

**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**

**SUPPLEMENT TO THE TWENTIETH REPORT TO THE COURT OF RSM CANADA
LIMITED AS CONSTRUCTION LIEN TRUSTEE OF SOUTH UNIONVILLE SQUARE**

January 5, 2018

INTRODUCTION

1. By Order of The Honourable Mr. Justice Pattillo of the Ontario Superior Court of Justice (Commercial List) dated February 11, 2015, Collins Barrow Toronto Limited was appointed 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.
2. Pursuant to the Order of The Mr. Honourable Justice Hainey dated December 5, 2017, RSM Canada Limited has been appointed by the Court to substitute Collins Barrow as Trustee of JKDC.
3. This report (the "**Supplemental Report**") is a supplement to the Twentieth Report of the Trustee dated December 20, 2017 (the "**Twentieth Report**"), and should be read together with the Twentieth Report. Capitalized terms used and not otherwise defined herein have the meanings ascribed to such terms in the Twentieth Report.
4. The purpose of this Supplemental Report is to:
 - (a) provide information with respect to the charge/mortgage granted by YRSCC 1228 (as defined below) in favour of JKDC against the Management Office Unit (as defined below); and

- (b) request that the Court grant an order authorizing and directing the Land Registry Office to discharge JKDC's charge/mortgage registered against the Management Office Unit.
5. 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://rsmcanada.com/what-wedo/services/consulting/financialadvisory/restructuring-recovery/current-restructuring-recovery-engagements/jade-kennedy-development-corporation.html>

TERMS OF REFERENCE

6. In preparing this Supplemental Report and making the comments herein, the Trustee has relied upon the Information. Certain of the information contained in this Supplemental 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.

MANAGEMENT OFFICE UNIT

7. As has been previously reported to the Court, 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 (the "**Declaration**"). A copy of the Declaration is attached hereto and marked as **Appendix "A"**.
9. As a result of the registration, York Region Standard Condominium Corporation No. 1228 ("**YRSCC 1228**") was established, and JKDC became the registered owner of all of the condominium units. The units included a management office unit legally known as Unit 50 on level 2 (the "**Management Office Unit**"). A copy of the parcel register for the Management Office Unit is attached hereto and marked as **Appendix "B"**.
10. Pursuant to section 4.6 of the Declaration, the Management Office Unit "shall be used only as an office for the property manager appointed by the Corporation from time to time."
11. Section 4.6 goes on to provide that the YRSCC 1228 was to purchase the unit from JKDC for a purchase price of \$200,000 exclusive of HST. YRSCC 1228 was to give a mortgage to JKDC for the full purchase price.

12. The transfer of the Management Office Unit to YRSCC 1228 was completed on May 14, 2014. A charge/mortgage was registered on title to the Management Office Unit on May 14, 2014 in favour of JKDC in the principal amount of \$200,000 (the "**Charge**"). A copy of the Charge is attached hereto and marked as **Appendix "C"**.
13. The Trustee received the mortgage payments from YRSCC 1228 required under the Charge up to December 17, 2017.
14. On December 8, 2017, the Trustee was informed by YRSCC 1228 that it intended to repay the entire amount of the Charge and requested a discharge of the Charge upon receipt of the funds.
15. On December 19, 2017, the Trustee received \$139,336.86 from YRSCC 1228 with respect to the Charge, which was the balance owing under the Charge as of that date.
16. The Trustee instructed its lawyers, Chaitons LLP ("**Chaitons**"), to prepare the necessary documentation to discharge the Charge from title to the Management Office Unit.
17. Chaitons was informed by the Land Registry Office that, as the Charge identified JKDC as the chargee, it would not accept a discharge of the Charge signed by the Trustee and required a Court order directing it to discharge the Charge.

18. As noted above, the Trustee received all required monthly payments under the Charge from YRSCC 1228 up to December 17, 2017, and has received the full amount owing under the Charge as of that date.


19. As a result, it is necessary to discharge the Charge from the Management Office Unit. In accordance with the requirement established by the Land Registry Office, the Trustee respectfully requests that the Court grant an order authorizing and directing the Land Registry Office to discharge the Charge from title to the Management Office Unit.

All of which is respectfully submitted to this Court as of this 5th day of January, 2018.

RSM CANADA 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