

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

THE HONOURABLE Mr.) WEDNESDAY, THE 8th DAY
)
JUSTICE Hainey) OF JUNE, 2016



**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 suite 218)

THIS MOTION, made by Collins Barrow Toronto 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 sale transaction (the "**Transaction**") contemplated by an agreement of purchase and sale (the "**Sale Agreement**") between the Trustee and Christina Ming Chow and Richard Ming Chow (collectively, the "**Purchaser**") dated May 25, 2016 and accepted by the Trustee on May 30, 2016 and appended

to the Seventh Report of the Trustee dated June 6, 2016 (the "**Seventh Report**"), and vesting in the Purchaser the Debtor's right, title and interest in and to the property described in **Schedule B** hereto (the "**Purchased Assets**"), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Seventh Report and on hearing the submissions of counsel for the Trustee, and 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 affidavit of Lynn Lee sworn June 6, 2016, filed:

1. **THIS COURT ORDERS** that the time for service of the Trustee's Notice of Motion and the Motion Record is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.

2. **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.

3. **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 the Debtor's right, title and interest in and to the Purchased Assets 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, 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.

4. **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 the Purchaser as the owner of the Purchased Assets identified in Schedule B hereto in fee simple, and is hereby directed to delete and expunge from title to the Real Property all of the Claims listed in Schedule C hereto.

5. **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.

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


7. **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 Purchased Assets in the Purchaser 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.

8. **THIS COURT ORDERS AND DECLARES** that the Transaction is exempt from the application of the *Bulk Sales Act* (Ontario).

9. **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 cursive script, appearing to read "Hainey J.", is written over a horizontal line.

ENTERED AT / INSCRIT À TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO:
JUN 08 2016

PER / PAR: 

Schedule A – Form of Trustee’s Certificate

Court File No. CV15-10882-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
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**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**

TRUSTEE’S CERTIFICATE
(re suite 218)

RECITALS

A. Pursuant to an Order of the Honourable Justice Pattillo of the Ontario Superior Court of Justice dated February 11, 2015, Collins Barrow Toronto Limited was appointed as 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.

B. Pursuant to an Order of the Court dated June 8, 2016 (the “**Order**”), the Court approved the agreement of purchase and sale dated May 25, 2016 and accepted by the Trustee on May 30, 2016 (the “**Sale Agreement**”) between the Trustee and Christina Ming Chow and Richard Ming Chow (collectively, the “**Purchaser**”) and provided for the vesting in the Purchaser of the Debtor’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; and (ii) that 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 Order or 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; and
2. The Transaction has been completed to the satisfaction of the Trustee.
3. 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 29796-0024

Property Description: Unit 14, level 2, York Region Standard Condominium Plan No. 1265 and its appurtenant interest; subject to and together with easements as set out in Schedule A as in YR2185723; City of Markham

PIN 29796-0331

Property Description: Unit 80, level B, York Region Standard Condominium Plan No. 1265 and its appurtenant interest; subject to and together with easements as set out in Schedule A as in YR2185723; City of Markham

PIN 29796-0578

Property Description: Unit 327, level B, York Region Standard Condominium Plan No. 1265 and its appurtenant interest; subject to and together with easements as set out in Schedule A as in YR2185723; City of Markham

Schedule C – Claims to be deleted and expunged from title to Real Property

| Instrument No. | Registration Date | Instrument Type | Amount | Parties From | Parties To |
|----------------|-------------------|----------------------|--------------|--------------------------------------|--|
| YR1721683 | 2011/10/03 | Charge | \$16,500,000 | Jade-Kennedy Development Corporation | Aviva Insurance Company of Canada |
| YR1763873 | 2011/12/23 | Charge | \$45,000,000 | Jade-Kennedy Development Corporation | Laurentian Bank of Canada |
| YR1763874 | 2011/12/23 | No Assgn Rent Gen | | Jade-Kennedy Development Corporation | Laurentian Bank of Canada |
| YR1763902 | 2011/12/23 | No Assgn Rent Spec | | Jade-Kennedy Development Corporation | Laurentian Bank of Canada |
| YR1764062 | 2011/12/23 | Postponement | | Aviva Insurance Company of Canada | Laurentian Bank of Canada |
| YR1832081 | 2012/06/01 | Notice | \$2 | Jade-Kennedy Development Corporation | Laurentian Bank of Canada |
| YR1928490 | 2012/12/21 | APL Absolute Title | | Jade-Kennedy Development Corporation | |
| YR1954842 | 2013/03/13 | Postponement | | Aviva Insurance Company of Canada | The Corporation of the City of Markham |
| YR1954844 | 2013/03/13 | Postponement | | Laurentian Bank of Canada | The Corporation of the City of Markham |
| YR1962278 | 2013/04/04 | Transfer Rel & Aband | \$1 | Jade-Kennedy Development Corporation | Jade-Kennedy Development Corporation |
| 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. | |

| Instrument No. | Registration Date | Instrument Type | Amount | Parties From | Parties To |
|----------------|-------------------|-------------------|-----------|---|--|
| YR2222710 | 2014/11/28 | Construction Lien | \$14,465 | Global Fire Protection Ltd. | |
| YR2222713 | 2014/11/28 | Construction Lien | \$195,012 | Global Mechanical Ltd. | |
| 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 | |
| YR2236748 | 2014/12/24 | Construction Lien | \$81,519 | Triumph Roofing & Sheet Metal Inc. | |
| YR2237716 | 2014/12/30 | Construction Lien | \$822,787 | Dircam Electric Limited | |
| YR2237952 | 2014/12/30 | Construction Lien | \$62,154 | Great Pyramid Aluminum Ltd. | |
| YR2238229 | 2014/12/31 | Condo Lien/98 | \$1,672 | York Region Standard Condominium Corporation No. 1265 | |
| YR2238253 | 2014/12/31 | Condo Lien/98 | \$975 | York Region Standard Condominium Corporation No. 1265 | |
| 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 |

| Instrument No. | Registration Date | Instrument Type | Amount | Parties From | Parties To |
|----------------|-------------------|-------------------|-----------|------------------------------------|---|
| | | | | | Contract Division (2009) Ltd., Mady Contract Division Ltd., D. Mady Investments Inc., Aviva Insurance Company of Canada, Laurentian Bank of Canada, Am-Stat Corporation |
| YR2246193 | 2015/01/21 | Construction Lien | \$82,529 | Brody Wall System Ltd. | |
| YR2248368 | 2015/01/27 | Construction Lien | \$601,566 | Imperial Trim Supply Ltd. | |
| 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 Corporation, 81 Capital |

| Instrument No. | Registration Date | Instrument Type | Amount | Parties From | Parties To |
|----------------|-------------------|-------------------|----------|--------------------------------|--|
| | | | | | 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. | |
| 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 |
| 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 |

| Instrument No. | Registration Date | Instrument Type | Amount | Parties From | Parties To |
|----------------|-------------------|-----------------|--------|---------------------------|--|
| | | | | | Investments Inc., Aviva Insurance Company of Canada, Laurentian Bank of Canada, Am-Stat Corporation |
| YR2266157 | 2015/03/12 | Certificate | | Brody Wall System Ltd. | |
| 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., BMW Group 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 Real Property**

(unaffected by the Vesting Order)

| Instrument No. | Registration 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 | 2005/12/21 | Notice | | Her Majesty the Queen in Right of Canada as Represented by the Minister of Transport | |
| YR1445332 | 2010/02/25 | Notice of Lease | \$2 | Jade-Kennedy Development Corporation | T. & T. Supermarket Inc. |
| 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 |

| Instrument No. | Registration Date | Instrument Type | Amount | Parties From | Parties To |
|----------------|-------------------|---------------------|--------|---|---|
| YR1657121 | 2011/06/02 | Transfer Easement | \$2 | Jade-Kennedy Development Corporation | Rogers Communication Inc. |
| YR1699150 | 2011/08/22 | APL (General) | | T & T Supermarket Inc. | Jade-Kennedy Development Corporation |
| YR1954840 | 2013/03/13 | Notice | | The Corporation of the City of Markham | Jade-Kennedy Development Corporation |
| YRCP1265 | 2014/09/11 | Standard Condo Plan | | | |
| YR2185723 | 2014/09/11 | Condo Declaration | | Jade-Kennedy Development Corporation | |
| YR2192411 | 2014/09/26 | Condo Bylaw/98 | | York Region Standard Condominium Corporation No. 1265 | |
| YR2192414 | 2014/09/26 | Condo Bylaw/98 | | York Region Standard Condominium Corporation No. 1265 | |
| YR2192417 | 2014/09/26 | Condo Bylaw/98 | | York Region Standard Condominium Corporation No. 1265 | |
| YR2192427 | 2014/09/26 | Notice Agreement | | York Region Standard Condominium Corporation No. 1265 | Jade-Kennedy Development Corporation |
| YR2192433 | 2014/09/26 | Notice Agreement | | Jade-Kennedy Development Corporation | York Region Standard Condominium Corporation No. 1265 |
| YR2216478 | 2014/11/17 | Condo Bylaw/98 | | York Region Standard Condominium Corporation No. 1265 | |
| YR2230492 | 2014/12/11 | No Sec Interest | \$2 | 81 Capital Inc. | |

| Instrument No. | Registration Date | Instrument Type | Amount | Parties From | Parties To |
|----------------|-------------------|-----------------|--------|-----------------|------------|
| YR2230514 | 2014/12/11 | No Sec Interest | \$2 | 81 Capital Inc. | |

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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
(re suite 218)

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