

Suites 1902 and 810

17. Pursuant to the Vesting Order Suite 1902, the Court ordered that the right, title and interest of 144 Park in residential condominium unit known as suite 1902, parking unit known as unit 22, level A, and locker unit known as unit 81, level A, would vest in and to Mark Barrenechea free and clear of all claims and encumbrances (except for permitted encumbrances) upon delivery of a Trustee’s certificate to the purchaser.
18. There is typographical error in Schedule “B” to the order, as the storage unit to be transferred to the purchaser was mistakenly described as unit 816, level A, when it should be unit 81, level A.
19. The Trustee requests that the Court grant an order amending the Vesting Order Suite 1902 to correct the description of the storage unit to unit 81, level A.

20. Pursuant to the Vesting Order Suite 810, the Court ordered that the right, title and interest of 144 Park in residential condominium unit known as suite 810, parking unit known as unit 37, level 1, and locker unit known as unit 28, level 2, would vest in and to Janice Richards free and clear of all claims and encumbrances (except for permitted encumbrances) upon delivery of a Trustee's certificate to the purchaser.
21. The purchaser has advised that she wishes to take title to the property in her full name, "Janice Maureen Richards".
22. As a result, the Trustee requests that the Court grant an order amending the Vesting Order Suite 810 to reflect that the purchaser's name is "Janice Maureen Richards".

Transfer of Reserve Amount

23. The Trustee was authorized by the Court to implement and administer a construction lien claims process. Pursuant to the August 5th Order, the Trustee was authorized and directed to retain \$5.4 million from net sale proceeds of the Property in an interest bearing trust account in respect of construction lien claims pending further order of the Court (the "**Reserve**").
24. In accordance with Court orders granted in this proceeding, the Trustee has distributed the funds in the Reserve to construction lien claimants and the first mortgagee, with the exception of \$119,189 plus accrued interest that is still being held with respect to the claims of three construction lien claimants.
25. One such claimant is Sam Tortola Enterprises Inc. ("**Tortola**"), whose holdback claim was for \$10,400.86 (the "**Funds**").

26. The Trustee issued a formal disallowance notice to Tortola with respect to its construction lien claim on February 25, 2016. Pursuant to the Order (re Construction Lien Claims Process) of The Honourable Mr. Justice Wilton-Siegel dated April 23, 2015, the timeline for Tortola to send a notice of dispute has expired and Tortola has been deemed to have accepted the Trustee's determination with respect to its construction lien claim, which is final and binding.
27. As a result, the Trustee requests that the Court grant an order authorizing the Trustee to transfer the Funds from the Reserve to its trust account to be used to pay for costs of administration or for future distribution to mortgagees as previously authorized by the Court.

General

28. The Twelfth Report of the Trustee dated August 10, 2016 (the "**Twelfth Report**").
29. Rules 1.04, 1.05, 2.01, 2.03, and 37 of the *Rules of Civil Procedure* (Ontario).
30. The inherent jurisdiction of the Court.
31. Such other grounds as counsel may advise and this Honourable Court may permit.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

1. The Twelfth Report and the Appendices annexed thereto; and
2. such further and other material as counsel may advise and this Honourable Court may permit.

August 11, 2016

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TO: THE SERVICE LIST

IN THE MATTER OF THE CONSTRUCTION LIEN ACT, R.S.O. 1990, c. C.30, AS AMENDED

**AND IN THE MATTER OF AN APPLICATION MADE BY 144 PARK LTD. FOR THE APPOINTMENT OF A TRUSTEE
UNDER SECTION 68(1) OF THE CONSTRUCTION LIEN ACT, R.S.O. 1990, c. C.30, AS AMENDED**

Court File No. CV15-10843-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

Proceedings commenced at Toronto

NOTICE OF MOTION
(returnable August 16, 2016)

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**ONTARIO
SUPERIOR COURT OF JUSTICE
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**IN THE MATTER OF THE *CONSTRUCTION LIEN ACT*,
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TWELFTH REPORT OF THE TRUSTEE

August 10, 2016

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INTRODUCTION AND PURPOSE OF THE TWELFTH REPORT

1. Pursuant to the Order of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) dated January 22, 2015 (the “**Appointment Order**”), Collins Barrow Toronto Limited was appointed *Construction Lien Act* (Ontario) trustee (the “**Trustee**”) with respect to certain lands and premises owned by 144 Park Ltd. (“**144 Park**”) and known municipally as 142, 144 and 148 Park Street and 21 Allen Street West, Waterloo, Ontario, and legally described in Schedule “A” to the Appointment Order (the “**Property**”).
2. The purpose of this Twelfth Report of the Trustee (the “**Twelfth Report**”) is to request that the Court grant orders:
 - a) authorizing the Trustee to utilize, at its discretion, certain marketing initiatives suggested by Mint Realty Inc. Brokerage (“**Mint Realty**”) to generate additional interest in the Remaining Units (as defined below);
 - b) vesting the right, title and interest of 144 Park in residential condominium unit known as suite 609 and storage unit known as unit 37, level 2, in and to Michael Green, free and clear of all claims and encumbrances (except for permitted encumbrances) upon delivery of a Trustee’s certificate to the purchaser;
 - c) amending the Vesting Order (re suite 1902) dated July 21, 2016 (the “**Vesting Order Suite 1902**”) to correct a typographical error in Schedule “B” to the order;
 - d) amending the Vesting Order (re suite 810) dated July 21, 2016 (the “**Vesting Order Suite 810**”) to include the middle name of the purchaser in the order; and

- e) authorizing the Trustee to withdraw from the Reserve (as defined below) the amount of \$10,400.86 and to deposit these funds into the Trustee's trust account to pay for costs of administration or for future distribution to mortgagees as previously authorized by the Court.

TERMS OF REFERENCE

3. In preparing this Twelfth Report and making the comments herein, the Trustee has relied upon unaudited financial information, the books and records of 144 Park, discussions with management and employees of 144 Park and other companies within the MADY group of companies, and information received from third-party sources (collectively, the "Information"). Certain of the information contained in this Twelfth Report may refer to, or is based on, the Information. As the Information has been provided by 144 Park, lien claimants or other parties, the Trustee has relied on the Information and, to the extent possible, reviewed the Information for reasonableness. However, the Trustee has not audited or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with Generally Accepted Assurance Standards pursuant to the CPA Canada Handbook and, accordingly, the Trustee expresses no opinion or other form of assurance in respect of the Information.
4. Copies of all documents referred to in this Twelfth Report that are not attached hereto as appendices can be found on the Trustee's website at <http://www.collinsbarrow.com/en/toronto-ontario/toronto/144-park-ltd>, along with copies of all materials served and filed in this proceeding and Court orders and endorsements.
5. All references to dollars in this Twelfth Report are in Canadian currency.

BACKGROUND

6. As has been previously reported to the Court, 144 Park is the owner of a 19-storey residential condominium project containing 148 residential units and a guest suite.
7. Pursuant to the Appointment Order, the Trustee was authorized and empowered by the Court to, among other things:
 - a) act as receiver and manager of the Property;
 - b) take possession and control of the Property and any and all proceeds, receipts and disbursements arising out of or from the Property; and
 - c) complete the existing agreements of purchase and sale for the pre-sold residential units and related parking units and storage units that form part of the Property.
8. As of the date of the Trustee's appointment, 144 Park had entered into agreements of purchase and sale with purchasers ("**144 Park Sale Agreements**") for the sale of 129 residential units and parking and storage units to be allocated by 144 Park to the purchasers.
9. One of the sale transactions was a 144 Park Sale Agreement with a construction lien claimant, Brody Wall System Ltd., dated December 5, 2014, which was terminated by the Trustee on May 4, 2015 in accordance with the Order of Mr. Justice McEwen dated April 30, 2015.
10. As a result, there were 128 units that were the subject of 144 Park Sale Agreements, and 20 unsold units (collectively, the "**Unsold Units**").

11. The Appointment Order did not authorize or empower the Trustee to market or sell the Unsold Units.
12. Pursuant to the Order of Mr. Justice Newbould dated August 5, 2015 (the “**August 5th Order**”), the Trustee was authorized by the Court to retain and engage Mint Realty to market any of the Unsold Units on the terms and conditions of the Mint Realty Proposal (as defined in the Third Report of the Trustee dated July 30, 2015) and to sell, convey, or transfer the Unsold Units or any part or parts thereof without the approval of the Court if the purchase price is within 95% of the listing price for the residential unit or the Trustee has obtained the written consent of the first mortgagee of the Property or its assignee.

SALES UPDATE AND ADDITIONAL MARKETING INITIATIVES

Sales Update

13. Since the outset of its appointment, the Trustee has closed 119 of the 128 transactions that were subject to a 144 Park Sale Agreement. Of the remaining nine (9) transactions, one sale transaction is scheduled to close on or prior to September 30, 2016. The Trustee terminated the other eight sale transactions that were subject to a 144 Park Sale Agreement.
14. As at the date of this Twelfth Report, the Trustee has completed the sale of one residential unit that was previously subject to a 144 Park Sale Agreement and which was subsequently terminated by the Trustee. The Trustee is seeking Court approval of a sale of another similar residential unit, suite 609, as described below.

15. The Trustee has, with the assistance of Mint Realty and a contractor engaged by Mint Realty, completed five (5) of the twenty Unsold Units and has closed sale transactions with respect to these units.
16. In summary, the Trustee has closed 125 sale transactions to date:
 - a) 119 sale transactions that were previously subject to a 144 Park Sale Agreement;
 - b) one (1) sale transaction with respect to a residential unit previously subject to a 144 Park Sale Agreement that was terminated by the Trustee; and
 - c) five (5) sale transactions with respect to Unsold Units.
17. As there are 148 residential units in the Property and the Trustee has closed the sale of 125 residential units, there remain 23 residential units to be sold by the Trustee.
18. Of these 23 residential units, five (5) units are subject to agreements of purchase and sale signed by the Trustee. The Trustee has to date received the approval of the Court to complete the sale of four (4) of these units. Three of these units are scheduled to close in late August 2016 and another unit is scheduled to close in September 2016. The fifth transaction is with respect to residential unit known as suite 609 that, if a vesting order is granted by the Court as requested by the Trustee, is scheduled to close in late August 2016.
19. In the event that the sale transactions for all 5 units described in the above paragraph are closed by the Trustee, there will be eighteen (18) residential units still to be sold by the Trustee, specifically, thirteen (13) Unsold Units and five (5) units that were previously

subject to 144 Park Sale Agreements that were terminated by the Trustee (collectively, the “**Remaining Units**”).

Marketing Initiatives

20. In discussing the status of the Remaining Units with MarshallZehr Group Inc. (“**MZ**”) and Laurentian Bank of Canada (“**LBC**”), the first and second mortgagees against the Property, both MZ and LBC have asked the Trustee to consider ways in which the timing of the sales of the Remaining Units can be accelerated.
21. The Trustee has discussed with Mint Realty potential options to increase the rate of sales of the Remaining Units, and Mint Realty has recommended the following three (3) marketing initiatives:
 - a) Outside sales agent incentive – currently, pursuant to the Mint Realty Proposal, which was approved by the Court in the August 5th Order, half of the commission rate is paid by Mint Realty to cooperating agents (i.e. real estate agents acting for a purchaser) and the other half is retained by Mint Realty. Mint Realty has suggested that increasing the commission percentage to be paid to cooperating agents may provide them with additional incentive to show their clients the Remaining Units as opposed to other available residential condominiums in the Waterloo area, thereby increasing exposure to the Remaining Units and possibly increasing the number of offers received by the Trustee from potential purchasers;
 - b) Purchaser cash back incentive – Mint Realty has advised that the Trustee may want to consider providing a cash incentive to potential purchasers that close transactions with the Trustee. The cash incentive would be of a fixed amount to

be received by the purchasers after closing. The Trustee understands that this type of incentive is commonly used in the auto industry whereby an auto dealer will either reduce the purchase price of a vehicle or write a cheque to a purchaser of a vehicle for a fixed amount in order to attract a larger volume of purchasers; and

- c) Increase Mint Realty's marketing budget – pursuant to the Mint Realty Proposal, a marketing budget of \$1,000 per unit was to be paid to Mint Realty to pay for all creative and advertising costs for the units. The Trustee paid the required marketing budget amount to Mint Realty at the outset of Mint Realty's engagement by the Trustee. Mint Realty has advised that it has utilized its entire marketing budget and that additional funds are necessary to continue to effectively market the Remaining Units.
22. The Trustee shared Mint Realty's proposed marketing initiatives with MZ and LBC, and both are supportive of the Trustee implementing one or all of them in order to increase the rate of sales of the Remaining Units. MZ has informed the Trustee of its view that the cost of employing these marketing initiatives may be offset by the reduced interest costs currently being incurred on the outstanding debt owed to MZ and LBC by 144 Park.
23. The Trustee is requesting the Court's authorization to utilize any or all of the proposed marketing initiatives at the Trustee's discretion.

SALE OF SUITE 609

24. As set out in detail in the Trustee's Eleventh Report dated July 15, 2016 (the "**Eleventh Report**"), a copy of which is attached hereto (without appendices) as **Appendix "A"**, the

Trustee brought a motion for advice and direction with respect to the Trustee's ability, if necessary, to terminate existing 144 Park Sale Agreements with purchasers who had agreed to purchase two parking units due to an issue with available parking.

25. The 144 Park Sale Agreements with two parking units that were at issue included the 144 Park Sale Agreement with respect to suite 609.
26. The original purchaser for suite 609 did not take a position with respect to the Trustee's motion. As a result, pursuant to the Order of Justice Newbould dated October 16, 2015 (the "**October 16th Order**"), the Trustee was authorized, if necessary, to terminate the 144 Park Sale Agreement for suite 609.
27. Following the granting of the October 16th Order, the Trustee corresponded with the purchaser of suite 609 regarding whether they wished to purchase the suite with one parking unit, or whether they wished to consensually agree to the termination of the agreement and recover their deposit.
28. The purchaser of suite 609 agreed to terminate their 144 Park Sale Agreement and have had their deposit returned to them.
29. Pursuant to the Order of The Honourable Madam Justice Mesbur dated December 3, 2015 (the "**December 3rd Order**"), the Trustee was authorized by the Court to sell, convey, or transfer the "Remaining Units" (which was defined to include suite 609) or any part or parts thereof without the approval of the Court if the purchase price is within 95% of the listing price for the residential unit or the Trustee has obtained the written consent of the first mortgagee of the Property or its assignee.

30. The Trustee entered into an agreement of purchase and sale with Michael Green dated July 29, 2016 (the "609 APS"), for the sale of suite 609, along with a storage unit to be allocated by the Trustee. Attached hereto as **Appendix "B"** are the parcel registers for the property subject to this sale transaction.
31. The listing price for suite 609 was initially \$385,990 and included one parking unit and one storage unit. Upon the advice of Mint Realty, the Trustee reallocated the parking unit that had been allocated to suite 609 to another unit, and the listing price for suite 609 without a parking unit was revised to \$234,990.
32. The purchase price for suite 609 under the 609 APS is \$233,000, which is approximately 99% of the revised listing price. As a result, pursuant to the December 3rd Order, the Trustee has been authorized by the Court to complete this sale transaction. However, to do so, the Trustee requires the Court to grant a vesting order for the unit to be sold to Mr. Green.

SALE OF SUITES 1902 AND 810

33. As set out in the Eleventh Report, the Trustee brought a motion returnable July 21, 2016 and requested that the Court grant orders:
 - a) vesting the right, title and interest of 144 Park in residential condominium unit known as suite 1902, parking unit known as unit 22, level A, and locker unit known as unit 81, level A, in and to Mark Barrenechea, free and clear of all claims and encumbrances (except for permitted encumbrances) upon delivery of a Trustee's certificate to the purchaser; and

- b) vesting the right, title and interest of 144 Park in residential condominium unit known as suite 810, parking unit known as unit 37, level 1, and locker unit known as unit 28, level 2, in and to Janice Richards, free and clear of all claims and encumbrances (except for permitted encumbrances) upon delivery of a Trustee's certificate to the purchaser.
34. The Court granted the orders requested, which are referred to above as Vesting Order Suite 1902 and Vesting Order Suite 810, copies of which are attached hereto as **Appendix "C"** and **Appendix "D"**, respectively.
35. Following the granting and issuance of Vesting Order Suite 1902, it was discovered that there was a typographical error in Schedule "B" to that order, as the storage unit to be transferred to the purchaser was mistakenly described as unit 816, level A, when it should be unit 81, level A. As such, the Trustee requests that the Court grant an order amending the Vesting Order Suite 1902 to correct the description of the storage unit to unit 81, level A.
36. With respect to Vesting Order Suite 810, the purchaser is listed as "Janice Richards" in the order. Following the granting and issuance of Vesting Order Suite 810, the Trustee was informed through its condominium law counsel that the purchaser wished to take title to the property in her full name, "Janice Maureen Richards". As a result, the Trustee requests that the Court grant an order amending Vesting Order Suite 810 to reflect that the purchaser's name is "Janice Maureen Richards".

TRANSFER OF RESERVE AMOUNT

37. As set out in detail in the Trustee's Sixth Report dated November 30, 2015, a copy of which (without appendices), is attached hereto as **Appendix "E"**:
- a) pursuant to the Order (re Construction Lien Claims Process) of The Honourable Mr. Justice Wilton-Siegel dated April 23, 2015 (the "**Claims Process Order**"), the Trustee was authorized to implement and administer a construction lien claims process;
 - b) the Claims Process Order authorized and directed the Trustee to make recommendations to the Court regarding the determination of holdback(s) and priorities with respect to the improvement and the Property, including priorities with respect to any proceeds of sale of the Property;
 - c) pursuant to the August 5th Order, the Trustee was authorized and directed to retain \$5.4 million from net sale proceeds of the Property in an interest bearing trust account in respect of construction lien claims pending further order of the Court (the "**Reserve**");
 - d) pursuant to the Order of Justice Newbould dated October 16, 2015, the Trustee was authorized by the Court to distribute \$932,948.74 to nine construction lien claimants from the Reserve; and
 - e) pursuant to the December 3rd Order, the Trustee was authorized by the Court to distribute \$305,237.54 to eight construction lien claimants from the Reserve.

38. Certain lien claimants asserted that their full lien claim may rank in priority to a first ranking mortgage in favour of LBC on its own behalf and on behalf of National Bank of Canada, securing the principal amount of approximately \$39.0 million (the “**LBC Mortgage**”). In order to address this issue, the Trustee sought an order from the Court to establish a process whereby lien claimants could assert a claim in priority to the LBC Mortgage.
39. Pursuant to the Order (Priority Resolution Process) of Justice Mesbur dated January 11, 2016, the Court approved a process to determine the priority of claims of the construction lien claimants and LBC to the remaining funds being held by the Trustee.
40. Any lien claimant wishing to assert a priority claim over the LBC Mortgage beyond the basic holdback amount was required to assert such priority claim and provide supporting documentation by January 29, 2016 (the “**Bar Date**”). No lien claimants submitted documentation to the Trustee asserting a priority claim over the LBC Mortgage by the Bar Date.
41. On the basis that no lien claimants came forward to assert a priority claim over the LBC Mortgage, the Trustee paid to LBC all but \$208,072 of the Reserve, which relates to the holdback claims of four lien claimants, namely 694643 Ontario Limited cob O’Connor Electric (“**O’Connor Electric**”), Sreen Painting Ltd. (“**Sreen**”), Clonard Group Inc. (“**Clonard**”) and Sam Tortola Enterprises Inc. (“**Tortola**”).
42. Pursuant to the Order of Justice Newbould dated May 25, 2016, the Trustee was authorized by the Court to distribute \$88,883 to O’Connor Electric from the Reserve.

43. The Trustee continues to hold \$119,189 plus accrued interest in the Reserve, which amount relates to the claims of Sreen, Clonard and Tortola. The Trustee has disagreed with the quantum of the holdback claims of the remaining three unpaid lien claimants. The Trustee's counsel is continuing to discuss Clonard's claim with its counsel. A hearing date of September 20, 2016 has been scheduled to hear a motion related to Sreen's holdback claim.
44. Tortola's holdback claim was for \$10,400.86 (the "**Funds**"), which amount continues to be held by the Trustee in the Reserve. The Trustee issued a formal disallowance notice to Tortola on February 25, 2016 pursuant to the provisions of the Claims Process Order.
45. On March 3, 2016, the Trustee's counsel wrote to Tortola's counsel to confirm that the Trustee had disallowed Tortola's construction lien claim on February 25, 2016 and that the time for Tortola to appeal the Trustee's determination commenced as of that date pursuant to the Claims Process Order.
46. On March 9, 2016, the Trustee's counsel wrote to counsel for Tortola to advise that pursuant to the Claims Process Order, the timeline for Tortola to send a notice of dispute had expired and Tortola was deemed to have accepted the Trustee's determination with respect to its construction lien claim, which was then final and binding.
47. The Trustee has not yet obtained the Court's authorization to withdraw the Funds from the Reserve with respect to Tortola's disallowed construction lien claim. As a result, the Trustee requests that the Court grant an order authorizing the Trustee to transfer the Funds from the Reserve to its trust account to be used to pay for costs of administration or for future distribution to mortgagees, as previously authorized by the Court.

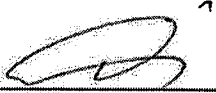
TRUSTEE'S REQUEST TO THE COURT

48. Based on the foregoing, the Trustee respectfully requests that the Court grant the orders described in paragraph 2 above.

All of which is respectfully submitted to this Court as of this 10th day of August, 2016.

COLLINS BARROW TORONTO LIMITED,
in its capacity as Court-appointed Trustee of
the Property and not in its personal capacity

Per: _____



Name: Daniel R. Weisz, CPA, CA, CIRP, LIT
Title: Senior Vice-President

I have the authority to bind the corporation

APPENDIX “A”

Court File No. CV15-10843-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

**IN THE MATTER OF THE *CONSTRUCTION LIEN ACT*,
R.S.O. 1990, c. C.30, AS AMENDED**

**AND IN THE MATTER OF AN APPLICATION MADE BY 144 PARK LTD.
FOR THE APPOINTMENT OF A TRUSTEE UNDER SECTION 68(1) OF THE
CONSTRUCTION LIEN ACT, R.S.O. 1990, c. C.30, AS AMENDED**

ELEVENTH REPORT OF THE TRUSTEE

July 15, 2016

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INTRODUCTION AND PURPOSE OF THE ELEVENTH REPORT

1. Pursuant to the Order of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) dated January 22, 2015 (the “**Appointment Order**”), Collins Barrow Toronto Limited was appointed *Construction Lien Act* (Ontario) trustee (the “**Trustee**”) with respect to certain lands and premises owned by 144 Park Ltd. (“**144 Park**”) and known municipally as 142, 144 and 148 Park Street and 21 Allen Street West, Waterloo, Ontario, and legally described in Schedule “A” to the Appointment Order (the “**Property**”).
2. The purpose of this Eleventh Report of the Trustee (the “**Eleventh Report**”) is to request that the Court grant orders:
 - a) vesting the right, title and interest of 144 Park in residential condominium unit known as suite 710 and locker unit known as unit 36, level 2, in and to Kerry-Ann Martiza Baker, free and clear of all claims and encumbrances (except for permitted encumbrances) upon delivery of a Receiver’s certificate to the purchaser;
 - b) vesting the right, title and interest of 144 Park in residential condominium unit known as suite 809, parking unit known as unit 34, level A, and locker unit known as unit 78, level A, in and to Raymond Edgar Bauer and Madonna Monique Bradley, free and clear of all claims and encumbrances (except for permitted encumbrances) upon delivery of a Receiver’s certificate to the purchaser;
 - c) vesting the right, title and interest of 144 Park in residential condominium unit known as suite 810, parking unit known as unit 37, level 1, and locker unit known as unit 28, level 2, in and to Janice Richardson, free and clear of all claims and encumbrances (except for permitted encumbrances) upon delivery of a Receiver’s certificate to the purchaser;

- d) vesting the right, title and interest of 144 Park in residential condominium unit known as suite 1801, parking unit known as unit 40, level A, and locker unit known as unit 86, level A, in and to Matthew Paul Thurston and Melissa Ann Thurston, free and clear of all claims and encumbrances (except for permitted encumbrances) upon delivery of a Receiver's certificate to the purchaser;
- e) vesting the right, title and interest of 144 Park in residential condominium unit known as suite 1902, parking unit known as unit 22, level A, and locker unit known as unit 81, level A, in and to Mark Barrenechea, free and clear of all claims and encumbrances (except for permitted encumbrances) upon delivery of a Receiver's certificate to the purchaser;
- f) authorizing the Trustee to transfer the Guest Suite (as defined below) to the Condominium Corporation (as defined below) and to accept a charge/mortgage from the Condominium Corporation in consideration therefor to be registered on title to the Guest Suite; and
- g) authorizing the Trustee, *nunc pro tunc*, to terminate the Moore Sale Agreements (as defined below).

TERMS OF REFERENCE

3. In preparing this Eleventh Report and making the comments herein, the Trustee has relied upon unaudited financial information, the books and records of 144 Park, discussions with management and employees of 144 Park and other companies within the MADY group of companies, and information received from third-party sources (collectively, the "**Information**"). Certain of the information contained in this Eleventh Report may refer to, or is based on, the Information. As the Information has been provided by 144 Park, lien claimants or other parties, the Trustee has relied on the Information and, to the extent possible, reviewed the Information for reasonableness. However, the Trustee has not audited or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with Generally Accepted Assurance

Standards pursuant to the CPA Canada Handbook and, accordingly, the Trustee expresses no opinion or other form of assurance in respect of the Information.

4. Copies of all documents referred to in this Eleventh Report that are not attached hereto as appendices can be found on the Trustee's website at <http://www.collinsbarrow.com/en/toronto-ontario/toronto/144-park-ltd>, along with copies of all materials served and filed in this proceeding and Court orders and endorsements.
5. All references to dollars in this Eleventh Report are in Canadian currency.

SALE OF SUITES 710, 809 AND 810

1. As has been previously reported to the Court, 144 Park was the owner of a 19-storey residential condominium project containing 148 residential units and the Guest Suite (the "**Project**").
2. Pursuant to the Appointment Order, the Trustee was authorized and empowered to, among other things:
 - a) act as receiver and manager of the Property;
 - b) take possession and control of the Property and any and all proceeds, receipts and disbursements arising out of or from the Property; and
 - c) complete the existing agreements of purchase and sale for the pre-sold residential units and related parking units and storage units that form part of the Property.
3. As of the date of the Trustee's appointment, 144 Park had entered into agreements of purchase and sale with purchasers for the sale of 129 residential units and parking and locker units to be allocated by 144 Park to the purchasers.
4. One of the sale transactions was an agreement of purchase and sale with a lien claimant, Brody Wall System Ltd., dated December 5, 2014, which was terminated by the Trustee on May 4, 2015 in accordance with the Order of The Honourable Mr. Justice McEwen dated April 29, 2015.

5. As a result, there were 128 units that were the subject of sale agreements with 144 Park, and 20 unsold units (collectively, the “**Unsold Units**”).
6. The Unsold Units included residential condominium units known as suites 710, 809 and 810.
7. The Appointment Order did not authorize or empower the Trustee to market or sell the Unsold Units.
8. Pursuant to the Order of The Honourable Mr. Justice Newbould dated August 5, 2015 (the “**August 5th Order**”), the Trustee was authorized by the Court to sell, convey, or transfer the Unsold Units or any part or parts thereof without the approval of the Court if the purchase price is within 95% of the listing price for the residential unit or the Trustee has obtained the written consent of the first mortgagee of the Property or its assignee. A copy of the August 5th Order is attached hereto as **Appendix “A”**.
9. The Trustee entered into an agreement of purchase and sale with Kerry-Ann Maritza Baker dated May 30, 2016 for the sale of suite 710 and a locker unit to be allocated by the Trustee. The agreement of purchase and sale does not provide for the sale of a parking unit to the purchaser.
10. The listing price for suite 710 was \$239,990 and the purchase price is \$243,500, which amounts to approximately 101% of the listing price. As a result, pursuant to the August 5th Order, the Trustee has been authorized by the Court to complete this sale transaction. However, to do so, the Trustee requires the Court to grant a vesting order for the property to be sold to Ms. Baker. Collectively attached hereto as **Appendix “B”** are the parcel registers for the property subject to this sale transaction.
11. The Trustee entered into an agreement of purchase and sale with Madonna M. Bradley and Raymond E. Bauer dated May 24, 2016, for the sale of suite 809, along with a parking unit and a locker unit to be allocated by the Trustee.
12. The listing price for suite 809 was \$234,990 and the purchase price is \$380,014, which amounts to approximately 162% of the listing price. The purchase price of this unit

exceeds the listing price by a significant amount as the purchaser of the unit requested that the unit be sold with a permanent parking space, whereas the original listing did not provide for a parking unit to be included. In order to accommodate the purchaser's request, the Trustee allocated the parking space from suite 609 to suite 809 to complete the sale.

13. While the sale price exceeded the listing price and met the criteria of the August 5th Order authorized by the Court to complete the sale transaction, the Trustee was of the view that the listing price may no longer be relevant since it did not include a parking space. Accordingly, in order to assess whether this sale met the "spirit" of the August 5th Order as the original listing price was no longer relevant since it did not provide for a parking space, the Trustee referred to listing prices of similar units that are for sale with parking units. The list price of suite 609, with parking, was \$385,990. Suite 1009, another similar unit with parking, has a listing price of \$393,990. On a comparative basis, the purchase price of suite 809, with parking, exceeds 95% of the list price of each of suite 609 and suite 1009, both of which include parking spaces. As a result, the Trustee was of the view that the purchase price for the condominium unit met the "spirit" of the August 5th Order, and that the Trustee was not required to seek Court approval of this sale transaction. However, to complete the sale, the Trustee requires the Court to grant a vesting order for the property to be sold to Ms. Bradley and Mr. Bauer. Collectively attached hereto as **Appendix "C"** are the parcel registers for the property subject to this sale transaction.
14. The Trustee entered into an agreement of purchase and sale with Janice Richardson dated June 15, 2016 for the sale of suite 810, along with a parking unit and a locker unit to be allocated by the Trustee.
15. The listing price for suite 810 was \$399,990 and the purchase price is \$403,150, which amounts to approximately 101% of the listing price. As a result, pursuant to the August 5th Order, the Trustee has been authorized by the Court to complete this sale transaction. However, to do so, the Trustee requires the Court to grant a vesting order for the property

to be sold to Ms. Richardson. Collectively attached hereto as **Appendix "D"** are the parcel registers for the property subject to this sale transaction.

16. As a result, the Trustee requests that the Court grant vesting orders with respect to the above-noted sale transactions for suites 710, 809 and 810.

SALE OF SUITES 1801 AND 1902

17. As noted above, as of the date of the Appointment Order, there were 128 units that were the subject of sale agreements with 144 Park, which included suites 1801 and 1902.
18. As has been previously reported to the Court, the Trustee brought a motion for advice and direction with respect to the Trustee's ability, if necessary, to terminate existing agreements of purchase and sale with purchasers that had agreed to purchase two parking units, due to an issue with available parking. A copy of the Trustee's notice of motion is attached hereto as **Appendix "E"**.
19. The agreements of purchase and sale with two parking units that were at issue included existing agreements of purchase and sale with respect to suites 1801 and 1902.
20. The original purchasers for suites 1801 and 1902 did not take a position with respect to the Trustee's motion. As a result, pursuant to the Order of Justice Newbould dated October 16, 2015, a copy of which is attached hereto as **Appendix "F"**, the Trustee was authorized, if necessary, to terminate the existing agreements of purchase and sale for suites 1801 and 1902.
21. Following the granting of the Order, the Trustee corresponded with each of the purchasers regarding whether they wished to purchase the suites with one parking unit each, or whether they wished to consensually agree to the termination of the agreements and recover their deposits.
22. Each of the purchasers agreed to terminate their agreements of purchase and sale and have had their deposits returned to them.

23. Pursuant to the Order of The Honourable Madam Justice Mesbur dated December 3, 2015 (the “**December 3rd Order**”), the Trustee was authorized by the Court to sell, convey, or transfer the “Remaining Units” (which was defined to include suites 1801 and 1902) or any part or parts thereof without the approval of the Court if the purchase price is within 95% of the listing price for the residential unit or the Trustee has obtained the written consent of the first mortgagee of the Property or its assignee. A copy of the December 3rd Order is attached hereto as **Appendix “G”**.
24. The Trustee entered into an agreement of purchase and sale with Matthew Paul Thurston and Melissa Ann Thurston dated May 18, 2016, for the sale of suite 1801, along with a parking unit and a locker unit to be allocated by the Trustee.
25. The listing price for suite 1801 was \$514,990 and the purchase price is \$510,000, which amounts to approximately 99% of the listing price. As a result, pursuant to the December 3rd Order, the Trustee has been authorized by the Court to complete this sale transaction. However, to do so the Trustee requires the Court to grant a vesting order for the property to be sold to Mr. and Ms. Thurston. Collectively attached hereto as **Appendix “H”** are the parcel registers for the property subject to this sale transaction.
26. The Trustee entered into an agreement of purchase and sale with Mark Barrenechea dated June 15, 2016 for the sale of suite 1902, along with a parking unit and a locker unit to be allocated by the Trustee.
27. The listing price for suite 1902 was \$799,990 and the purchase price is \$760,000, which amounts to slightly more than 95% of the listing price. As a result, pursuant to the December 3rd Order, the Trustee has been authorized by the Court to complete this sale transaction. However, to do so, the Trustee requires the Court to grant a vesting order for the property to be sold to Mr. Barrenechea. Collectively attached hereto as **Appendix “I”** are the parcel registers for the property subject to this sale transaction.
28. As a result, the Trustee requests that the Court grant vesting orders with respect to the above-noted sale transactions for suites 1801 and 1902.

GUEST SUITE

29. As has been previously reported to the Court, the Declaration for the Project was registered on May 25, 2015. A copy of the Declaration is attached as **Appendix "J"**.
30. As noted above, the units in the Project include a guest suite, known as unit 36 on level 3 of the Project, which is only to be used for overnight accommodation for the guests of the owners and tenants of the Project (the "**Guest Suite**").
31. Pursuant to section 4.5 of the Declaration, the condominium corporation, Waterloo Standard Condominium Corporation No. 591 (the "**Condominium Corporation**"), was to purchase the Guest Suite from 144 Park for the purchase price of \$116,000 plus HST. The Condominium Corporation is to give to 144 Park, or such entity as directed by 144 Park, a mortgage for the full purchase price. The mortgage is to have a term of eleven (11) years commencing on the date of registration of the Declaration, and no interest was to be charged for the first year of the term. The rest of the term bears interest at a fixed rate of 4% over the Government of Canada Ten Bond Yield in effect on the date of registration of the Declaration for ten year bonds, calculated semi-annually, not in advance.
32. The Trustee and the Condominium Corporation have been in discussions regarding the available options with respect to the Guest Suite, which include the Condominium Corporation purchasing the Guest Suite outright from the Trustee without the Trustee taking back a mortgage. A copy of the Trustee's email dated June 30, 2016 to the Condominium Corporation, without attachments, is attached hereto as **Appendix "K"**.
33. The discussions are continuing between the Trustee and the Condominium Corporation. However, as the Guest Suite is ready to be turned over to the Condominium Corporation, at this time the Trustee is seeking authorization from the Court to take the steps set out in the Declaration with respect to the sale of the Guest Suite and in particular, to accept a charge/mortgage from the Condominium Corporation in consideration therefor to be registered on title to the Guest Suite.

TERMINATION OF MOORE SALE AGREEMENTS

34. As noted above, as of the date of the Appointment Order, there were 128 units that were the subject of sale agreements with 144 Park. These units included suites 1407 and 1408 in the Property, which Gregory Moore agreed to purchase pursuant to agreements of purchase of sale entered into with 144 Park in October and November 2010 (collectively, the “**Moore Sale Agreements**”).
35. The Trustee understands that Mr. Moore is quadriplegic and is mobile with the assistance of an electric wheelchair.
36. Prior to the Trustee’s appointment, Mr. Moore commenced an application with the Human Rights Tribunal of Ontario (the “**HRTO**”) against MADY Development Corporation (“**MDC**”), which application set out that Mr. Moore was not prepared to close the transactions subject to the Moore Sale Agreements due to accessibility issues with the common areas of the Property. The Trustee understands that an alleged settlement was achieved with MDC whereby the Moore Sale Agreements would be terminated and Mr. Moore would receive all deposit monies, upgrade monies, occupancy fees, and monies paid for hydro consumption from MDC.
37. Following the appointment of the Trustee, Mr. Moore attempted to enforce the terms of the alleged settlement against 144 Park and the Trustee, both of which were not parties to the HRTO proceeding and the alleged settlement. A number of accessibility issues with the common areas of the Property were raised that were alleged to be preventing Mr. Moore from closing the sale transactions.
38. The Trustee, with a view to rectifying the identified accessibility issues and closing both sale transactions with Mr. Moore, spent in excess of \$15,000 to address the issues raised by Mr. Moore.
39. Notwithstanding the steps taken by the Trustee, Mr. Moore refused to close the transactions subject to the Moore Sale Agreements and commenced an application in Kitchener in August 2015 seeking, in the first instance, a declaration that a settlement, allegedly made as of November 24, 2014 in connection with a HRTO claim, was valid

and enforceable against 144 Park. In the alternative, Mr. Moore sought the same relief from the Court as provided for in the alleged settlement. The application was subsequently transferred to be heard by the Court on the consent of the parties.

40. The Trustee and Mr. Moore, through their respective counsel, engaged in numerous discussions regarding available options to resolve the outstanding issues with respect to the Moore Sale Agreements.
41. In April 2016, the Trustee was advised that Mr. Moore wished to close the sale transactions set out in the Moore Sale Agreements. As a result, on April 19, 2016, Chaitons LLP (“Chaitons”), lawyers for the Trustee, sent a letter to Mr. Moore’s counsel setting out the terms upon which the sale transactions would be completed. A copy of the letter is attached as **Appendix “L”**.
42. The parties engaged in discussions with respect to the closing of the sale transactions, which included discussions regarding amounts to be included in the statements of adjustment.
43. The sale transactions were set to close on May 6, 2016. Mr. Moore requested an extension of the closing date to May 13, 2016 so that he could obtain all necessary documentation required by his lender. Mr. Moore requested another extension to May 17, 2016, which was agreed to by the Trustee.
44. Mr. Moore requested a further extension to May 25, 2016, as his lender required the additional time to complete the financing. The Trustee was amenable to the further extension requested by Mr. Moore with the condition that Mr. Moore pay to the Trustee a non-refundable deposit of \$10,000, which deposit would be applied against the purchase price of the units upon closing. If Mr. Moore failed to close, the Trustee would retain the deposit.
45. On May 18, 2016, Mr. Moore’s lawyers sent a letter confirming that Mr. Moore now was not willing to proceed with completing the sale transactions. A copy of that letter is attached as **Appendix “M”**.

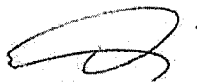
46. In response, the Trustee, through its condominium lawyers Harris Sheaffer LLP, wrote to Mr. Moore's counsel and informed it that Mr. Moore was in default and that the Trustee required that the sale transactions be completed by May 26, 2016. Copies of the letters, sent out on May 18, 2016 but mistakenly dated July 8, 2015, are collectively attached as **Appendix "N"**.
47. On May 24, 2016, Mr. Moore's lawyers confirmed in a letter that Mr. Moore's position, as set out in its May 18, 2016 letter, remained unchanged. A copy of the letter is attached as **Appendix "O"**.
48. As a result, on May 27, 2016, the Trustee, through Harris Sheaffer LLP, informed Mr. Moore that the sale transactions with respect to the Moore Sale Agreements had been terminated. Copies of the letters are collectively attached as **Appendix "P"**.
49. The Trustee wishes to take steps to market suites 1407 and 1408 for sale. In order for the Trustee to be in a position to do so, the Trustee requests that the Court authorize the Trustee, *nunc pro tunc*, to terminate the Moore Sale Agreements.

TRUSTEE'S REQUEST TO THE COURT

50. Based on the foregoing, the Trustee respectfully requests that the Court grant the orders described in paragraph 2 above.

All of which is respectfully submitted to this Court as of this 15th day of July, 2016.

COLLINS BARROW TORONTO LIMITED,
in its capacity as Court-appointed Trustee of
the Property and not in its personal capacity

Per: 
Name: Daniel R. Weisz, CPA, CA, CIRP, LIT
Title: Senior Vice-President

I have the authority to bind the corporation

APPENDIX “B”



LAND REGISTRY OFFICE #58

23591-0248 (LT)

PAGE 1 OF 6
PREPARED FOR LynnLee1
ON 2016/08/11 AT 13:49:19

PARCEL REGISTER (ABBREVIATED) FOR PROPERTY IDENTIFIER

PROPERTY DESCRIPTION: UNIT 9, LEVEL 6, WATERLOO STANDARD CONDOMINIUM PLAN NO. 591 AND ITS APPURTENANT INTEREST; SUBJECT TO EASEMENTS AS SET OUT IN SCHEDULE A AS IN WR882241; CITY OF WATERLOO

PROPERTY REMARKS: PLANNING ACT CONSENT IN 1356494. FOR THE PURPOSE OF THE QUALIFIER THE DATE OF REGISTRATION OF ABSOLUTE TITLE IS 2013/06/13, INSTRUMENT WR759234.
ESTATE/QUALIFIER: RECENTLY.
FEE SIMPLE CONDOMINIUM FROM 22417-0152
LT ABSOLUTE PLUS OWNERS' NAMES CAPACITY SHARE
144 PARK LTD. ROWN

EIN CREATION DATE:
2015/05/25

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/CHKD
** PRINTOUT INCLUDES ALL DOCUMENT TYPES AND DELETED INSTRUMENTS SINCE: 2015/05/25 **						
**SUBJECT TO	44(1) OF THE LAND TITLES ACT, EXCEPT	PARAGRAPHS 3 AND 14 AND *				
**	PROVINCIAL SUCCESSION DUTIES AND EXCEPT PARAGRAPH 11 AND ESCHEATS OR FORFEITURE **					
**	TO THE CROWN UP TO THE DATE OF REGISTRATION WITH AN ABSOLUTE TITLE. **					
WR611290	2011/05/02	NOTICE	\$5	ALLEN STREET HOLDINGS INC.	ALLEN STREET HOLDINGS INC. 2184038 ONTARIO INC. 144 PARK LTD. COB GP INC.	C
WR625222	2011/07/07	NOTICE	\$2	THE CORPORATION OF THE CITY OF WATERLOO	ALLEN STREET HOLDINGS INC.	C
WR639368	2011/09/01	CHARGE	\$8,500,000	144 PARK LTD.	AVIVA INSURANCE COMPANY OF CANADA	C
WR639369	2011/09/01	CHARGE	\$3,000,000	144 PARK LTD.	ALLEN STREET HOLDINGS INC.	C
WR655113	2011/11/17	NOTICE		THE CORPORATION OF THE CITY OF WATERLOO	144 PARK LTD.	C
WR660381	2011/12/13	CHARGE	\$2,887,696	144 PARK LTD.	MARSHALLZEHR GROUP INC.	C
WR666363	2012/01/18	TRANSFER EASEMENT	\$2	144 PARK LTD.	ROGERS CABLE COMMUNICATIONS INC.	C
WR690395	2012/05/25	CHARGE	\$40,000,000	144 PARK LTD.	LAURENTIAN BANK OF CANADA	C
WR690396	2012/05/25	NO ASSGN RENT GEN		144 PARK LTD.	LAURENTIAN BANK OF CANADA	C
	REMARKS: WR690395.					
WR690416	2012/05/25	POSTPONEMENT		ALLEN STREET HOLDINGS INC.	LAURENTIAN BANK OF CANADA	C
	REMARKS: WR639369 TO WR690395					

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PARCEL REGISTER (ABBREVIATED) FOR PROPERTY IDENTIFIER

PAGE 2 OF 6

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23591-0248 (LT)

* CERTIFIED IN ACCORDANCE WITH THE LAND TITLES ACT * SUBJECT TO RESERVATIONS IN CROWN GRANT *

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
WR690422	2012/05/25	POSTPONEMENT		AVIVA INSURANCE COMPANY OF CANADA	LAURENTIAN BANK OF CANADA	C
		REMARKS: WR639368 TO WR690395				
WR690423	2012/05/25	POSTPONEMENT		MARSHALLZEHR GROUP INC.	LAURENTIAN BANK OF CANADA	C
		REMARKS: WR660381 TO WR690395				
58R17836	2013/06/13	PLAN REFERENCE				C
WR847447	2014/10/24	CONSTRUCTION LIEN	\$301,592	GLOBAL FIRE PROTECTION LTD.		C
WR849030	2014/10/31	CONSTRUCTION LIEN	\$88,883	694643 ONTARIO LIMITED		C
WR854810	2014/12/01	CONSTRUCTION LIEN	\$537,286	J & I GAWEDA CONSTRUCTION LIMITED		C
WR854978	2014/12/02	CONSTRUCTION LIEN	\$26,889	EAST HOME COMFORT INC.		C
WR856168	2014/12/08	NOTICE		THE CORPORATION OF THE CITY OF WATERLOO	144 PARK LTD.	C
WR856621	2014/12/10	CERTIFICATE		GLOBAL FIRE PROTECTION LTD.	144 PARK LTD. AVIVA INSURANCE COMPANY OF CANADA ALLEN STREET HOLDINGS LTD. LAURENTIAN BANK OF CANADA MARSHALLZEHR GROUP INC.	C
		REMARKS: WR847447				
WR856756	2014/12/11	CONSTRUCTION LIEN	\$328,260	FRENDEL KITCHENS LIMITED		C
WR857239	2014/12/12	CONSTRUCTION LIEN	\$436,314	T. I. C. CONTRACTING LTD.		C
WR857322	2014/12/15	CONSTRUCTION LIEN	\$188,393	GLOBAL PRECAST INC.		C
WR857462	2014/12/15	CONSTRUCTION LIEN	\$110,716	2050491 ONTARIO INC. O/A THE DOWNSVIEW GROUP		C
WR857468	2014/12/15	CONSTRUCTION LIEN	\$104,009	SAM TORTOLA ENTERPRISES INC.		C
WR857793	2014/12/16	CONSTRUCTION LIEN	\$15,870	CRS CONTRACTORS RENTAL SUPPLY GENERAL PARTNER INC.		C
WR857850	2014/12/16	CONSTRUCTION LIEN	\$83,436	ADLERS MAIN TILE & CARPET CO. LTD.		C

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REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
WR858473	2014/12/19	CONSTRUCTION LIEN	\$30,851	TURNER FLEISCHER ARCHITECTS INC.		C
WR858748	2014/12/19	CONSTRUCTION LIEN	\$46,043	HAMMERSCHLAG & JOFFE INC.		C
WR858991	2014/12/22	CONSTRUCTION LIEN	\$345,952	SEREN PAINTING LTD.		C
WR859188	2014/12/23	CONSTRUCTION LIEN	\$176,771	WESTON FLOORING LIMITED		C
WR859941	2014/12/30	CONSTRUCTION LIEN	\$32,381	GREAT PYRAMID ALUMINUM LTD.		C
WR860525	2015/01/05	CONSTRUCTION LIEN	\$139,287	ADLERS MAIN TILE & CARPET CO. LTD.		C
WR860757	2015/01/06	CERTIFICATE		FRENDEL KITCHENS LIMITED	144 PARK LTD. MADY DEVELOPMENT CORPORATION MADY CONTRACT DIVISION (2009) LTD. MADY CONTRACT DIVISION LTD. D. MADY INVESTMENTS INC. MARSHALLZEHR GROUP INC. ALLEN STREET HOLDINGS INC. AVIVA INSURANCE COMPANY OF CANADA LAURENTIAN BANK OF CANADA	C
WR861891	2015/01/13	CERTIFICATE		BAST HOME COMFORT INC.		C
WR862054	2015/01/14	CERTIFICATE		J & I GAWEDA CONSTRUCTION LIMITED		C
WR862055	2015/01/14	CERTIFICATE		GLOBAL FIRE PROTECTION LTD.	144 PARK LTD. AVIVA INSURANCE COMPANY OF CANADA ALLEN STREET HOLDINGS LTD. LAURENTIAN BANK OF CANADA MARSHALLZEHR GROUP INC.	C
WR862500	2015/01/16	CERTIFICATE		694643 ONTARIO LIMITED		C
WR863268	2015/01/21	CERTIFICATE		TURNER FLEISCHER ARCHITECTS INC.	MADY CONTRACT DIVISION LTD. MADY CONTRACT DIVISION (2009) LTD. MADY DEVELOPMENT CORPORATION	C

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REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/CHKD
WR863291	2015/01/21	CONSTRUCTION LIEN	\$113,328	BRODY WALL SYSTEM LTD.	144 PARK LTD. AVIVA INSURANCE COMPANY OF CANADA ALLEN STREET HOLDINGS INC. MARSHALLZEHR GROUP INC. LAURENTIAN BANK OF CANADA	C
WR863296	2015/01/21	CERTIFICATE		T. I. C. CONTRACTING LTD.		C
WR863658	2015/01/23	CONSTRUCTION LIEN	\$4,258	SKYWAY CANADA LIMITED		C
WR863814	2015/01/23	CONSTRUCTION LIEN	\$210,190	DKS STONE FABRICATION & DESIGN INC.		C
WR863820	2015/01/23	APL COURT ORDER		ONTARIO SUPERIOR COURT OF JUSTICE (COMMERCIAL LIST)	COLLINS BARRON TORONTO LIMITED	C
WR864339	2015/01/28	CONSTRUCTION LIEN	\$752,632	CLONARD GROUP INC.		C
WR864365	2015/01/28	CERTIFICATE		HAMMERSCHLAG & JOFFE INC.	ONTARIO SUPERIOR COURT OF JUSTICE	C
WR864508	2015/01/29	TRANSFER EASEMENT	\$2	144 PARK LTD.	WATERLOO NORTH HYDRO INC.	C
WR864655	2015/01/29	CONSTRUCTION LIEN	\$260,447	ALUMINUM WINDOW DESIGN INSTALLATIONS INC.		C
WR865440	2015/02/02	CERTIFICATE		GREAT PYRAMID ALUMINUM LTD.	144 PARK LTD.	C
WR865713	2015/02/04	CERTIFICATE		GLOBAL PRECAST INC.	144 PARK LTD. MADY CONTRACT DIVISION (2009) LTD. AVIVA INSURANCE COMPANY OF CANADA ALLEN STREET HOLDINGS LTD. MARSHALLZEHR GROUP INC. LAURENTIAN BANK OF CANADA	C
WR865936	2015/02/05	CERTIFICATE		ADLERS MAIN TILE & CARPET CO. LTD.		C

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WR866373	2015/02/09	CERTIFICATE		2050491 ONTARIO INC.	144 PARK LTD. MADY CONTRACT DIVISION (2009) LTD. AVIVA INSURANCE COMPANY OF CANADA	C
		REMARKS: CERTIFICATE OF ACTION WR857462			ALLEN STREET HOLDINGS LTD. MARSHALLEHR GROUP INC. LAURENTIAN BANK OF CANADA	C
WR867197	2015/02/13	CERTIFICATE		WESTON FLOORING LIMITED		C
		REMARKS: CERTIFICATE OF ACTION WR859188				C
WR867313	2015/02/17	NOTICE	\$2	THE REGIONAL MUNICIPALITY OF WATERLOO		C
WR867757	2015/02/19	CERTIFICATE		SERREEN PAINTING LTD.		C
		REMARKS: WR858991				C
WR868712	2015/02/26	CERTIFICATE		SAM TORTOLA ENTERPRISES INC.		C
		REMARKS: CERTIFICATE OF ACTION WR857468				C
WR870665	2015/03/11	CERTIFICATE		ALUMINUM WINDOW DESIGN INSTALLATIONS INC.		C
		REMARKS: WR864655				C
WR870768	2015/03/12	CERTIFICATE		CRS CONTRACTORS RENTAL SUPPLY GENERAL PARTNER INC.		C
		REMARKS: WR857793				C
WR870844	2015/03/12	CERTIFICATE		BRODY WALL SYSTEM LTD.		C
		REMARKS: WR863291				C
WR874856	2015/04/08	CERTIFICATE		DKS STONE FABRICATION & DESIGN INC.		C
		REMARKS: WR863814				C
WR875305	2015/04/10	CERTIFICATE		SKYWAY CANADA LIMITED		C
		REMARKS: WR863658				C
WR876062	2015/04/16	NOTICE	\$2	144 PARK LTD.	144 PARK LTD. ONE 55 MADY LTD.	C

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REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
MCP591	2015/05/25	STANDARD CONDO PLAN		144 PARK LTD.		C
WR882241	2015/05/25	CONDO DECLARATION		WATERLOO STANDARD CONDOMINIUM CORPORATION NO. 591		C
WR891003	2015/07/03 REMARKS: BY-LAW NO. 1	CONDO BYLAW/98		WATERLOO STANDARD CONDOMINIUM CORPORATION NO. 591		C
WR891004	2015/07/03 REMARKS: BY-LAW NO. 2	CONDO BYLAW/98		WATERLOO STANDARD CONDOMINIUM CORPORATION NO. 591		C
WR891008	2015/07/03 REMARKS: BY-LAW NO. 3	CONDO BYLAW/98		WATERLOO STANDARD CONDOMINIUM CORPORATION NO. 591		C
WR891010	2015/07/03 REMARKS: BY-LAW NO. 4	CONDO BYLAW/98		WATERLOO STANDARD CONDOMINIUM CORPORATION NO. 591		C
WR953075	2016/05/18 REMARKS: WR690395.	TRANSFER OF CHARGE		LAURENTIAN BANK OF CANADA	MARSHALLEHR GROUP INC.	C

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23591-0438 (LT)

* CERTIFIED IN ACCORDANCE WITH THE LAND TITLES ACT * SUBJECT TO RESERVATIONS IN CROWN GRANT *

PROPERTY DESCRIPTION:

UNIT 78, LEVEL A, WATERLOO STANDARD CONDOMINIUM PLAN NO. 591 AND ITS APPURTENANT INTEREST; SUBJECT TO EASEMENTS AS SET OUT IN SCHEDULE A AS IN WR882241; CITY OF WATERLOO

PROPERTY REMARKS:

PLANNING ACT CONSENT IN 1356494. FOR THE PURPOSE OF THE QUALIFIER THE DATE OF REGISTRATION OF ABSOLUTE TITLE IS 2013/06/13, INSTRUMENT WR759234.

ESTATE/OVALIFIER:

RECENTLY:

PIN CREATION DATE:

FEE SIMPLE PLUS

CONDOMINIUM FROM 22417-0152

2015/05/25

OWNERS' NAMES

CAPACITY SHARE

144 PARK LTD.

ROWN

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/CHKD
** PRINTOUT	INCLUDES ALL DOCUMENT TYPES AND DELETED INSTRUMENTS SINCE: 2015/05/25 **					
**SUBJECT TO SUBSECTION 44(1) OF THE LAND TITLES ACT, EXCEPT PARAGRAPHS 3 AND 14 AND *						
**	PROVINCIAL SUCCESSION DUTIES AND EXCEPT PARAGRAPH 11 AND ESCHEATS OR FORFEITURE **					
**	TO THE CROWN UP TO THE DATE OF REGISTRATION WITH AN ABSOLUTE TITLE. **					
WR611290	2011/05/02	NOTICE	\$5	ALLEN STREET HOLDINGS INC.	ALLEN STREET HOLDINGS INC. 2184038 ONTARIO INC. 144 PARK LTD. COB GP INC.	C
WR625222	2011/07/07	NOTICE	\$2	THE CORPORATION OF THE CITY OF WATERLOO	ALLEN STREET HOLDINGS INC.	C
WR639368	2011/09/01	CHARGE	\$8,500,000	144 PARK LTD.	AVIVA INSURANCE COMPANY OF CANADA	C
WR639369	2011/09/01	CHARGE	\$3,000,000	144 PARK LTD.	ALLEN STREET HOLDINGS INC.	C
WR655113	2011/11/17	NOTICE		THE CORPORATION OF THE CITY OF WATERLOO	144 PARK LTD.	C
WR660381	2011/12/13	CHARGE	\$2,887,696	144 PARK LTD.	MARSHALLZEHR GROUP INC.	C
WR666363	2012/01/18	TRANSFER EASEMENT	\$2	144 PARK LTD.	ROGERS CABLE COMMUNICATIONS INC.	C
WR690395	2012/05/25	CHARGE	\$40,000,000	144 PARK LTD.	LAURENTIAN BANK OF CANADA	C
WR690396	2012/05/25	NO ASSGN RENT GEN		144 PARK LTD.	LAURENTIAN BANK OF CANADA	C
REMARKS: WR690395.						
WR690416	2012/05/25	POSTPONEMENT		ALLEN STREET HOLDINGS INC.	LAURENTIAN BANK OF CANADA	C
REMARKS: WR690395 TO WR690395						

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23591-0438 (LT)

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WR690422	2012/05/25	POSTPONEMENT		AVIVA INSURANCE COMPANY OF CANADA	LAURENTIAN BANK OF CANADA	C
		REMARKS: WR639368 TO WR690395				
WR690423	2012/05/25	POSTPONEMENT		MARSHALLZEHR GROUP INC.	LAURENTIAN BANK OF CANADA	C
		REMARKS: WR660381 TO WR690395				
58R17836	2013/06/13	PLAN REFERENCE				C
WR847447	2014/10/24	CONSTRUCTION LIEN	\$301,592	GLOBAL FIRE PROTECTION LTD.		C
WR849030	2014/10/31	CONSTRUCTION LIEN	\$88,883	694643 ONTARIO LIMITED		C
WR854810	2014/12/01	CONSTRUCTION LIEN	\$537,286	J & I GAWEDA CONSTRUCTION LIMITED		C
WR854978	2014/12/02	CONSTRUCTION LIEN	\$26,889	EAST HOME COMFORT INC.		C
WR856168	2014/12/08	NOTICE		THE CORPORATION OF THE CITY OF WATERLOO	144 PARK LTD.	C
WR856621	2014/12/10	CERTIFICATE		GLOBAL FIRE PROTECTION LTD.	144 PARK LTD. AVIVA INSURANCE COMPANY OF CANADA ALLEN STREET HOLDINGS LTD. LAURENTIAN BANK OF CANADA MARSHALLZEHR GROUP INC.	C
		REMARKS: WR847447				
WR856756	2014/12/11	CONSTRUCTION LIEN	\$328,260	FRENDEL KITCHENS LIMITED		C
WR857239	2014/12/12	CONSTRUCTION LIEN	\$436,314	T. I. C. CONTRACTING LTD.		C
WR857322	2014/12/15	CONSTRUCTION LIEN	\$188,393	GLOBAL PRECAST INC.		C
WR857462	2014/12/15	CONSTRUCTION LIEN	\$110,716	2050491 ONTARIO INC. O/A THE DOWNSVIEW GROUP		C
WR857468	2014/12/15	CONSTRUCTION LIEN	\$104,009	SAM TORTOLA ENTERPRISES INC.		C
WR857793	2014/12/16	CONSTRUCTION LIEN	\$15,870	CRS CONTRACTORS RENTAL SUPPLY GENERAL PARTNER INC.		C
WR857850	2014/12/16	CONSTRUCTION LIEN	\$83,436	ADLERS MAIN TILE & CARPET CO. LTD.		C

NOTE: ADJOINING PROPERTIES SHOULD BE INVESTIGATED TO ASCERTAIN DESCRIPTIVE INCONSISTENCIES, IF ANY, WITH DESCRIPTION REPRESENTED FOR THIS PROPERTY.
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* CERTIFIED IN ACCORDANCE WITH THE LAND TITLES ACT * SUBJECT TO RESERVATIONS IN CROWN GRANT *

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/CHKD
WR858473	2014/12/19	CONSTRUCTION LIEN	\$30,851	TURNER FLEISCHER ARCHITECTS INC.		C
WR858748	2014/12/19	CONSTRUCTION LIEN	\$46,043	HAMMERSCHLAG & JOFFE INC.		C
WR858991	2014/12/22	CONSTRUCTION LIEN	\$345,952	SERREEN PAINTING LTD.		C
WR859188	2014/12/23	CONSTRUCTION LIEN	\$176,771	WESTON FLOORING LIMITED		C
WR859941	2014/12/30	CONSTRUCTION LIEN	\$32,381	GREAT PYRAMID ALUMINUM LTD.		C
WR860525	2015/01/05	CONSTRUCTION LIEN	\$139,287	ADLERS MAIN TILE & CARPET CO. LTD.		C
WR860757	2015/01/06	CERTIFICATE		FRENDEL KITCHENS LIMITED	144 PARK LTD. MADY DEVELOPMENT CORPORATION MADY CONTRACT DIVISION (2009) LTD. MADY CONTRACT DIVISION LTD. D. MADY INVESTMENTS INC. MARSHALLZEHR GROUP INC. ALLEN STREET HOLDINGS INC. AVIVA INSURANCE COMPANY OF CANADA LAURENTIAN BANK OF CANADA	C
WR861891	2015/01/13	CERTIFICATE		BAST HOME COMFORT INC.		C
WR862054	2015/01/14	CERTIFICATE		J & I GAWEDA CONSTRUCTION LIMITED		C
WR862055	2015/01/14	CERTIFICATE		GLOBAL FIRE PROTECTION LTD.	144 PARK LTD. AVIVA INSURANCE COMPANY OF CANADA ALLEN STREET HOLDINGS LTD. LAURENTIAN BANK OF CANADA MARSHALLZEHR GROUP INC.	C
WR862500	2015/01/16	CERTIFICATE		694643 ONTARIO LIMITED		C
WR863268	2015/01/21	CERTIFICATE		TURNER FLEISCHER ARCHITECTS INC.	MADY CONTRACT DIVISION LTD. MADY CONTRACT DIVISION (2009) LTD. MADY DEVELOPMENT CORPORATION	C

REMARKS: CERTIFICATE OF ACTION WR858756

REMARKS: CERTIFICATE OF ACTION RE WR854978

REMARKS: WR847447

REMARKS: WR849080

REMARKS: WR854810

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ON 2016/08/11 AT 13:50:02

23591-0438 (LT)

* CERTIFIED IN ACCORDANCE WITH THE LAND TITLES ACT * SUBJECT TO RESERVATIONS IN CROWN GRANT *

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/CHKD
WR863291	2015/01/21	CONSTRUCTION LIEN	\$113,328	BRODY WALL SYSTEM LTD.	144 PARK LTD. AVIVA INSURANCE COMPANY OF CANADA ALLEN STREET HOLDINGS INC. MARSHALLZEHR GROUP INC. LAURENTIAN BANK OF CANADA	C
WR863296	2015/01/21	CERTIFICATE		T. I. C. CONTRACTING LTD.		C
WR863658	2015/01/23	CONSTRUCTION LIEN	\$4,258	SKYWAY CANADA LIMITED		C
WR863814	2015/01/23	CONSTRUCTION LIEN	\$210,190	DKS STONE FABRICATION & DESIGN INC.		C
WR863820	2015/01/23	APL COURT ORDER		ONTARIO SUPERIOR COURT OF JUSTICE (COMMERCIAL LIST)	COLLINS BARROW TORONTO LIMITED	C
WR864339	2015/01/28	CONSTRUCTION LIEN	\$752,632	CLONARD GROUP INC.		C
WR864365	2015/01/28	CERTIFICATE		HAMMERSCHLAG & JOFFE INC.	ONTARIO SUPERIOR COURT OF JUSTICE	C
WR864508	2015/01/29	TRANSFER EASEMENT	\$2	144 PARK LTD.	WATERLOO NORTH HYDRO INC.	C
WR864655	2015/01/29	CONSTRUCTION LIEN	\$260,447	ALUMINUM WINDOW DESIGN INSTALLATIONS INC.		C
WR865440	2015/02/02	CERTIFICATE		GREAT PYRAMID ALUMINUM LTD.	144 PARK LTD.	C
WR865713	2015/02/04	CERTIFICATE		GLOBAL PRECAST INC.	144 PARK LTD. MADY CONTRACT DIVISION (2009) LTD. AVIVA INSURANCE COMPANY OF CANADA ALLEN STREET HOLDINGS LTD. MARSHALLZEHR GROUP INC. LAURENTIAN BANK OF CANADA	C
WR865936	2015/02/05	CERTIFICATE		ADLERS MAIN TILE & CARPET CO. LTD.		C

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23591-0438 (LT)

* CERTIFIED IN ACCORDANCE WITH THE LAND TITLES ACT * SUBJECT TO RESERVATIONS IN CROWN GRANT *

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/CHKD
WR866373	2015/02/09	CERTIFICATE		2050491 ONTARIO INC.	144 PARK LTD. MADY CONTRACT DIVISION (2009) LTD. AVIVA INSURANCE COMPANY OF CANADA ALLEN STREET HOLDINGS LTD. MARSHALLZEHR GROUP INC. LAURENTIAN BANK OF CANADA	C
		REMARKS: CERTIFICATE OF ACTION WR857462				
WR867197	2015/02/13	CERTIFICATE		WESTON FLOORING LIMITED		C
		REMARKS: CERTIFICATE OF ACTION WR859188				
WR867313	2015/02/17	NOTICE	\$2	THE REGIONAL MUNICIPALITY OF WATERLOO		C
WR867757	2015/02/19	CERTIFICATE		SEREN PAINTING LTD.		C
		REMARKS: WR858991				
WR868712	2015/02/26	CERTIFICATE		SAM TORTOLA ENTERPRISES INC.		C
		REMARKS: CERTIFICATE OF ACTION WR857468				
WR870665	2015/03/11	CERTIFICATE		ALUMINUM WINDOW DESIGN INSTALLATIONS INC.		C
		REMARKS: WR864655				
WR870768	2015/03/12	CERTIFICATE		CRS CONTRACTORS RENTAL SUPPLY GENERAL PARTNER INC.		C
		REMARKS: WR857793				
WR870844	2015/03/12	CERTIFICATE		BRODY WALL SYSTEM LTD.	144 PARK LTD.	C
		REMARKS: WR863291				
WR874856	2015/04/08	CERTIFICATE		DKS STONE FABRICATION & DESIGN INC.	144 PARK LTD. MADY DEVELOPMENT CORPORATION MADY CONTRACT DIVISION (2009) LTD. MADY CONTRACT DIVISION LTD. AVIVA INSURANCE COMPANY OF CANADA ALLEN STREET HOLDINGS INC. MARSHALLZEHR GROUP INC. LAURENTIAN BANK OF CANADA	C
		REMARKS: WR863814				
WR875305	2015/04/10	CERTIFICATE		SKYWAY CANADA LIMITED	144 PARK LTD.	C
		REMARKS: WR863658				
WR876062	2015/04/16	NOTICE	\$2	144 PARK LTD.	ONE 55 MADY LTD.	C

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PAGE 6 OF 6

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ON 2016/08/11 AT 13:50:02

23591-0438 (LT)

* CERTIFIED IN ACCORDANCE WITH THE LAND TITLES ACT * SUBJECT TO RESERVATIONS IN CROWN GRANT *

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
WCP591	2015/05/25	STANDARD CONDO PLAN				C
WR882241	2015/05/25	CONDO DECLARATION		144 PARK LTD.		C
WR891003	2015/07/03	CONDO BYLAW/98		WATERLOO STANDARD CONDOMINIUM CORPORATION NO. 591		C
	REMARKS: BY-LAW NO. 1					
WR891004	2015/07/03	CONDO BYLAW/98		WATERLOO STANDARD CONDOMINIUM CORPORATION NO. 591		C
	REMARKS: BY-LAW NO. 2					
WR891008	2015/07/03	CONDO BYLAW/98		WATERLOO STANDARD CONDOMINIUM CORPORATION NO. 591		C
	REMARKS: BY-LAW NO. 3					
WR891010	2015/07/03	CONDO BYLAW/98		WATERLOO STANDARD CONDOMINIUM CORPORATION NO. 591		C
	REMARKS: BY-LAW NO. 4					
WR953075	2016/05/18	TRANSFER OF CHARGE		LAURENTIAN BANK OF CANADA	MARSHALLZEHR GROUP INC.	C
	REMARKS: WR690395.					
WR968520	2016/07/26	APL VESTING ORDER	\$360,427	ONTARIO SUPERIOR COURT OF JUSTICE	BRADLEY, MADONNA MONIQUE BAUER, RAYMOND EDGAR	C
WR968521	2016/07/26	CHARGE	\$400,000	BAUER, RAYMOND EDGAR BRADLEY, MADONNA MONIQUE	THE TORONTO-DOMINION BANK	C

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APPENDIX “C”

Court File No. CV15-10843-00CL

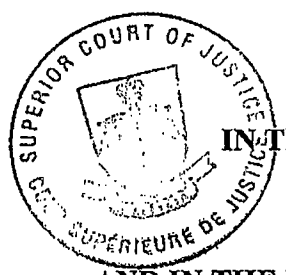
**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

THE HONOURABLE Mr.)
)
JUSTICE Wi Han - Siegel)

THURSDAY, THE 21st DAY

OF JULY, 2016

WJS



**IN THE MATTER OF THE CONSTRUCTION LIEN ACT,
R.S.O. 1990, c. C.30, AS AMENDED**

**AND IN THE MATTER OF AN APPLICATION MADE BY 144 PARK LTD.
FOR THE APPOINTMENT OF A TRUSTEE UNDER SECTION 68(1) OF THE
CONSTRUCTION LIEN ACT, R.S.O. 1990, c. C.30, AS AMENDED**

VESTING ORDER
(re suite 1902)

THIS MOTION made by Collins Barrow Toronto Limited, in its capacity as Court-appointed trustee over the lands and premises known municipally as 142, 144 and 148 Park Street and 21 Allen Street West, Waterloo, Ontario pursuant to section 68(1) of the *Construction Lien Act*, R.S.O. 1990, c. C.30, as amended (the "Trustee") for an order vesting in Mark Barrenechea (the "Purchaser") the right, title and interest of 144 Park Ltd. (the "Debtor") in and to the property described in **Schedule "B"** hereto (the "**Purchased Assets**"), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Eleventh Report of the Trustee dated July 15, 2016 and the Appendices thereto, and on hearing the submissions of counsel for the Trustee, and such other counsel listed on the Counsel Slip, no one else from the service list appearing although duly served as appears from the affidavit of service of Lynn Lee sworn July 18, 2016, filed,

1. **THIS COURT ORDERS AND DECLARES** that upon the delivery of a Trustee's certificate to the Purchaser substantially in the form attached as **Schedule "A"** hereto (the "**Trustee's Certificate**"), all of the Debtor's right, title and interest in and to the Purchased Assets shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, construction liens, certificates of action, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "**Claims**") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Justice Penny dated January 22, 2015; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; and (iii) those Claims listed on **Schedule "C"** hereto (all of which are collectively referred to as the "**Encumbrances**", which term shall not include the permitted encumbrances, easements and restrictive covenants listed on **Schedule "D"** hereto) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

2. **THIS COURT ORDERS** that upon the registration in the Land Registry Office for the Land Titles Division of Kitchener (Waterloo) of an Application for Vesting Order in the form

prescribed by the *Land Titles Act* and/or the *Land Registration Reform Act*, the Land Registrar is hereby directed to enter the Purchaser as the owner of the Purchased Assets identified in Schedule "B" hereto in fee simple, and is hereby directed to delete and expunge from title to the Purchased Assets all of the Claims listed in Schedule "C" hereto.

3. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Trustee's Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

4. **THIS COURT ORDERS AND DIRECTS** the Trustee to file with the Court a copy of the Trustee's Certificate, forthwith after delivery thereof.

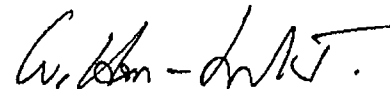
5. **THIS COURT ORDERS** that, notwithstanding:

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the Debtor and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of the Debtor;

the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtor and shall not be void or voidable by creditors of the Debtor, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

6. **THIS COURT ORDERS AND DECLARES** that the sale of the Purchased Assets is exempt from the application of the *Bulk Sales Act* (Ontario).

7. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Trustee and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Trustee, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Trustee and its agents in carrying out the terms of this Order.



ENTERED AT / INSCRIT À TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO:

JUL 21 2016

PER / PAR: 

Schedule "A" – Form of Trustee's Certificate

Court File No. CV15-10843-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)****IN THE MATTER OF THE *CONSTRUCTION LIEN ACT*,
R.S.O. 1990, c. C.30, AS AMENDED****AND IN THE MATTER OF AN APPLICATION MADE BY 144 PARK LTD.
FOR THE APPOINTMENT OF A TRUSTEE UNDER SECTION 68(1) OF THE
CONSTRUCTION LIEN ACT, R.S.O. 1990, c. C.30, AS AMENDED****TRUSTEE'S CERTIFICATE
(re suite 1902)****RECITALS**

A. Pursuant to an Order of the Honourable Justice Penny of the Ontario Superior Court of Justice dated January 22, 2015, Collins Barrow Toronto Limited was appointed as trustee over the lands and premises known municipally as 142, 144 and 148 Park Street and 21 Allen Street West, Waterloo, Ontario pursuant to section 68(1) of the *Construction Lien Act*, R.S.O. 1990, c. C.30, as amended.

B. Pursuant to an Order of the Court dated July 21, 2016 (the "**Vesting Order**"), the Court provided for the vesting in Mark Barrenechea (the "**Purchaser**") of the Debtor's right, title and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Trustee to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the purchase price for the Purchased Assets; and (ii) the transaction has been completed to the satisfaction of the Trustee.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Vesting Order.

THE TRUSTEE CERTIFIES the following:

1. The Purchaser has paid and the Trustee has received the purchase price for the Purchased Assets; and
2. The Transaction has been completed to the satisfaction of the Trustee.
3. This Certificate was delivered by the Trustee at _____ on _____, 2016.

**COLLINS BARROW TORONTO LIMITED,
in its capacity as Trustee of the Property, and
not in its personal capacity**

Per: _____
Name:
Title:

Schedule "B" – Purchased Assets**PIN 23591-0358**

Property Description: Unit 2, Level 19, Waterloo Standard Condominium Plan No. 591 and its appurtenant interest; subject to easements as set out in Schedule A as in WR882241; City of Waterloo

PIN 23591-0382

Property Description: Unit 22, Level A, Waterloo Standard Condominium Plan No. 591 and its appurtenant interest; subject to easements as set out in Schedule A as in WR882241; City of Waterloo

PIN 23591-0441

Property Description: Unit 861 Level A, Waterloo Standard Condominium Plan No. 591 and its appurtenant interest; subject to easements as set out in Schedule A as in WR882241; City of Waterloo

Schedule "C" – Claims to be deleted and expunged from title to Purchased Assets

Instrument No.	Registration Date	Instrument Type	Amount	Parties From	Parties To
WR611290	May 2, 2011	Notice	\$2	Allen Street Holdings Inc.	Allen Street Holdings Inc., 2184038 Ontario Inc., 144 Park Ltd., COB GP Inc.
WR639368	September 1, 2011	Charge	\$8,500,000	144 Park Ltd.	Aviva Insurance Company of Canada
WR639369	September 1, 2011	Charge	\$3,000,000	144 Park Ltd.	Allen Street Holdings Inc.
WR660381	December 13, 2011	Charge	\$2,887,696	144 Park Ltd.	MarshallZehr Group Inc.
WR690395	May 25, 2012	Charge	\$40,000,000	144 Park Ltd.	Laurentian Bank of Canada
WR690396	May 25, 2012	No Assgn Rent Gen		144 Park Ltd.	Laurentian Bank of Canada
WR690416	May 25, 2012	Postponement		Allen Street Holdings Inc.	Laurentian Bank of Canada
WR690422	May 25, 2012	Postponement		Aviva Insurance Company of Canada	Laurentian Bank of Canada
WR690423	May 25, 2012	Postponement		MarshallZehr Group Inc.	Laurentian Bank of Canada
WR759234	June 13, 2013	APL Absolute Title		144 Park Ltd.	
WR847447	October 24, 2014	Construction Lien	\$301,592	Global Fire Protection Ltd.	
WR849030	October 31, 2014	Construction Lien	\$88,883	694643 Ontario Limited cob as O'Connor Electric	
WR854810	December 1, 2014	Construction Lien	\$537,286	J & I Gaweda Construction Ltd.	

Instrument No.	Registration Date	Instrument Type	Amount	Parties From	Parties To
WR854978	December 2, 2014	Construction Lien	\$26,889	Bast Home Comfort Inc.	
WR856621	December 10, 2014	Certificate of Action		Global Fire Protection Ltd.	144 Park Ltd., Aviva Insurance Company of Canada, Allen Street Holdings Ltd., Laurentian Bank of Canada, MarshallZehr Group Inc.
WR856756	December 11, 2014	Construction Lien	\$328,260	Frendel Kitchens Limited	
WR857239	December 12, 2014	Construction Lien	\$436,314	T.I.C. Contracting Ltd.	
WR857322	December 15, 2014	Construction Lien	\$188,393	Global Precast Inc.	
WR857462	December 15, 2014	Construction Lien	\$110,716	2050491 Ontario Inc. o/a The Downsview Group	
WR857468	December 15, 2014	Construction Lien	\$104,009	Sam Tortola Enterprises Inc.	
WR857793	December 16, 2014	Construction Lien	\$15,870	CRS Contractors Rental Supply General Partner Inc.	
WR857850	December 16, 2014	Construction Lien	\$83,436	Adlers Main Tile & Carpet Co. Ltd.	
WR858473	December 19, 2014	Construction Lien	\$30,851	Turner Fleischer Architects Inc.	
WR858748	December 19, 2014	Construction Lien	\$46,043	Hammerschlag & Joffe Inc.	
WR858991	December 22, 2014	Construction Lien	\$345,952	Screen Painting Ltd.	
WR859188	December 23, 2014	Construction Lien	\$176,771	Weston Flooring Limited	

Instrument No.	Registration Date	Instrument Type	Amount	Parties From	Parties To
WR859941	December 30, 2014	Construction Lien	\$32,381	Great Pyramid Aluminum Ltd.	
WR860525	January 5, 2015	Construction Lien	\$139,287	Adlers Main Tile & Carpet Co. Ltd.	
WR860757	January 6, 2015	Certificate of Action		Frendel Kitchens Limited	144 Park Ltd., Mady Development Corporation, Mady Contract Division (2009) Ltd., Mady Contract Division Ltd., D. Mady Investments Inc., MarshallZehr Group Inc., Allen Street Holdings Ltd., Aviva Insurance Company of Canada, Laurentian Bank of Canada
WR861891	January 13, 2015	Certificate of Action		Bast Home Comfort Inc.	
WR862054	January 14, 2015	Certificate of Action		J & I Gaweda Construction Ltd.	
WR862055	January 14, 2015	Certificate of Action		Global Fire Protection Ltd.	144 Park Ltd., Aviva Insurance Company of Canada, Allen Street Holdings Ltd., Laurentian Bank of Canada, MarshallZehr Group Inc.
WR862500	January 16, 2015	Certificate of Action		694643 Ontario Limited	
WR863268	January 21, 2015	Certificate of Action		Turner Fleischer Architects Inc.	Mady Contract Division Ltd., Mady Contract Division (2009) Ltd., Mady Development Corporation, 144 Park Ltd., Aviva

- 4 -

Instrument No.	Registration Date	Instrument Type	Amount	Parties From	Parties To
					Insurance Company of Canada, Allen Street Holdings Inc., MarshallZehr Group Inc., Laurentian Bank of Canada
WR863291	January 21, 2015	Construction Lien	\$113,328	Brody Wall System Ltd.	
WR863296	January 21, 2015	Certificate of Action		T.I.C. Contracting Ltd.	
WR863658	January 23, 2015	Construction Lien	\$4,258	Skyway Canada Limited	
WR863814	January 23, 2015	Construction Lien	\$210,190	DKS Stone Fabrication & Design Inc.	
WR863820	January 23, 2015	APL Court Order		Ontario Superior Court of Justice (Commercial List)	Collins Barrow Toronto Limited
WR864339	January 28, 2015	Construction Lien	\$752,632	Clonard Group Inc.	
WR864365	January 28, 2015	Certificate of Action		Hammerschlag & Joffe Inc.	
WR864655	January 29, 2015	Construction Lien	\$260,447	Aluminum Window Design Installations Inc.	
WR865440	February 2, 2015	Certificate of Action		Great Pyramid Aluminum Ltd.	144 Park Ltd.
WR865713	February 4, 2015	Certificate of Action		Global Precast Inc.	144 Park Ltd., Mady Contract Division (2009) Ltd., Aviva Insurance Company of Canada, Allen Street Holdings Ltd., MarshallZehr Group Inc., Laurentian Bank of Canada

Instrument No.	Registration Date	Instrument Type	Amount	Parties From	Parties To
WR865936	February 5, 2015	Certificate of Action		Adlers Main Tile & Carpet Co. Ltd.	
WR866373	February 9, 2015	Certificate of Action		2050491 Ontario Inc.	144 Park Ltd., Mady Contract Division (2009) Ltd., Aviva Insurance Company of Canada, Allen Street Holdings Ltd., MarshallZehr Group Inc., Laurentian Bank of Canada
WR867197	February 13, 2015	Certificate of Action		Weston Flooring Limited	
WR867757	February 19, 2015	Certificate of Action		Screen Painting Ltd.	
WR868712	February 26, 2015	Certificate of Action		Sam Tortola Enterprises Inc.	
WR870665	March 11, 2015	Certificate of Action		Aluminum Window Design Installations Inc.	
WR870768	March 12, 2015	Certificate of Action		CRS Contractors Rental Supply General Partner Inc.	
WR870844	March 12, 2015	Certificate of Action		Brody Wall System Ltd.	144 Park Ltd.
WR874856	April 8, 2015	Certificate of Action		DKS Stone Fabrication & Design Inc.	144 Park Ltd., Mady Development Corporation, Mady Contract Division (2009) Ltd., Mady Contract Division Ltd., Aviva Insurance Company of Canada, Allen Street Holdings Inc., MarshallZehr Group Inc., Laurentian Bank of Canada

Instrument No.	Registration Date	Instrument Type	Amount	Parties From	Parties To
WR875305	April 10, 2015	Certificate of Action		Skyway Canada Limited	
WR953075	May 18, 2016	Transfer of Charge		Laurentian Bank of Canada	MarshallZehr Group Inc.

**Schedule "D" – Permitted Encumbrances, Easements and Restrictive Covenants
related to the Purchased Assets**

(unaffected by the Vesting Order)

Instrument No.	Registration Date	Instrument Type	Amount	Parties From	Parties To
WR625222	July 7, 2011	Notice	\$2	The Corporation of the City of Waterloo	Allen Street Holdings Inc.
WR655113	November 17, 2011	Notice		The Corporation of the City of Waterloo	144 Park Ltd.
WR666363	January 18, 2012	Transfer Easement	\$2	144 Park Ltd.	Rogers Cable Communications Inc.
58R17836	June 13, 2013	Plan Reference			
WR856168	December 8, 2014	Notice		The Corporation of the City of Waterloo	144 Park Ltd.
WR864508	January 29, 2015	Transfer Easement	\$2	144 Park Ltd.	Waterloo North Hydro Inc.
WR867313	February 17, 2015	Notice	\$2	The Regional Municipality of Waterloo	
WR876062	April 16, 2015	Notice	\$2	144 Park Ltd.	One 55 Mady Ltd.
WCP591	May 25, 2015	Standard Condo Plan			
WR882241	May 25, 2015	Condo Declaration		144 Park Ltd.	
WR891003	July 3, 2015	Condo Bylaw/98		Waterloo Standard Condominium Corporation No. 591	
WR891004	July 3, 2015	Condo Bylaw/98		Waterloo Standard Condominium Corporation No. 591	
WR891008	July 3, 2015	Condo		Waterloo Standard	

Instrument No.	Registration Date	Instrument Type	Amount	Parties From	Parties To
		Bylaw/98		Condominium Corporation No. 591	
WR891010	July 3, 2015	Condo Bylaw/98		Waterloo Standard Condominium Corporation No. 591	

IN THE MATTER OF THE *CONSTRUCTION LIEN ACT*, R.S.O. 1990, c. C.30, AS AMENDED
AND IN THE MATTER OF AN APPLICATION MADE BY 144 PARK LTD. FOR THE APPOINTMENT OF A TRUSTEE
UNDER SECTION 68(1) OF THE *CONSTRUCTION LIEN ACT*, R.S.O. 1990, c. C.30, AS AMENDED

Court File No. CV15-10843-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceedings commenced at Toronto

VESTING ORDER
(re suite 1902)

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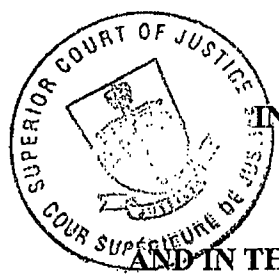
Lawyers for the Trustee

APPENDIX “D”

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

THE HONOURABLE Mr.)
)
JUSTICE Wilton Siesel)

THURSDAY, THE 21st DAY)
)
OF JULY, 2016) *AMS*



**IN THE MATTER OF THE *CONSTRUCTION LIEN ACT*,
R.S.O. 1990, c. C.30, AS AMENDED**

**AND IN THE MATTER OF AN APPLICATION MADE BY 144 PARK LTD.
FOR THE APPOINTMENT OF A TRUSTEE UNDER SECTION 68(1) OF THE
CONSTRUCTION LIEN ACT, R.S.O. 1990, c. C.30, AS AMENDED**

**VESTING ORDER
(re suite 810)**

THIS MOTION made by Collins Barrow Toronto Limited, in its capacity as Court-appointed trustee over the lands and premises known municipally as 142, 144 and 148 Park Street and 21 Allen Street West, Waterloo, Ontario pursuant to section 68(1) of the *Construction Lien Act*, R.S.O. 1990, c. C.30, as amended (the "Trustee") for an order vesting in Janice Richards (the "Purchaser") the right, title and interest of 144 Park Ltd. (the "Debtor") in and to the property described in Schedule "B" hereto (the "Purchased Assets"), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Eleventh Report of the Trustee dated July 15, 2016 and the Appendices thereto, and on hearing the submissions of counsel for the Trustee, and such other counsel listed on the Counsel Slip, no one else from the service list appearing although duly served as appears from the affidavit of service of Lynn Lee sworn July 18, 2016, filed,

1. **THIS COURT ORDERS AND DECLARES** that upon the delivery of a Trustee's certificate to the Purchaser substantially in the form attached as **Schedule "A"** hereto (the "**Trustee's Certificate**"), all of the Debtor's right, title and interest in and to the Purchased Assets shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, construction liens, certificates of action, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "**Claims**") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Justice Penny dated January 22, 2015; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; and (iii) those Claims listed on **Schedule "C"** hereto (all of which are collectively referred to as the "**Encumbrances**", which term shall not include the permitted encumbrances, easements and restrictive covenants listed on **Schedule "D"** hereto) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

2. **THIS COURT ORDERS** that upon the registration in the Land Registry Office for the Land Titles Division of Kitchener (Waterloo) of an Application for Vesting Order in the form

prescribed by the *Land Titles Act* and/or the *Land Registration Reform Act*, the Land Registrar is hereby directed to enter the Purchaser as the owner of the Purchased Assets identified in Schedule "B" hereto in fee simple, and is hereby directed to delete and expunge from title to the Purchased Assets all of the Claims listed in Schedule "C" hereto.

3. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Trustee's Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

4. **THIS COURT ORDERS AND DIRECTS** the Trustee to file with the Court a copy of the Trustee's Certificate, forthwith after delivery thereof.

5. **THIS COURT ORDERS** that, notwithstanding:

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the Debtor and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of the Debtor;

Schedule "A" – Form of Trustee's Certificate

Court File No. CV15-10843-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

**IN THE MATTER OF THE *CONSTRUCTION LIEN ACT*,
R.S.O. 1990, c. C.30, AS AMENDED**

**AND IN THE MATTER OF AN APPLICATION MADE BY 144 PARK LTD.
FOR THE APPOINTMENT OF A TRUSTEE UNDER SECTION 68(1) OF THE
CONSTRUCTION LIEN ACT, R.S.O. 1990, c. C.30, AS AMENDED**

**TRUSTEE'S CERTIFICATE
(re suite 810)**

RECITALS

A. Pursuant to an Order of the Honourable Justice Penny of the Ontario Superior Court of Justice dated January 22, 2015, Collins Barrow Toronto Limited was appointed as trustee over the lands and premises known municipally as 142, 144 and 148 Park Street and 21 Allen Street West, Waterloo, Ontario pursuant to section 68(1) of the *Construction Lien Act*, R.S.O. 1990, c. C.30, as amended.

B. Pursuant to an Order of the Court dated July 21, 2016 (the "**Vesting Order**"), the Court provided for the vesting in Janice Richards (the "**Purchaser**") of the Debtor's right, title and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Trustee to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the purchase price for the Purchased Assets; and (ii) the transaction has been completed to the satisfaction of the Trustee.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Vesting Order.

THE TRUSTEE CERTIFIES the following:

1. The Purchaser has paid and the Trustee has received the purchase price for the Purchased Assets; and
2. The Transaction has been completed to the satisfaction of the Trustee.
3. This Certificate was delivered by the Trustee at _____ on _____, 2016.

**COLLINS BARROW TORONTO LIMITED,
in its capacity as Trustee of the Property, and
not in its personal capacity**

Per: _____
Name:
Title:

Schedule "B" – Purchased Assets**PIN 23591-0269**

Property Description: Unit 10, Level 8, Waterloo Standard Condominium Plan No. 591 and its appurtenant interest; subject to easements as set out in Schedule A as in WR882241; City of Waterloo

PIN 23591-0037

Property Description: Unit 37, Level 1, Waterloo Standard Condominium Plan No. 591 and its appurtenant interest; subject to easements as set out in Schedule A as in WR882241; City of Waterloo

PIN 23591-0073

Property Description: Unit 28, Level 2, Waterloo Standard Condominium Plan No. 591 and its appurtenant interest; subject to easements as set out in Schedule A as in WR882241; City of Waterloo

Schedule "C" – Claims to be deleted and expunged from title to Purchased Assets

Instrument No.	Registration Date	Instrument Type	Amount	Parties From	Parties To
WR611290	May 2, 2011	Notice	\$2	Allen Street Holdings Inc.	Allen Street Holdings Inc., 2184038 Ontario Inc., 144 Park Ltd., COB GP Inc.
WR639368	September 1, 2011	Charge	\$8,500,000	144 Park Ltd.	Aviva Insurance Company of Canada
WR639369	September 1, 2011	Charge	\$3,000,000	144 Park Ltd.	Allen Street Holdings Inc.
WR660381	December 13, 2011	Charge	\$2,887,696	144 Park Ltd.	MarshallZehr Group Inc.
WR690395	May 25, 2012	Charge	\$40,000,000	144 Park Ltd.	Laurentian Bank of Canada
WR690396	May 25, 2012	No Assgn Rent Gen		144 Park Ltd.	Laurentian Bank of Canada
WR690416	May 25, 2012	Postponement		Allen Street Holdings Inc.	Laurentian Bank of Canada
WR690422	May 25, 2012	Postponement		Aviva Insurance Company of Canada	Laurentian Bank of Canada
WR690423	May 25, 2012	Postponement		MarshallZehr Group Inc.	Laurentian Bank of Canada
WR759234	June 13, 2013	APL Absolute Title		144 Park Ltd.	
WR847447	October 24, 2014	Construction Lien	\$301,592	Global Fire Protection Ltd.	
WR849030	October 31, 2014	Construction Lien	\$88,883	694643 Ontario Limited cob as O'Connor Electric	
WR854810	December 1, 2014	Construction Lien	\$537,286	J & I Gaweda Construction Ltd.	

Instrument No.	Registration Date	Instrument Type	Amount	Parties From	Parties To
WR854978	December 2, 2014	Construction Lien	\$26,889	Bast Home Comfort Inc.	
WR856621	December 10, 2014	Certificate of Action		Global Fire Protection Ltd.	144 Park Ltd., Aviva Insurance Company of Canada, Allen Street Holdings Ltd., Laurentian Bank of Canada, MarshallZehr Group Inc.
WR856756	December 11, 2014	Construction Lien	\$328,260	Frendel Kitchens Limited	
WR857239	December 12, 2014	Construction Lien	\$436,314	T.I.C. Contracting Ltd.	
WR857322	December 15, 2014	Construction Lien	\$188,393	Global Precast Inc.	
WR857462	December 15, 2014	Construction Lien	\$110,716	2050491 Ontario Inc. o/a The Downsview Group	
WR857468	December 15, 2014	Construction Lien	\$104,009	Sam Tortola Enterprises Inc.	
WR857793	December 16, 2014	Construction Lien	\$15,870	CRS Contractors Rental Supply General Partner Inc.	
WR857850	December 16, 2014	Construction Lien	\$83,436	Adlers Main Tile & Carpet Co. Ltd.	
WR858473	December 19, 2014	Construction Lien	\$30,851	Turner Fleischer Architects Inc.	
WR858748	December 19, 2014	Construction Lien	\$46,043	Hammerschlag & Joffe Inc.	
WR858991	December 22, 2014	Construction Lien	\$345,952	Sreen Painting Ltd.	
WR859188	December 23, 2014	Construction Lien	\$176,771	Weston Flooring Limited	

Instrument No.	Registration Date	Instrument Type	Amount	Parties From	Parties To
WR859941	December 30, 2014	Construction Lien	\$32,381	Great Pyramid Aluminum Ltd.	
WR860525	January 5, 2015	Construction Lien	\$139,287	Adlers Main Tile & Carpet Co. Ltd.	
WR860757	January 6, 2015	Certificate of Action		Freudel Kitchens Limited	144 Park Ltd., Mady Development Corporation, Mady Contract Division (2009) Ltd., Mady Contract Division Ltd., D. Mady Investments Inc., MarshallZehr Group Inc., Allen Street Holdings Ltd., Aviva Insurance Company of Canada, Laurentian Bank of Canada
WR861891	January 13, 2015	Certificate of Action		Bast Home Comfort Inc.	
WR862054	January 14, 2015	Certificate of Action		J & I Gaweda Construction Ltd.	
WR862055	January 14, 2015	Certificate of Action		Global Fire Protection Ltd.	144 Park Ltd., Aviva Insurance Company of Canada, Allen Street Holdings Ltd., Laurentian Bank of Canada, MarshallZehr Group Inc.
WR862500	January 16, 2015	Certificate of Action		694643 Ontario Limited	
WR863268	January 21, 2015	Certificate of Action		Turner Fleischer Architects Inc.	Mady Contract Division Ltd., Mady Contract Division (2009) Ltd., Mady Development Corporation, 144 Park Ltd., Aviva

Instrument No.	Registration Date	Instrument Type	Amount	Parties From	Parties To
					Insurance Company of Canada, Allen Street Holdings Inc., MarshallZehr Group Inc., Laurentian Bank of Canada
WR863291	January 21, 2015	Construction Lien	\$113,328	Brody Wall System Ltd.	
WR863296	January 21, 2015	Certificate of Action		T.I.C. Contracting Ltd.	
WR863658	January 23, 2015	Construction Lien	\$4,258	Skyway Canada Limited	
WR863814	January 23, 2015	Construction Lien	\$210,190	DKS Stone Fabrication & Design Inc.	
WR863820	January 23, 2015	APL Court Order		Ontario Superior Court of Justice (Commercial List)	Collins Barrow Toronto Limited
WR864339	January 28, 2015	Construction Lien	\$752,632	Clonard Group Inc.	
WR864365	January 28, 2015	Certificate of Action		Hammerschlag & Joffe Inc.	
WR864655	January 29, 2015	Construction Lien	\$260,447	Aluminum Window Design Installations Inc.	
WR865440	February 2, 2015	Certificate of Action		Great Pyramid Aluminum Ltd.	144 Park Ltd.
WR865713	February 4, 2015	Certificate of Action		Global Precast Inc.	144 Park Ltd., Mady Contract Division (2009) Ltd., Aviva Insurance Company of Canada, Allen Street Holdings Ltd., MarshallZehr Group Inc., Laurentian Bank of Canada

Instrument No.	Registration Date	Instrument Type	Amount	Parties From	Parties To
WR865936	February 5, 2015	Certificate of Action		Adlers Main Tile & Carpet Co. Ltd.	
WR866373	February 9, 2015	Certificate of Action		2050491 Ontario Inc.	144 Park Ltd., Mady Contract Division (2009) Ltd., Aviva Insurance Company of Canada, Allen Street Holdings Ltd., MarshallZehr Group Inc., Laurentian Bank of Canada
WR867197	February 13, 2015	Certificate of Action		Weston Flooring Limited	
WR867757	February 19, 2015	Certificate of Action		Screen Painting Ltd.	
WR868712	February 26, 2015	Certificate of Action		Sam Tortola Enterprises Inc.	
WR870665	March 11, 2015	Certificate of Action		Aluminum Window Design Installations Inc.	
WR870768	March 12, 2015	Certificate of Action		CRS Contractors Rental Supply General Partner Inc.	
WR870844	March 12, 2015	Certificate of Action		Brody Wall System Ltd.	144 Park Ltd.
WR874856	April 8, 2015	Certificate of Action		DKS Stone Fabrication & Design Inc.	144 Park Ltd., Mady Development Corporation, Mady Contract Division (2009) Ltd., Mady Contract Division Ltd., Aviva Insurance Company of Canada, Allen Street Holdings Inc., MarshallZehr Group Inc., Laurentian Bank of Canada

Instrument No.	Registration Date	Instrument Type	Amount	Parties From	Parties To
WR875305	April 10, 2015	Certificate of Action		Skyway Canada Limited	
WR953075	May 18, 2016	Transfer of Charge		Laurentian Bank of Canada	MarshallZehr Group Inc.

**Schedule "D" – Permitted Encumbrances, Easements and Restrictive Covenants
related to the Purchased Assets**

(unaffected by the Vesting Order)

Instrument No.	Registration Date	Instrument Type	Amount	Parties From	Parties To
WR625222	July 7, 2011	Notice	\$2	The Corporation of the City of Waterloo	Allen Street Holdings Inc.
WR655113	November 17, 2011	Notice		The Corporation of the City of Waterloo	144 Park Ltd.
WR666363	January 18, 2012	Transfer Easement	\$2	144 Park Ltd.	Rogers Cable Communications Inc.
58R17836	June 13, 2013	Plan Reference			
WR856168	December 8, 2014	Notice		The Corporation of the City of Waterloo	144 Park Ltd.
WR864508	January 29, 2015	Transfer Easement	\$2	144 Park Ltd.	Waterloo North Hydro Inc.
WR867313	February 17, 2015	Notice	\$2	The Regional Municipality of Waterloo	
WR876062	April 16, 2015	Notice	\$2	144 Park Ltd.	One 55 Mady Ltd.
WCP591	May 25, 2015	Standard Condo Plan			
WR882241	May 25, 2015	Condo Declaration		144 Park Ltd.	
WR891003	July 3, 2015	Condo Bylaw/98		Waterloo Standard Condominium Corporation No. 591	
WR891004	July 3, 2015	Condo Bylaw/98		Waterloo Standard Condominium Corporation No. 591	
WR891008	July 3, 2015	Condo		Waterloo Standard	

Instrument No.	Registration Date	Instrument Type	Amount	Parties From	Parties To
		Bylaw/98		Condominium Corporation No. 591	
WR891010	July 3, 2015	Condo Bylaw/98		Waterloo Standard Condominium Corporation No. 591	

IN THE MATTER OF THE CONSTRUCTION LIEN ACT, R.S.O. 1990, c. C.30, AS AMENDED
AND IN THE MATTER OF AN APPLICATION MADE BY 144 PARK LTD. FOR THE APPOINTMENT OF A TRUSTEE
UNDER SECTION 68(1) OF THE CONSTRUCTION LIEN ACT, R.S.O. 1990, c. C.30, AS AMENDED

Court File No. CV15-10843-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceedings commenced at Toronto

VESTING ORDER
(re suite 810)

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Lawyers for the Trustee

APPENDIX “E”

Court File No. CV15-10843-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

**IN THE MATTER OF THE *CONSTRUCTION LIEN ACT*,
R.S.O. 1990, c. C.30, AS AMENDED**

**AND IN THE MATTER OF AN APPLICATION MADE BY 144 PARK LTD.
FOR THE APPOINTMENT OF A TRUSTEE UNDER SECTION 68(1) OF THE
CONSTRUCTION LIEN ACT, R.S.O. 1990, c. C.30, AS AMENDED**

SIXTH REPORT OF THE TRUSTEE

November 30, 2015

INTRODUCTION AND PURPOSE OF THE SIXTH REPORT

1. Pursuant to the Order of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) dated January 22, 2015 (the “**Appointment Order**”), Collins Barrow Toronto Limited was appointed *Construction Lien Act* (Ontario) (the “**CLA**”) trustee (the “**Trustee**”) with respect to certain lands and premises owned by 144 Park Ltd. (“**144 Park**”) and known municipally as 142, 144 and 148 Park Street and 21 Allen Street West, Waterloo, Ontario, and legally described in Schedule “A” to the Appointment Order (the “**Property**”). A copy of the Appointment Order is attached hereto and marked as **Appendix “A”**.

2. The purpose of this Sixth Report of the Trustee (the “**Sixth Report**”) is to request that the Court grant an Order:
 - (a) authorizing the Trustee to engage Mint Realty Inc. Brokerage (“**Mint Realty**”) to market the Remaining Units (as defined below) on the terms of the Mint Realty Proposal (as defined below), including advertising and soliciting offers in respect of the Remaining Units;

 - (b) authorizing the Trustee to sell, convey, or transfer the Remaining Units without the approval of the Court if the purchase price is at least within 95% of the listing price for the applicable residential unit or the Trustee has obtained the written consent of the first mortgagee of the Property or its assignee to the sale price;

 - (c) authorizing the Trustee to make distributions to construction lien claimants of holdback amounts in the aggregate amount of \$315,038.40 from the net sale

proceeds of the Property being held by the Trustee pursuant to the Order of the Honourable Mr. Justice Newbould dated August 5, 2015 (the “**Reserve**”);

- (d) authorizing the Trustee to continue to hold in the Reserve the aggregate amount of \$363,138.53 in respect of holdback amounts claimed by three (3) construction lien claimants (694643 Ontario Limited cob as O’Connor Electric (“**O’Connor Electric**”), Clonard Group Inc. (“**Clonard**”), and Screen Painting Ltd. (“**Screen**”)) pending further Order of the Court;
- (e) authorizing the Trustee to distribute the balance of the funds in the Reserve to Laurentian Bank of Canada (“**LBC**” or the “**Bank**”); and
- (f) authorizing the Trustee to make further distributions of the net sale proceeds of the Property to the Bank or its assignee up to the amount of the Bank’s secured indebtedness without further Court order.

TERMS OF REFERENCE

3. In preparing this Sixth Report and making the comments herein, the Trustee has relied upon unaudited financial information, the books and records of 144 Park, discussions with management and employees of 144 Park and other companies within the MADY group of companies, and information received from third-party sources (collectively, the “**Information**”). Certain of the information contained in this Sixth Report may refer to, or is based on, the Information. As the Information has been provided by 144 Park, lien claimants or other parties, the Trustee has relied on the Information and, to the extent possible, reviewed the Information for reasonableness. However, the Trustee has not audited or otherwise attempted to verify the accuracy or completeness of the Information

in a manner that would wholly or partially comply with Generally Accepted Assurance Standards pursuant to the CPA Canada Handbook and, accordingly, the Trustee expresses no opinion or other form of assurance in respect of the Information.

144 PARK PROJECT

Background

4. As has been previously reported to the Court, the Property was acquired by 144 Park in September 2011 for the purpose of developing and constructing a 19 story residential condominium project containing 148 residential units and 1 guest unit (the “**144 Park Project**”).
5. 144 Park sought the appointment of the Trustee in January 2015 as it was insolvent and was not in a position to:
 - (a) take the necessary steps to have the condominium declaration finalized and registered;
 - (b) complete the sale transactions for the residential units that had been pre-sold; and
 - (c) complete the marketing and sale of the unsold residential units.
6. Pursuant to the Appointment Order, the Trustee was authorized and empowered to, among other things:
 - (a) act as receiver and manager of the Property;
 - (b) take possession and control of the Property and any and all proceeds, receipts and disbursements arising out of or from the Property; and

- (c) complete the existing agreements of purchase and sale for the pre-sold residential units and related parking units and storage units that form part of the Property.
7. As of the date of the Trustee's appointment, 144 Park had entered into agreements of purchase and sale ("**Sale Agreements**") with purchasers for the sale of 129 residential units and parking and storage units to be allocated by 144 Park to the purchasers.
 8. One of the sale transactions was an agreement of purchase and sale with a lien claimant, Brody Wall System Ltd., dated December 5, 2014, which was terminated by the Trustee on May 4, 2015 in accordance with the Order of the Honourable Mr. Justice McEwen dated April 29, 2015.
 9. As a result, there were 128 units that were the subject of Sale Agreements with 144 Park, and 20 unsold units (collectively, the "**Unsold Units**").
 10. The Appointment Order did not authorize or empower the Trustee to market or sell the Unsold Units.
 11. Pursuant to the Order of Justice Newbould dated August 5, 2015 (the "**August 5th Order**"), the Trustee was authorized to engage Mint Realty to market any or all of the Unsold Units on the terms of Mint Realty's proposal (the "**Mint Realty Proposal**"), including advertising and soliciting offers in respect of the Unsold Units or any part or parts thereof. The August 5th Order also authorized the Trustee to sell, convey, or transfer the Unsold Units or any part or parts thereof without the approval of the Court if the purchase price is within 95% of the listing price for the residential unit or the Trustee

has obtained the written consent of the first mortgagee of the Property or its assignee. A copy of the August 5th Order is attached hereto as **Appendix "B"**.

Sold Units

12. As noted above, there were 128 units that were subject to Sale Agreements that the Trustee was authorized to take steps to close pursuant to the Appointment Order (the **"Sold Units"**).

13. As of the date of this Sixth Report, the Trustee has closed the sale of 107 of the 128 Sold Units. Two more Sold Units are scheduled to close on November 30, 2015. Assuming that such sale transactions close, as of December 1, 2015, the Trustee will have closed the sale of 109 of the 128 Sold Units. The remaining 19 Sold Units are as follows:
 - (a) six (6) units¹ that were the subject of the Trustee's motion for advice and directions with respect to parking matters that was heard by this Court on October 27, 2015. As a result of the Court's Endorsement dated November 2, 2015 that concluded the Court did not authorize the Trustee to terminate these sale transactions, counsel to the Trustee has been in contact with counsel to these purchasers to schedule the closing of these sale transactions;

 - (b) three (3) units² that were impacted by the parking motion. Counsel to the Trustee has been in contact with counsel to these purchasers to schedule the closing of these sale transactions;

¹ Units 105, 1201, 1504, 1701, 1804 and 1901

² Units 604, 704 and 903

- (c) unit 1802, where the Trustee is in the process of completing required construction of the unit that 144 Park agreed to complete prior to closing, to the point where the purchaser has agreed to close the transaction and finish the remaining construction on his own. A closing date is in the process of being finalized;
- (d) two (2) units³ where the purchaser has commenced an application seeking to terminate the sale transactions. The purchaser's application was originally commenced in Kitchener and has been transferred to this Court. A hearing date has yet to be scheduled by the parties;
- (e) two (2) units⁴ where the Trustee terminated the Sale Agreements due to purchaser defaults;
- (f) four units⁵ where the Trustee and the purchasers have agreed to terminate the Sale Agreements in accordance with the terms of the Order of Justice Newbould dated October 16, 2015 (the "**October 16th Order**"), a copy of which is attached hereto as **Appendix "C"**,⁶ and
- (g) unit 1310, where the Trustee and the purchaser are discussing whether the parties will agree to terminate the Sale Agreement in accordance with the October 16th Order.

³ Units 1407 and 1408

⁴ Units 610 and 1009

⁵ Units 609, 1102, 1801 and 1902

⁶ These purchasers have agreed to vacate the units by November 30, 2015 (other than 1801, which will vacate the unit by December 31, 2015) and will be entitled to reimbursement of certain deposit and upgrade monies that were insured by Aviva Insurance Company of Canada.

Remaining Units

14. As noted above, there are six (6) units where Sale Agreements have been terminated by the Trustee due to purchaser defaults or terminated on consent of the parties. There may be three (3) additional units terminated on consent of the parties or pursuant to Court Order (collectively, the “**Remaining Units**”).
15. To the extent that the Sale Agreements for the Remaining Units have been or will be terminated, the Trustee is requesting that the Court authorize it to engage and retain Mint Realty to market and sell the Remaining Units in the same manner and pursuant to the same terms that the Trustee has retained Mint Realty to date to market and sell the Unsold Units pursuant to the August 5th Order and the Mint Realty Proposal.

CONSTRUCTION LIEN CLAIMS PROCESS

Construction Liens

16. Construction liens had been registered against the Property in a total amount of approximately \$4.3 million. Attached as **Appendix “D”** is a chart that sets out the twenty (20) parties (collectively, the “**Construction Lien Claimants**”) that registered twenty one (21) construction liens against the Property, and the amount of their respective liens.⁷
17. Pursuant to the August 5th Order, the Trustee was authorized and directed to retain \$5.4 million from net sale proceeds of the Property in an interest bearing trust account in respect of construction lien claims pending further order of the Court. This amount

⁷ Adlers Main Tile & Carpet Co. Ltd. registered two construction liens and has, through its counsel, confirmed to the Trustee’s counsel that the first registered lien is subsumed by the second registered lien.

represents approximately 125% of the total face value amounts of the registered construction liens.

18. Pursuant to the Order (re Construction Lien Claims Process) of the Honourable Mr. Justice Wilton-Siegel dated April 23, 2015 (the “**Claims Process Order**”), the Trustee is to implement and administer a construction lien claims process (the “**Claims Process**”). A copy of the Claims Process Order is attached hereto as **Appendix “E”**.
19. The Claims Process Order authorized and directed the Trustee to make recommendations to the Court regarding the determination of holdback(s) and priorities with respect to the improvement and the Property, including priorities with respect to any proceeds of sale of the Property.
20. As has been previously reported, as of the date of the Trustee’s appointment, there were no funds being held by 144 Park or the Bank with respect to holdback amounts.
21. The Trustee has received documentation with respect to the construction liens of each of the Construction Lien Claimants. The Trustee and its counsel, Chaitons LLP (“**Chaitons**”), have reviewed the claims filed by the Construction Lien Claimants pursuant to the Claims Process. The Trustee has discussed the quantum of each claim with former employees of 144 Park to confirm whether the amounts claimed by the Construction Lien Claimants were consistent with the amounts set out in 144 Park’s books and records.

22. Based on such review, it has been determined that each of the Construction Lien Claimants entered into a contract directly with 144 Park, and there was no general contractor with respect to the 144 Park Project.
23. The Trustee has been advised by Chaitons that, pursuant to section 22 of the *CLA*, 144 Park as owner of the Property was required to maintain a holdback for each Construction Lien Claimant of ten per cent (10%) of the price of services and materials as they were actually supplied.
24. The Trustee has also been advised by Chaitons that, pursuant to section 78(2) of the *CLA*, a properly perfected construction lien has priority over mortgages to the extent of any deficiency in the holdbacks that 144 Park was required to retain under the *CLA*. As there were no funds being held by 144 Park, the deficiency in the holdbacks is the entire amount of the holdbacks.

Distributions from the Reserve

25. As was previously reported by the Trustee in its Fifth Report to the Court dated October 13, 2015 (the "**Fifth Report**"), agreement had been reached with nine (9) of the 20 Construction Lien Claimants that had properly perfected construction lien claims as to the quantum of the holdbacks. A copy of the Fifth Report (without appendices) is attached hereto as **Appendix "F"**.
26. As a result, the Trustee brought a motion returnable October 16, 2015 to obtain an order authorizing it to distribute the aggregate amount of \$932,948.74 from funds in the Reserve to the following 9 Construction Lien Claimants:

CONSTRUCTION LIEN CLAIMANT	AGREED TO OUTSTANDING HOLDBACK AMOUNT
Global Fire Protection Ltd.	\$ 85,645.54
J & I Gaweda Construction Limited	103,632.60
T.I.C. Contracting Ltd.	292,217.30
Global Precast Inc.	115,179.62
2050491 Ontario Inc. o/a The Downsview Group	54,202.46
Weston Flooring Limited	468,639.79
Great Pyramid Aluminum Ltd.	9,410.75
DKS Stone Fabrication & Design Inc.	42,087.16
Aluminum Window Design Installations Inc.	161,933.52
TOTAL	\$932,948.74

27. Pursuant to the October 16th Order, the Trustee was authorized to distribute the \$932,948.74 to the 9 Construction Lien Claimants. The Trustee has distributed such amounts in accordance with the Order.

28. As a result of the distribution, the Reserve, which originally was in the amount of \$5.4 million, is now in the amount of \$4,472,242.62 inclusive of accrued interest as of November 26, 2015.

Additional Distributions from the Reserve

29. As set out in the Fifth Report, the Trustee required additional time to complete discussions with the remaining 11 Construction Lien Claimants regarding the quantum of their holdbacks.

30. Based on extensive discussions and correspondence between Chaitons and counsel to Construction Lien Claimants, a review of 144 Park's books and records, discussions with 144 Park management and employees, nine (9) of the remaining 11 Construction Lien Claimants have properly perfected construction lien claims and the quantum of their

holdbacks has been agreed to or not disputed as of the date of this Sixth Report for a total amount of \$315,038.40:

CONSTRUCTION LIEN CLAIMANT	AGREED TO OUTSTANDING HOLDBACK AMOUNT
Bast Home Comfort Inc.	\$ 10,182.84
Frendel Kitchens Limited	24,471.54
Sam Tortola Enterprises Inc.	10,400.86
CRS Contractors Rental Supply General Partner Inc.	15,869.50
Hammerschlag & Joffe Inc.	13,721.79
Adlers Main Tile & Carpet Co. Ltd.	86,000.00
Brody Wall System Ltd.	26,000.00
Skyway Canada Ltd.	4,257.84
Clonard Group Inc.	124,134.03
TOTAL	\$315,038.40

31. Discussions continue with the three remaining (3) Construction Lien Claimants (O'Connor Electric, Clonard, and Sreen) concerning the quantum of their holdback amounts, as discussed below.

32. With respect to Clonard, based on 144 Park's books and records, the holdback amount should be \$124,134.03. Clonard has provided documentation in support of its claim that the holdback amount should be \$158,173.33, resulting in a difference of \$34,039.30.

33. The Trustee continues to review the documentation provided by Clonard. At this time, the parties have agreed that the Trustee will seek Court authority to distribute \$124,134.03 to Clonard, and retain \$34,039.30 in the Reserve pending further Order of the Court.

34. With respect to the claim of O'Connor Electric, the parties continue to discuss matters related to its claim. O'Connor Electric has claimed that it is entitled to a holdback

amount of \$254,350.23. The parties have agreed that the Trustee will retain this amount in the Reserve pending further Order of the Court.

35. With respect to the claim of Sreen, the parties continue to discuss matters related to its claim. Sreen has claimed that it is entitled to a holdback amount of \$74,749.00. The Trustee will retain this amount in the Reserve pending further Order of the Court.
36. As a result, the Trustee is requesting that the Court grant an order authorizing it to:
- (a) distribute the aggregate amount of \$315,038.40 from the Reserve to the 9 Construction Lien Claimants listed above on account of holdback amounts; and
 - (b) retain the aggregate amount of \$363,138.53⁸ in the Reserve pending further Order of the Court in connection with the claims of Clonard, O'Connor Electric and Sreen;
 - (c) distribute the balance of the funds in the Reserve in the amount of \$3,794,065.69 plus additional interest accrued to date of distribution to the Bank.

Priorities between the Bank and the Construction Lien Claimants

37. As noted above, the Trustee was advised by Chaitons that the Construction Lien Claimants were entitled to payment of the deficiency in the holdback amounts from the net sale proceeds of the Property in priority to the claims of the mortgagees pursuant to section 78(2) of the *CLA*.

⁸ Calculated by adding the holdback amounts claimed by O'Connor Electric (\$254,350.23) and Sreen (\$74,749) and the disputed amount of the holdback amount claimed by Clonard (\$34,039.30).

38. In accordance with the Claims Process Order, the Trustee is to provide recommendations to the Court regarding priorities with respect to any proceeds of the sale of the Property.
39. At the request of counsel to certain of the Construction Lien Claimants, the Trustee made available documentation related to the 144 Park Project, such as appraisals, construction draw worksheets, and progress draw reports.
40. The Trustee has been advised by Chaitons that, based on its review of all documentation and information available to it to date, its view is that the Construction Lien Claimants are only entitled to the deficiency in their holdback amounts in priority to the claims of the Bank as first building mortgagee on the basis of section 78(2) of the *CLA*.
41. In a letter dated November 13, 2015, Chaitons wrote to counsel to the Construction Lien Claimants and set out its view as to the priority between the Bank as building mortgagee and the Construction Lien Claimants. In the letter, Chaitons requested that counsel provide their comments on the holdback and priority determinations set out in the letter. A copy of the November 13, 2015 letter is attached hereto as **Appendix "G"**.
42. One issue raised in the letter concerned the final advance made by the Bank to 144 Park on October 24, 2014, as the first construction lien was registered against the Property on that date.
43. At the request of the Trustee, the Bank delivered the Affidavit of Nicole Yap sworn November 18, 2015 that provides documentary support that the funds advance by the Bank on October 24, 2014 was advanced prior to the registration of the first construction

lien. A copy of the Affidavit was provided to counsel to the Construction Lien Claimants and is attached hereto as **Appendix "H"**.

44. The Trustee has been informed that, as of the date of this Sixth Report, no Construction Lien Claimant has challenged or objected to Chaitons' view as to the extent of the priority of the Bank's mortgage over the Construction Lien Claimants (other than with respect to the deficiency in the holdbacks).

DISTRIBUTION TO LBC FROM NET SALE PROCEEDS

45. As has previously been reported to the Court, LBC financed the development of the 144 Park Project and registered a charge/mortgage against the Property in the principal amount of approximately \$40 million on May 25, 2012. As a result of postponements registered in favour of the Bank, the Bank has the first ranking building mortgage against the Property.
46. The Trustee obtained an opinion from Chaitons that, subject to customary qualifications and assumptions, the Bank has a valid and enforceable first building mortgage against the Property.
47. Pursuant to the August 5th Order, the Trustee was authorized to distribute \$14 million to the Bank. In accordance with the Order, the Trustee has distributed the amount of \$14 million to the Bank.
48. Pursuant to the October 16th Order, the Trustee was authorized to distribute up to \$6 million to the Bank. In accordance with the Order, the Trustee has distributed the amount of \$4.5 million to the Bank.

49. The Trustee has been informed that, as of November 23, 2015, the Bank was owed approximately \$22,059,111 in connection with the credit facilities it extended to 144 Park and secured by the Bank's mortgage.
50. The Trustee is requesting that the Court authorize it to make future distributions to the Bank or its assignee from the net sale proceeds of the Property up to the amount owed to the Bank without further Court order.

TRUSTEE'S REQUEST TO THE COURT

51. Based on the foregoing, the Trustee respectfully requests that the Court issue an Order:
- (a) authorizing the Trustee to engage Mint Realty to market the Remaining Units on the terms of the Mint Realty Proposal;
 - (b) authorizing the Trustee to sell, convey, or transfer the Remaining Units without the approval of the Court if the purchase price is at least within 95% of the listing price for the residential unit or the Trustee has obtained the written consent of the first mortgagee of the Property or its assignee to the sale price;
 - (c) authorizing the Trustee to make distributions to Construction Lien Claimants with respect to holdback amounts in the aggregate amount of \$315,038.40 from funds in the Reserve;
 - (d) authorizing the Trustee to continue to hold in the Reserve the amount of \$363,138.53 in respect of the holdback amounts claimed by Clonard, O'Connor Electric and Screen pending further Order of the Court;

- (e) authorizing the Trustee to distribute the balance of the Reserve to the Bank; and
- (f) authorizing the Trustee to make further distributions of the net sale proceeds of the Property to the Bank or its assignee up to the amount of the Bank's secured indebtedness without further Court order.

All of which is respectfully submitted to this Court as of this 30th day of November, 2015.

COLLINS BARROW TORONTO LIMITED,
in its capacity as Court-appointed Trustee of
the Property and not in its personal capacity

Per: 

Name: Bryan A. Tannenbaum, FCPA, FCA, FCIRP
Title: President

I have the authority to bind the corporation

APPENDIX "D" – CONSTRUCTION LIEN CLAIMS

Lien Claimant	Instrument No.	Registration Date	Amount
Global Fire Protection Ltd.	WR847447	10/24/2014	\$ 301,592.04
694643 Ontario Limited cob as O'Connor Electric	WR849030	10/31/2014	88,882.72
J & I Gaweda Construction Limited	WR854810	12/1/2014	537,285.80
Bast Home Comfort Inc.	WR854978	12/2/2014	26,889.48
Frendel Kitchens Limited	WR856756	12/11/2014	328,259.71
T.I.C. Contracting Ltd.	WR857239	12/12/2014	436,313.73
Global Precast Inc.	WR857322	12/15/2014	188,393.19
2050491 Ontario Inc. o/a The Downsview Group	WR857462	12/15/ 2014	110,715.72
Sam Tortola Enterprises Inc.	WR857468	12/15/2014	104,008.59
CRS Contractors Rental Supply General Partner Inc.	WR857793	12/16/2014	15,869.50
Adlers Main Tile & Carpet Co. Ltd.	WR857850	12/16/2014	83,436.17
Hammerschlag & Joffe Inc.	WR858748	12/19/2014	46,043.26
Sereen Painting Ltd.	WR858991	12/22/2014	345,952.00
Weston Flooring Limited	WR859188	12/23/2014	176,771.34
Great Pyramid Aluminum Ltd.	WR859941	12/30/ 2014	32,380.71
Adlers Main Tile & Carpet Co. Ltd.	WR860525	1/5/2015	139,287.39
Brody Wall System Ltd.	WR863291	1/21/2015	113,327.50
Skyway Canada Ltd.	WR863658	1/23/2015	4,257.84
DKS Stone Fabrication & Design Inc.	WR863814	1/23/2015	210,189.60
Clonard Group Inc.	WR864339	1/24/2015	752,632.01
Aluminum Window Design Installations Inc.	WR864655	1/29/2015	260,446.93
TOTAL			<u>\$4,302,935.23</u>

**IN THE MATTER OF THE CONSTRUCTION LIEN ACT, R.S.O. 1990, c. C.30, AS AMENDED
AND IN THE MATTER OF AN APPLICATION MADE BY 144 PARK LTD. FOR THE APPOINTMENT OF A TRUSTEE
UNDER SECTION 68(1) OF THE CONSTRUCTION LIEN ACT, R.S.O. 1990, c. C.30, AS AMENDED**

Court File No. CV15-10843-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

Proceedings commenced at Toronto

MOTION RECORD
(returnable August 16, 2016)

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