

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

THE HONOURABLE *Mr.*) FRIDAY, THE 29th DAY
)
JUSTICE *Paxillo*) 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

APPROVAL AND VESTING ORDER
(Phase III Vacant Land)

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 approving the sale transaction (the “**Transaction**”) contemplated by an agreement of purchase and sale dated May 26, 2015 between the Trustee and Primont Homes (Harmony) Inc. (the “**Purchaser**”) (the “**Sale Agreement**”) and appended to the Supplement to the Second Report of the Trustee dated May 26, 2015, and vesting in the Purchaser the right, title and interest of JKDC in and to the assets

described in the Sale Agreement (the "**Purchased Assets**"), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Second Report of the Trustee dated May 15, 2015 and the Appendices thereto, the Supplement to the Second Report of the Trustee dated May 26, 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 for any other person on the service list, although properly served as appears from the affidavits of service of Lynn Lee sworn May 19, 2015 and May 27, 2015, filed,

1. **THIS COURT ORDERS AND DECLARES** that the Transaction is hereby approved, and the execution of the Sale Agreement by the Trustee is hereby authorized and approved, with such minor amendments as the Trustee may deem necessary. The Trustee is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of 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, 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 Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

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 the Purchaser as the owner of the Purchased Assets more particularly 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.

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 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 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.

A handwritten signature in black ink, appearing to read "R. Pastillo", is written over a horizontal line.

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



MAY 29 2015

Schedule A – Form of Trustee’s Certificate

Court File No. CV15-10882-00CL

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

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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**

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 May 29, 2015 (the "**Approval and Vesting Order**"), the Court approved the agreement of purchase and sale made as of May 26, 2015 (the "**Sale Agreement**") between the Trustee and Primont Homes (Harmony) Inc. (the "**Purchaser**") and provided for the vesting in 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) the conditions to Closing as set out in section 13 of 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 Sale Agreement.

THE TRUSTEE CERTIFIES the following:

1. The Purchaser has paid and the Trustee has received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Sale Agreement;
2. The conditions to Closing as set out in section 13 of 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	Property Description
02963-2965 (LT)	Pt Lt 2 PL 2196 Markham, Pt 9 65R27668 ; T/W Row Over Pt Lt 2 PL 2196 Markham, Pts 10, 11 & 12, 65R27668, until such time as said Pts 10, 11 & 12, 65R27668 have been dedicated as part of public highway, as in YR623430 ;; Town of Markham
02963-2972 (LT)	Pt Lt 2 PL 2196 Markham, Pt 8 65R27668 ; T/W Row Over Pt Lt 2 PL 2196 Markham, Pts 2, 3, 5, 6 & 7, 65R27668, until such time as said Pts 2, 3, 5, 6 & 7, 65R27668 have been dedicated as part of public highway, as in YR623430 ;; Town of Markham
02963-3571 (LT)	Pt Lt 2 PL 2196, Being Pts 2 & 3 PL 65R33603 ;; Town of Markham
02963-3579 (LT)	Part Lot 1 Plan 2196, Pts 1 and 2 on 65R33243.; Town of Markham
02963-3587 (LT)	Pt Lt 2 PL 2196, Pt 10 65R33243, S/T Easement in Gross, as in YR767057 ;; Town of Markham

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

Reg. Num.	Date	Instrument Type	Amount	Parties From	Parties To
YR1149868	2008/04/16	Transfer	\$2,644,000	1553204 Ontario Limited	Jade-Kennedy Development Corporation
YR1149870	2008/04/16	Transfer	\$6,492,700	2030445 Ontario Inc.	Jade-Kennedy Development Corporation
YR1495982	2010/06/15	Postponement		D. Mady Investments (2010) Inc.	The Corporation of the Town of Markham
YR1615475	2011/02/28	Postponement		D. Mady Investments (2010) Inc.	Laurentian Bank of Canada
YR1616919	2011/03/02	Postponement		D. Mady Investments (2010) Inc.	The Corporation of the Town of Markham
YR1820926	2012/05/10	Transfer	\$400,000	Cai, Li Ying Xu, Chun Li	Jade-Kennedy Development Corporation
YR1831774	2012/06/01	Transfer	\$10	Jabbar, Abdul	Jade-Kennedy Development Corporation
YR1832072	2012/06/01	Charge	\$45,000,000	Jade-Kennedy Development Corporation	Laurentian Bank of Canada
YR1832073	2012/06/01	No Assignment Rent General		Jade-Kennedy Development Corporation	Laurentian Bank of Canada
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.	

Reg. Num.	Date	Instrument Type	Amount	Parties From	Parties To
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	
YR2235938	2014/12/22	Construction Lien	\$200,000	Screen Painting Ltd.	
YR2236748	2014/12/24	Construction Lien	\$81,519	Triumph Roofing & Sheet Metal Inc.	
YR2237716	2014/12/30	Construction Lien	\$822,797	Dircam Electric 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.	
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.	

Reg. Num.	Date	Instrument Type	Amount	Parties From	Parties To
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
YR2249226	2015/01/29	Certificate		Global Precast Inc.	Jade-Kennedy Development Corporation, Mady Contract Division Ltd., Am-Stat Corporation, Laurentian Bank of Canada
YR2251585	2015/02/03	Certificate		Triumph Roofing & Sheet Metal Inc.	
YR2253220	2015/02/06	Certificate		Dircam Electric Limited	Jade-Kennedy Development Limited, 81 Capital Inc., Am-Stat Corporation, , Laurentian Bank of Canada , Aviva Insurance Company of Canada
YR2253274	2015/02/06	Certificate		2050491 Ontario Inc.	Jade-Kennedy Development Corporation, Mady Contract Division Ltd., Am-Stat Corporation, Laurentian Bank of Canada
YR2254098	2015/02/10	Construction Lien	\$89,648	MJC Contracting 2014 Inc.	
YR2254502	2015/02/10	Certificate		Draglam Waste & Recycling Inc.	
YR2254601	2015/02/10	Caution Agreement Purchase and	\$3,499,986	Jade-Kennedy Development	Primont Homes (Harmony) Inc.

Reg. Num.	Date	Instrument Type	Amount	Parties From	Parties To
		Sale		Corporation	
YR2254630	2015/02/11	Certificate		Great Pyramid Aluminum Ltd.	81 Capital Inc., Am-Stat Corporation, , Laurentian Bank of Canada , Aviva Insurance Company of Canada
YR2255767	2015/02/13	Certificate		Global Fire Protection Ltd.	Jade-Kennedy Development Corporation, Aviva Insurance Company of Canada, Laurentian Bank of Canada, Am-Stat Corporation
YR2256159	2015/02/13	Certificate		Sereen Painting Ltd.	
YR2262436	2015/03/03	Construction Lien	\$11,112	Skyway Canada Limited	
YR2264794	2015/03/09	Certificate		Imperial Trim Supply Ltd.	Jade-Kennedy Development Corporation, Mady Contract Division Ltd., Mady Development Corporation, Mady Contract Division (2009) Ltd., D. Mady Investments Inc., Aviva Insurance Company of Canada, Laurentian Bank of Canada, Am-Stat Corporation
YR2271382	2015/03/27	Certificate		MJC Contracting 2014 Inc.	Jade-Kennedy Development Corporation, Her Majesty the Queen in Right of Ontario as Represented by the Ministry of Transportation, The Regional Municipality of York, City of Markham, Aviva Insurance Company of Canada, Laurentian Bank of Canada, Am-Stat Corporation, 1475398 Ontario Inc., 1475398 Ontario Inc., BMW Group

Reg. Num.	Date	Instrument Type	Amount	Parties From	Parties To
					Financial Services Canada, a Division of BMW Canada Inc., BMW Canada Inc.
YR2276999	2015/04/10	Certificate		Skyway Canada Limited	

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

(unaffected by the Approval and Vesting Order)

Reg. Num.	Date	Instrument Type	Amount	Parties From	Parties To
65R27668	2004/12/22	Plan Reference			
YR686388	2005/08/18	Notice		Her Majesty the Queen in Right of Canada as represented by the Minister of Transportation	
YR753574	2005/12/21	Notice		Her Majesty the Queen in Right of Canada as represented by the Minister of Transportation	
YR767057	2006/01/25	Transfer Easement		Jabbar, Abdul	The Corporation of the Town of Markham
65R30830	2008/04/15	Plan Reference			
YR1495979	2010/06/15	Notice	\$2	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
65R33243	2011/09/19	Plan Reference			
YR1798467	2012/03/22	Notice	\$2	The Corporation of the Town of Markham	Jade-Kennedy Development Corporation
YR1798685	2012/03/22	Notice	\$2	The Corporation of the Town of Markham	Jabbar, Abdul
65R33603	2012/04/23	Plan Reference			

Reg. Num.	Date	Instrument Type	Amount	Parties From	Parties To
YR1832111	2012/06/01	Application to Annex Restrictive Covenants S. 119		Jade-Kennedy Development Corporation, Arsh Developers Inc., Iqbal, Kamran	

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Court File No. CV15-10882-00CL

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

Proceedings commenced at Toronto

**APPROVAL AND VESTING ORDER
(Phase III Vacant Land)**

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