



Court File No. CV15-10882-00CL

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

THE HONOURABLE)

FRIDAY, THE 1ST DAY

JUSTICE)

Pattillo

)

OF MAY, 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
(Terrace Unit)

THIS MOTION made by Collins Barrow Toronto Limited, in its capacity as Court-appointed trustee over the lands and premises owned by Jade-Kennedy Development Corporation (“**JKDC**”), appointed 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 York Region Standard Condominium Corporation No. 1265 (“**YRSCC 1265**”) the right, title and interest of JKDC in and to the Terrace Unit (as defined below), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the First Report of the Trustee dated April 23, 2015 and the Appendices thereto, and on hearing the submissions of counsel for the Trustee 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 Lynn Lee sworn April 27, 2015, filed,

1. **THIS COURT ORDERS AND DECLARES** that the Trustee is hereby authorized and directed to take such steps and execute such documents as may be necessary or desirable for the conveyance of the lands and premises bearing PIN 29759-0749 and known as Unit 1, Level 3 in The Residences at South Unionville Square (the "**Terrace Unit**") to YRSCC 1265.

2. **THIS COURT ORDERS AND DECLARES** that upon the delivery of a Trustee's certificate to YRSCC 1265 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 Terrace Unit shall vest absolutely in YRSCC 1265, 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, condominium 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 Pattillo dated February 11, 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"**) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Terrace Unit are hereby expunged and discharged as against the Terrace Unit.

3. **THIS COURT ORDERS** that upon the registration in the Land Titles Division of York Region 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 YRSCC 1265 as the owner of the Terrace Unit more particularly described in **Schedule “B”** hereto in fee simple, and is hereby directed to delete and expunge from title to the Terrace Unit all of the Claims listed in Schedule “C” hereto.

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

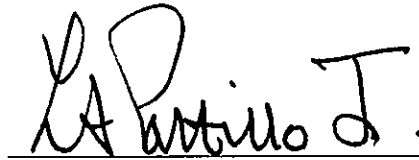
5. **THIS COURT ORDERS** that, notwithstanding:

- (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 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 Terrace Unit in YRSCC 1265 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.

6. **THIS COURT ORDERS AND DECLARES** that the conveyance of the Terrace Unit to YRSCC 1265 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.:

MAY - 1 2015
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Schedule A – Form of Trustee’s Certificate

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TRUSTEE’S CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable Mr. Justice Pattillo 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 April 30, 2015 (the "**Vesting Order**"), the Court provided for the vesting in York Region Standard Condominium Corporation No. 1265 ("**YRSCC 1265**") of JKDC’s right, title and interest in and to the Terrace Unit, which vesting is to be effective with respect to the Terrace Unit upon the delivery by the Trustee to YRSCC 1265 of a certificate confirming that the conveyance of the Terrace Unit to YRSCC 1265 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 conveyance of the Terrace Unit to YRSCC 1265 has been completed to the satisfaction of the Trustee.
2. 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 – Terrace Unit

PIN	29759-0749 (LT)
Property Description	Unit 1, Level 3, 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 1, Level 3

**Schedule D – Permitted Encumbrances, Easements and Restrictive Covenants
related to the Terrace Unit**

(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	
YR1954840	2013/03/13	Notice		The Corporation of The City of Markham	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	
YR2250103	2015/01/30	No Chng Addr Condo		York Region Standard Condominium Corporation No. 1228	

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

Proceedings commenced at Toronto

VESTING ORDER
(Terrace Unit)

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