



Court File No.
CV-15-10882-0002

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE Mr.)
JUSTICE Pettillo)
WEDNESDAY, THE 11th DAY
OF FEBRUARY, 2015

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
JADE-KENNEDY DEVELOPMENT CORPORATION
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
(Phase II Commercial Unit)
(Unit 359, Level 1)

THIS MOTION, made by the Applicant, Jade-Kennedy Development Corporation ("JKDC") for an order vesting in Jin Zhang (the "**Purchaser**") the right, title and interest of JKDC in and to the assets described in the agreement of purchase and sale (the "**Sale Agreement**") between JKDC and the Purchaser dated July 26, 2011, as amended (the "**Purchased Assets**"), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of Charles Mady sworn February 5, 2015 and the Exhibits thereto and on hearing the submissions of counsel for JKDC and counsel for those other parties

listed on the Counsel Slip, no one else appearing although duly served as appears from the affidavit of service of Sam Rappos sworn February 9, 2015,

1. **THIS COURT ORDERS AND DECLARES** that Collins Barrow Toronto Limited, in its capacity as Court-appointed trustee in this proceeding (the "**Trustee**"), is hereby authorized and directed to take such steps and execute such documents as may be necessary or desirable for the completion of the sale of the Purchased Assets under the Sale Agreement (the "**Transaction**") and for the conveyance of the Purchased Assets to the Purchaser.

2. **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 JKDC's right, title and interest in and to the Purchased Assets described in the Sale Agreement and listed on **Schedule B** hereto 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 ^xMr. Justice *Pattillo* ^x dated February 11, 2015;  (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario); 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.

3. **THIS COURT ORDERS** that upon the registration in the Land Registry Office for the Land Titles Division of York 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 subject real property identified in Schedule B hereto (the “**Real Property**”) in fee simple, and is hereby directed to delete and expunge from title to the Real Property all of the Claims, including without limitation those Claims listed in Schedule C hereto.

4. **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.

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

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

- (a) the pendency of these proceedings;

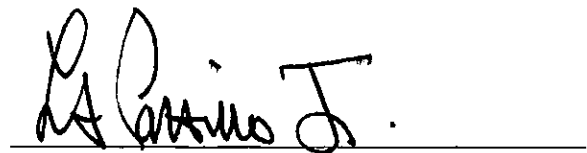
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of JKDC and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of JKDC;

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 JKDC and shall not be void or voidable by creditors of JKDC, 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.

7. **THIS COURT ORDERS AND DECLARES** that the Transaction is exempt from the application of the *Bulk Sales Act* (Ontario).

8. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada 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 ANSOBYIA TORONTO
ON / BOUQUIN
LE / DANS LE REGISTRE NO.:



FEB 11 2015
NB

Schedule A – Form of Trustee’s Certificate

Court File No.


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(COMMERCIAL LIST)

IN THE MATTER OF THE *CONSTRUCTION LIEN ACT*,
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AND IN THE MATTER OF AN APPLICATION MADE BY
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TRUSTEE’S CERTIFICATE

RECITALS

A. Pursuant to an Order of The Honourable ^x Justice ^v ~~Phillips~~ of the Ontario Superior Court of Justice (the "Court") dated February 11, 2015, Collins Barrow Toronto Limited was appointed as trustee pursuant to section 68(1) of the *Construction Lien Act*, R.S.O. 1990, c. C.30, as amended (the "Trustee") of certain property of Jade-Kennedy Development Corporation ("JKDC"). 

B. Pursuant to an Order of the Court dated February 11, 2015 (the "Vesting Order"), the Court provided for the vesting in Jin Zhang (the "Purchaser") of JKDC’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; (ii) that the conditions to closing under the Sale Agreement have been satisfied or waived by the Trustee and the Purchaser; and (iii) 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 pursuant to the Sale Agreement;
2. The conditions to closing as set out in the Sale Agreement have been satisfied or waived by the Trustee and the Purchaser; and
3. The Transaction has been completed to the satisfaction of the Trustee.
4. This Certificate was delivered by the Trustee at _____ [TIME] on _____ [DATE].

**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 | 29759-0838 (LT) |
| Property Description | Unit 359, Level 1, York Region Standard Condominium Plan No. 1228 and its Appurtenant Interest; subject to and together with easements as set out in Schedule A as in YR1966697; City of Markham |
| Condominium Description | Unit 359, Level 1 |

Schedule C – Claims to be deleted and expunged from title to Real Property

| Reg. Num. | Date | Instrument Type | Amount | Parties From | Parties To |
|------------------|-------------|------------------------|---------------|--------------------------------------|--|
| YR1149869 | 2008/04/16 | Transfer | \$2,063,300 | 2022662 Ontario Inc. | Jade-Kennedy Development Corporation |
| YR1149870 | 2008/04/16 | Transfer | \$6,492,700 | 2030445 Ontario Inc. | Jade-Kennedy Development Corporation |
| YR1444873 | 2010/02/24 | Transfer | \$1,200,000 | Dougson Investments Inc. | Jade-Kennedy Development Corporation |
| YR1444874 | 2010/02/24 | Charge | \$30,000,000 | Jade-Kennedy Development Corporation | Aviva Insurance Company of Canada |
| YR1445332 | 2010/02/25 | Notice of Lease | \$2 | Jade-Kennedy Development Corporation | T. & T. Supermarket Inc. |
| YR1495980 | 2010/06/15 | Postponement | | Aviva Insurance Company of Canada | The Corporation of The Town of Markham |
| YR1533099 | 2010/08/13 | Postponement | | Aviva Insurance Company of Canada | The Corporation of The Town of Markham |
| YR1616918 | 2011/03/02 | Postponement | | Aviva Insurance Company of Canada | The Corporation of The Town of Markham |
| YR1699150 | 2011/08/22 | APL (General) | | T. & T. Supermarket Inc. | Jade-Kennedy Development Corporation |
| YR1721683 | 2011/10/03 | Charge | \$16,500,000 | Jade-Kennedy Development Corporation | Aviva Insurance Company of Canada |
| YR1763873 | 2011/12/23 | Charge | \$45,000,000 | Jade-Kennedy Development Corporation | Laurentian Bank of Canada |
| YR1763874 | 2011/12/23 | No Assgn Rent Gen | | Jade-Kennedy Development Corporation | Laurentian Bank of Canada |

| Reg. Num. | Date | Instrument Type | Amount | Parties From | Parties To |
|------------------|-------------|------------------------|---------------|--------------------------------------|--|
| YR1763902 | 2011/12/23 | No Assgn Rent Spec | | Jade-Kennedy Development Corporation | Laurentian Bank of Canada |
| YR1764062 | 2011/12/23 | Postponement | | Aviva Insurance Company of Canada | Laurentian Bank of Canada |
| YR1832081 | 2012/06/01 | Notice | \$2 | Jade-Kennedy Development Corporation | Laurentian Bank of Canada |
| YR1954841 | 2013/03/13 | Postponement | | Aviva Insurance Company of Canada | The Corporation of The City of Markham |
| YR1954842 | 2013/03/13 | Postponement | | Aviva Insurance Company of Canada | The Corporation of The City of Markham |
| YR1954844 | 2013/03/13 | Postponement | | Laurentian Bank of Canada | The Corporation of The City of Markham |
| YR2029025 | 2013/09/04 | Charge | \$10,000,000 | Jade-Kennedy Development Corporation | Am-Stat Corporation |
| YR2222182 | 2014/11/27 | Construction Lien | \$102,626 | Global Mechanical Ltd. | |
| YR2222710 | 2014/11/28 | Construction Lien | \$14,465 | Global Fire Protection Ltd. | |
| YR2222713 | 2014/11/28 | Construction Lien | \$195,012 | Global Mechanical Ltd. | |
| YR2230304 | 2014/12/11 | Construction Lien | \$226,447 | Frendel Kitchens Limited | |
| YR2232092 | 2014/12/15 | Construction Lien | \$501,133 | 2050491 Ontario Inc. | |
| YR2233490 | 2014/12/17 | Construction Lien | \$132,902 | Global Precast Inc. | |
| YR2235281 | 2014/12/19 | Construction Lien | \$249,946 | Guest Tile Inc | |
| YR2236748 | 2014/12/24 | Construction Lien | \$81,519 | Triumph Roofing and Sheet Metal Inc. | |
| YR2237716 | 2014/12/30 | Construction | \$822,787 | Dircam Electric | |

| Reg. Num. | Date | Instrument Type | Amount | Parties From | Parties To |
|-----------|------------|-------------------|-----------|--|--|
| | | Lien | | Limited | |
| YR2237952 | 2014/12/30 | Construction Lien | \$62,154 | Great Pyramid Aluminum Ltd. | |
| YR2238316 | 2014/12/31 | Construction Lien | \$10,826 | Draglam Waste & Recycling Inc. | |
| YR2238636 | 2015/01/02 | Construction Lien | \$11,978 | Procan Inc. | |
| YR2240570 | 2015/01/08 | Construction Lien | \$37,604 | CRS Contractors Rental Supply General Partner Inc. | |
| YR2242380 | 2015/01/13 | Certificate | | Frendel Kitchens Limited | Jade-Kennedy Development Corporation, Mady Development Corporation, Mady Contract Division (2009) Ltd., Mady Contract Division Ltd., D. Mady Investments Inc., Aviva Insurance Company of Canada, Laurentian Bank of Canada, Am-Stat Corporation |
| YR2248368 | 2015/01/27 | Construction Lien | \$601,566 | Imperial Trim Supply Ltd. | |
| YR2248401 | 2015/01/27 | Certificate | | Global Mechanical Ltd. | Jade-Kennedy Development Corporation, Aviva Insurance Company of Canada, Laurentian Bank of Canada, Am-Stat Corporation |
| YR2248965 | 2015/01/28 | Certificate | | Guest Tile Inc. | Jade-Kennedy Development Corporation, Aviva Insurance Company of Canada, Laurentian Bank of Canada, Am-Stat Corporation |

| Reg. Num. | Date | Instrument Type | Amount | Parties From | Parties To |
|------------------|-------------|------------------------|---------------|--|-------------------|
| YR2249452 | 2015/01/29 | Construction Lien | \$333,239 | Aluminium Window Design Installations Inc. | |
| YR2251585 | 2015/02/03 | Certificate | | Triumph Roofing and Sheet Metal Inc. | |

**Schedule D – Permitted Encumbrances, Easements and Restrictive Covenants
related to the Real Property**

(unaffected by the Vesting Order)

| Reg. Num. | Date | Instrument Type | Amount | Parties From | Parties To |
|------------------|-------------|------------------------|---------------|---|---|
| MA31145 | 1951/07/26 | Bylaw | | The Corporation of The Township of Markham | |
| YR686388 | 2005/08/18 | Notice | | Her Majesty the Queen in Right of Canada, as represented by the Minister of Transport | |
| YR686395 | 2005/08/18 | Notice | | Her Majesty the Queen in Right of Canada, as represented by the Minister of Transport | |
| YR694205 | 2005/08/31 | Notice | | Her Majesty the Queen in Right of Canada, as represented by the Minister of Transport | |
| YR753574 | 2005/12/31 | Notice | | Her Majesty the Queen in Right of Canada, as represented by the Minister of Transport | |
| YR1495979 | 2010/06/15 | Notice | \$2 | The Corporation of The Town of Markham | Jade-Kennedy Development Corporation |
| YR1499090 | 2010/06/18 | Notice | | The Corporation of The Town of Markham | Jade-Kennedy Development Corporation |
| YR1616829 | 2011/03/02 | Notice | \$2 | The Corporation of The Town of Markham | Jade-Kennedy Development Corporation, The Regional Municipality of York |

| Reg. Num. | Date | Instrument Type | Amount | Parties From | Parties To |
|------------------|-------------|------------------------|---------------|---|--------------------------------------|
| YR1657121 | 2011/06/02 | Transfer Easement | \$2 | Jade-Kennedy Development Corporation | Rogers Communications Inc. |
| YR1895409 | 2012/10/05 | No Sec Interest | \$2 | Morenergy Capital Corporation | |
| YR1928490 | 2012/12/21 | APL Absolute Title | | Jade-Kennedy Development Corporation | |
| 65R34162 | 2013/03/05 | Plan Reference | | | |
| YR1954840 | 2013/03/13 | Notice | | The Corporation of The City of Markham | Jade-Kennedy Development Corporation |
| YR1962278 | 2013/04/04 | Transfer Rel&Aband | \$1 | Jade-Kennedy Development Corporation | Jade-Kennedy Development Corporation |
| YRCP1228 | 2013/04/17 | Standard Condo Plan | | | |
| YR1966697 | 2013/04/17 | Condo Declaration | | Jade-Kennedy Development Corporation | |
| YR1970477 | 2013/04/29 | Condo Bylaw/98 | | York Region Standard Condominium Corporation No. 1228 | |
| YR1970484 | 2013/04/29 | Condo Bylaw/98 | | York Region Standard Condominium Corporation No. 1228 | |
| YR2112686 | 2014/04/03 | Condo Bylaw/98 | | York Region Standard Condominium Corporation No. 1228 | |
| YR2238990 | 2015/01/05 | Condo Amendment | | Jade-Kennedy Development Corporation | |

| Reg. Num. | Date | Instrument Type | Amount | Parties From | Parties To |
|------------------|-------------|------------------------|---------------|--|-------------------|
| YR2250114 | 2015/01/30 | No Chng Addr Condo | | York Region Standard Condominium Corporation No. 1228 | |

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Court File No. C-15-10882 - 0000

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

Proceedings commenced at Toronto

VESTING ORDER
(Phase II Commercial Unit)
(Unit 359, Level 1)

CHAITONS LLP
5000 Yonge Street, 10th Floor
Toronto, ON M2N 7E9

Harvey Chaiton (LSUC #21592F)
Tel: (416) 218-1129
Fax: (416) 218-1849
E-mail: harvey@chaitons.com

Sam Rappos (LSUC #51399S)
Tel: (416) 218-1137
Fax: (416) 218-1837
E-mail: samr@chaitons.com

**Lawyers for the Applicant,
Jade-Kennedy Development Corporation**