

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

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

**AND IN THE MATTER OF THE 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***

**NINETEENTH REPORT TO THE COURT OF COLLINS BARROW TORONTO
LIMITED AS CONSTRUCTION LIEN TRUSTEE OF SOUTH UNIONVILLE SQUARE**

October 27, 2017

INTRODUCTION

1. By Order of The Honourable Mr. Justice Pattillo of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) dated February 11, 2015 (the “**Appointment Order**”), Collins Barrow Toronto Limited was appointed trustee (the “**Trustee**”) pursuant to section 68(1) of the *Construction Lien Act* (Ontario), of the lands and premises legally described in Schedule “A” of the Appointment Order comprised of commercial and residential condominium units, parking and locker units, and vacant lands owned by Jade-Kennedy Development Corporation (“**JKDC**”) (the “**Property**”).
2. The Appointment Order authorized the Trustee to, among other things, act as receiver and manager of the Property, take possession and control of the Property and any and all proceeds, receipts and disbursements arising out of or from the Property, market any or all of the Property, and sell, convey, transfer, lease or assign the Property or any part or parts thereof with the approval of the Court.
3. All Court documents referred to herein, and other publicly available information relating to this proceeding, has been posted on the Trustee’s website, which can be found at:

<http://www.collinsbarrow.com/en/cbn/jade-kennedy-development-corporation>

PURPOSE OF NINETEENTH REPORT

4. The purpose of this Nineteenth Report of the Trustee (the “**Nineteenth Report**”) is to request that the Court grant an order approving the sale by the Trustee of Phase I Mall Unit 319 to Li Yao (the “**Purchaser**”) and vesting such property in the Purchaser free and clear of all claims and encumbrances (other than permitted encumbrances) upon delivery of a certificate by the Trustee to the Purchaser;

TERMS OF REFERENCE

5. In preparing this Nineteenth Report and making the comments herein, the Trustee has relied upon unaudited financial information, the books and records of JKDC, discussions with management and employees of JKDC and other companies within the MADY group of companies, and information received from other third-party sources (collectively, the “**Information**”). Certain of the information contained in this Nineteenth Report may refer to, or is based on, the Information. As the Information has been provided by JKDC 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.

SALE OF UNIT 319

Phase I Commercial Units at the SUSQ Project

6. JKDC is an Ontario corporation that was incorporated on January 30, 2008 and has its registered office located in Markham, Ontario. JKDC was incorporated for the purpose of being the registered owner of the Property and developer of the South Unionville Square condominium project (the "**SUSQ Project**") to be constructed on certain portions of the Property, which is located in Markham, Ontario.
7. Phase I of the SUSQ Project was the development and construction of 28 residential townhomes, a T&T Supermarket, and a commercial condominium project with units for retail, restaurant, office and medical services.
8. Construction of Phase I was substantially completed on March 5, 2013 and the condominium declaration was registered on April 17, 2013, which established York Region Standard Condominium Corporation No. 1228 ("**YRSCC 1228**").
9. As of the date of the Appointment Order, JKDC was still the registered owner of, among others, eleven mall units located on level 2 of The Mall at Langham Square (previously known as The Mall at South Unionville Square) (the "**Mall**") (collectively, the "**Phase I Mall Units**"); and
10. As noted above, pursuant to paragraphs 3(k) through (m) of the Appointment Order, the Trustee was authorized by the Court to market the Property, sell the Property with the approval of the Court, and to apply for vesting orders necessary

to convey the Property free and clear of all claims and encumbrances affecting the Property.

Real Estate Agents

11. Pursuant to paragraph 3(d) of the Appointment Order, the Trustee was authorized by the Court to engage agents to assist with the exercise of the Trustee's powers and duties.
12. As previously reported to the Court, the Trustee had retained TradeWorld Realty Inc. ("**TradeWorld**") to list certain unsold Property for sale, pursuant to a listing agreement dated May 4, 2015.
13. After several extensions, the Trustee allowed this agreement to expire on January 15, 2017.
14. During its retainer period, TradeWorld was unable to locate a buyer for any of the Phase I Mall Units, including Unit 319. TradeWorld had listed Unit 319 for \$109,900.
15. In its over 20 month period as real estate listing agent for Unit 319, TradeWorld did not receive any offers to purchase this unit.
16. Given the number of units still available for sale and the ongoing carrying costs for these units, the Trustee requested a proposal from Century 21, who had recently sold similar units in the same market. Century 21 proposed a targeted, comprehensive three phase marketing campaign with supportable price reductions in order to profile and sell the remaining units. This campaign

includes: a full time sales representative on site seven days a week, two sales events, three festival events, targeted radio/magazine advertising and detailed monthly reports, all at Century 21's expense.

17. The Trustee retained Century 21 as its real estate listing agent for all unsold Property (excluding certain parking units) on February 3, 2017. A festival event was held on site on February 25th and 26th to coincide with Chinese New Year celebrations. Further marketing campaigns have been held resulting in thirteen offers being approved to date, the offer described herein, and interest in other units.

Unit 319

18. Unit 319 is 177 gross square feet and is located on level 2 of the Mall. Century 21 listed this unit for sale at a price of \$78,000.
19. Li Yao agreed to an offer price of \$70,000, as set out in the agreement of purchase and sale executed by Li Yao on October 12, 2017 and accepted by the Trustee on October 16, 2017 a copy of which is attached hereto and marked as **Appendix "A"**. This price is 10% below the listing price. A copy of the parcel register for Unit 319 is attached hereto and marked as **Appendix "B"**.
20. Unit 319 is subject to the following encumbrances:
 - (a) a \$30.0 million charge in favour of Aviva Insurance Company of Canada;
 - (b) a condominium lien in favour of YRSCC No. 1228 in the amount of \$1,615;

- (c) a \$3.6 million charge in favour of Laurentian Bank of Canada (“LBC”);
- (d) a \$2.4 million charge in favour of LBC;
- (e) an \$8.0 million charge in favour of MarshallZehr Group Inc.; and
- (f) construction liens in favour of Guest Tile and Draglam.

21. The Trustee believes that Unit 319 has been fairly and sufficiently exposed to the market through the listing with TradeWorld and the recent targeted marketing campaign completed by Century 21, and that all reasonable steps have been taken to obtain the best price possible for the unit.

22. On this basis, the Trustee recommends that the sale transaction be approved by the Court, as:

- (a) it is the only offer the Trustee has received for this unit;
- (b) the offer is recommended by Century 21 based on current market conditions;
- (c) the owner will operate a business; and
- (d) the offer is unconditional other than with respect to the Trustee obtaining Court approval of the sale transaction and a vesting order.

23. If the Court approves the sale transaction, the sale of Unit 319 is scheduled to close on November 13, 2017.

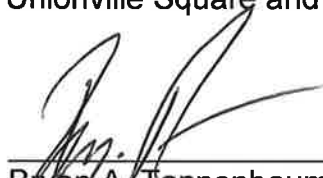
24. In the event that this transaction is approved by the Court and closes, the Trustee will take steps to distribute to YRSCC 1228 the amount it is entitled to in connection with its registered condominium lien, as to be confirmed by the Trustee.

All of which is respectfully submitted to this Court as of this 27th day of October, 2017.

COLLINS BARROW TORONTO LIMITED

In its capacity as Trustee under the Construction Lien Act of Jade-Kennedy Development Corporation as owner of South Unionville Square and not in its personal capacity

Per:



Bryan A. Tannenbaum, FCPA, FCA, FCIRP, LIT
President