

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

THE HONOURABLE MR.) WEDNESDAY, THE 24th DAY
)
JUSTICE HAINEY) OF FEBRUARY 2021

**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
(re Remaining Parking Units)

THIS MOTION, made by RSM Canada Limited, in its capacity as the Court-appointed trustee over the lands and premises owned by Jade-Kennedy Development Corporation (the "**Debtor**") 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 transfer of the property described in **Schedule "B"** hereto (the "**Remaining Parking Units**") to York Region Standard Condominium Corporation 1228 ("**YRSCC 1228**"), and vesting in YRSCC 1228 the Debtor's right, title and interest in and to the Remaining Parking Units, was heard this day virtually by Zoom videoconference due to the COVID-19 crisis.

ON READING the Motion Record of the Trustee, the Twenty-Eighth Report of the Trustee dated February 18, 2021 and the appendices thereto. and on hearing the submissions of counsel for the Trustee, no one else appearing for any other person on the service list, although served as evidenced by the affidavit of service filed with the Court,

1. **THIS COURT ORDERS AND DECLARES** that the transfer of the Remaining Parking Units to YRSCC 1228 is hereby approved. 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 conveyance of the Remaining Parking Units to YRSCC 1228.

2. **THIS COURT ORDERS AND DECLARES** that upon the delivery of a Trustee's certificate to YRSCC 1228 substantially in the form attached as **Schedule "A"** hereto (the "**Trustee's Certificate**"), all of the Debtor's right, title and interest in and to the Remaining Parking Units shall vest absolutely in YRSCC 1228, 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 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 Remaining Parking Units are hereby expunged and discharged as against the Remaining Parking Units.

3. **THIS COURT ORDERS** that upon the registration in the Land Registry Office for the Land Titles Division of York Region (No. 65) 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 1228 as the owner of the Remaining Parking Units identified in Schedule B hereto in fee simple, and is hereby directed to delete and expunge from title to the Remaining Parking Units 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 the Trustee's Certificate, forthwith after delivery thereof.

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

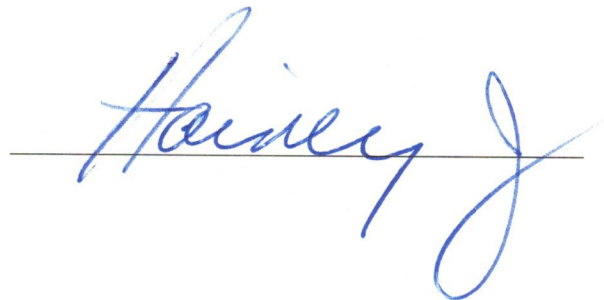
- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the Debtor and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made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

the vesting of the Remaining Parking Units in YRSCC 1228 pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtor and shall not be void or voidable by creditors of the Debtor, 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 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.

7. **THIS COURT ORDERS** that, notwithstanding Rule 59.05, this order is effective from the date it is made, and it is enforceable without any need for entry and filing. In accordance with Rules 77.07(6) and 1.04, no formal order need be entered and filed unless an appeal or motion for leave to appeal is brought to an appellate court. Any party may nonetheless submit a formal order for original, signing, entry and filing, as the case may be, when the Court returns to regular operations.

A handwritten signature in blue ink is written over a horizontal line. The signature is cursive and appears to read "Hainey J".