

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE MR.) FRIDAY THE 24th DAY
)
JUSTICE HAINEY) OF MAY, 2019

IN THE MATTER OF THE *COMPANIES' CREDITORS
ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED



AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF FORME DEVELOPMENT GROUP INC.
AND THE OTHER COMPANIES LISTED ON SCHEDULE "A"
HERETO (the "Applicants")

APPLICATION UNDER THE *COMPANIES' CREDITORS
ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

**APPROVAL AND VESTING ORDER
(Carrville Properties)**

THIS MOTION, made by KSV Kofman Inc., in its capacity as Court-appointed monitor (in such capacity, the "**Monitor**") of 159 Carrville Development Inc., 169 Carrville Development Inc., 189 Carrville Development Inc. (collectively, the "**Owner Applicant**"), 250 Danforth Development Inc. (including its predecessor Time Development 250 Danforth Inc., the "**Danforth Applicant**") and 2358825 Ontario Ltd. (the "**Birchmount Applicant**") for an order, *inter alia*, approving the sale transaction (the "**Transaction**") with respect to all of the lands and premises municipally described as 159, 169, 177, 181 & 189 Carrville Road, Richmond Hill, Ontario (collectively, the "**Lands**") and all of the present and after-acquired assets, undertaking and properties of the Owner Applicant related thereto (collectively, together with the Lands, the "**Property**") contemplated by

an agreement of purchase and sale between the Monitor, as vendor, and Libang Developments Inc. (the "**Purchaser**"), as purchaser, dated May 3, 2019 (the "**Sale Agreement**"), a copy of which is attached as Confidential Appendix "3" to the Sixth Report of the Monitor dated May 17, 2019 (the "**Sixth Report**"), and vesting in the Purchaser, or as it may direct in accordance with the Sale Agreement, all of the Owner Applicant's right, title and interest in and to the property described as the "Purchased Assets" in the Sale Agreement (the "**Purchased Assets**"), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Sixth Report and appendices thereto, and on hearing the submissions of counsel for the Monitor and such other counsel as were present, no one appearing for any other person on the service list, although properly served as appears from the affidavit of Aiden Nelms sworn May 17, 2019, filed,

1. **THIS COURT ORDERS AND DECLARES** that the Transaction is hereby approved, and the execution of the Sale Agreement by the Monitor is hereby authorized and approved, with such minor amendments as the Monitor may deem necessary. The Monitor is hereby authorized 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, or as it may direct.

2. **THIS COURT ORDERS AND DECLARES** that upon the delivery of a Monitor's certificate to the Purchaser substantially in the form attached as **Schedule "B"** hereto (the "**Monitor's Certificate**"), all of the Owner Applicant's right, title and interest in and to the Purchased Assets, including without limitation the subject real property identified in **Schedule "C"** hereto (the "**Real Property**"), shall vest absolutely in the Purchaser, or as it may direct, 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, executions, leases, notices of lease, subleases, licences, restrictions, contractual rights, options, judgments, liabilities (direct, indirect, absolute or contingent), obligations, 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 Amended and Restated Order of the Honorable Justice Hainey dated November 30, 2018; (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 "D"** 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 "E"**) and, for greater certainty, this Court orders and declares that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets and are non-enforceable and non-binding as against the Purchaser.

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 the Purchaser, or as it may direct, as the owner of the subject real property identified in **Schedule "C"** hereto (the "**Real Property**") in fee simple, and is hereby directed to delete and expunge from title to the Real Property all of the Claims listed in **Schedule "D"** 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 Monitor'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.

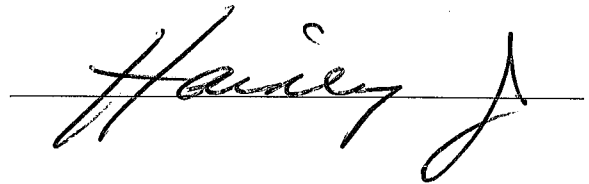
5. **THIS COURT ORDERS AND DIRECTS** the Monitor to file with the Court a copy of the Monitor's Certificate, forthwith after delivery thereof.

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 the Owner Applicant and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of the Owner Applicant,

the vesting of the Purchased Assets in the Purchaser, or as it may direct, pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Owner Applicant and shall not be void or voidable by creditors of the Owner Applicant, 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 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 Monitor 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 Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Monitor 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:

MAY 24 2019

PER / PAR: 

SCHEDULE "A"
APPLICANTS

3310 Kingston Development Inc.

1296 Kennedy Development Inc.

1326 Wilson Development Inc.

5507 River Development Inc.

4439 John Development Inc.

2358825 Ontario Ltd.

250 Danforth Development Inc.

159 Carrville Development Inc.

169 Carrville Development Inc.

189 Carrville Development Inc.

27 Anglin Development Inc.

29 Anglin Development Inc.

SCHEDULE "B"
FORM OF MONITOR'S CERTIFICATE

Court File No. CV-18-608313-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

IN THE MATTER OF THE *COMPANIES' CREDITORS*
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AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF FORME DEVELOPMENT GROUP INC.
AND THE OTHER COMPANIES LISTED ON SCHEDULE "A"
HERETO

APPLICATION UNDER THE *COMPANIES' CREDITORS*
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MONITOR'S CERTIFICATE

RECITALS

I. Pursuant to an Order of the Honourable Mr. Justice Hainey of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated November 30, 2018 (as amended, the "**Initial Order**"), KSV Kofman Inc. was appointed as monitor (in such capacity, the "**Monitor**") of 159 Carrville Development Inc., 169 Carrville Development Inc. and 189 Carrville Development Inc. Pursuant to the Initial Order the Monitor was granted certain expanded powers.

II. Pursuant to an Order of the Court dated [REDACTED], 2019, the Court approved the agreement of purchase and sale between the Monitor, as vendor, and Libang Developments Inc. (the "**Purchaser**"), as purchaser, dated May [REDACTED], 2019 (the "**Sale Agreement**"), and provided for the vesting in the Purchaser, or as it may direct in accordance with the Sale Agreement, of all of 159 Carrville Development Inc.'s, 169 Carrville Development Inc.'s and 189 Carrville Development

Inc.'s (collectively, the "**Owner Applicant**") right, title and interest in and to the Purchased Assets (as defined in the Sale Agreement), which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Monitor to the Purchaser of a certificate confirming: (i) the payment by the Purchaser of the purchase price for the Purchased Assets; (ii) that the conditions to closing as set out in the Sale Agreement have been satisfied or waived by the Monitor and the Purchaser; and (iii) the transaction has been completed to the satisfaction of the Monitor.

III. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.

THE MONITOR CERTIFIES the following:

1. The Purchaser has paid and the Monitor 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 the Sale Agreement have been satisfied or waived by the Monitor and the Purchaser in accordance with their terms;
3. The transaction has been completed to the satisfaction of the Monitor; and

4. This Certificate was delivered by the Monitor at _____ [TIME] on _____ [DATE].

KSV KOFMAN INC., solely in its capacity as court appointed monitor of 159 Carrville Development Inc., 169 Carrville Development Inc. and 189 Carrville Development Inc., and not in its personal capacity or in any other capacity

Per: _____

Name:

Title:

SCHEDULE "A"
APPLICANTS

3310 Kingston Development Inc.
1296 Kennedy Development Inc.
1326 Wilson Development Inc.
5507 River Development Inc.
4439 John Development Inc.
2358825 Ontario Ltd.
250 Danforth Development Inc.
159 Carrville Development Inc.
169 Carrville Development Inc.
189 Carrville Development Inc.
27 Anglin Development Inc.
29 Anglin Development Inc.

SCHEDULE "C"
LEGAL DESCRIPTION OF THE REAL PROPERTY

159, 169, 177, 181 & 189 Carrville Road, Richmond Hill, Ontario

FIRSTLY: PIN 03108-0028 (LT)

PT LT 125 PL 1960 VAUGHAN AS IN R315513; RICHMOND HILL

SECONDLY: PIN 03108-0029 (LT)

PT LT 125 PL 1960 VAUGHAN; PT LT 126 PL 1960 VAUGHAN AS IN RH43803; TOWN OF RICHMOND HILL

THIRDLY: PIN 03108-0030 (LT)

PT LT 126 PL 1960 VAUGHAN AS IN R569336; RICHMOND HILL

FOURTHLY: PIN 03108-0031 (LT)

LT 127 PL 1960 VAUGHAN; RICHMOND HILL

FIFTHLY: PIN 03108-0032 (LT)

LT 128 PL 1960 VAUGHAN; RICHMOND HILL; TOWN OF RICHMOND HILL

SCHEDULE "D"
INSTRUMENTS TO BE DELETED FROM PIN NO. 03108-0028 (LT), 03108-0029 (LT) AND 03108-0030 (LT)

Reg. No.	Date	Instrument Type	Amount	Parties From	Parties To
YR2588532	2016/12/01	Charge	\$3,573,000	189 Carrville Development Inc.	Home Trust Company
YR2592128	2016/12/07	Notice	N/A	189 Carrville Development Inc.	Home Trust Company
YR2649362	2017/04/04	Charge	\$4,000,000	189 Carrville Development Inc.	2557725 Ontario Inc.
YR2649363	2017/04/04	Notice of Assignment of Rents – General	N/A	189 Carrville Development Inc.	2557725 Ontario Inc.
YR2686725	2017/06/16	Charge	\$1,000,000	189 Carrville Development Inc.	10226190 Ontario Inc.
YR2686726	2017/06/16	Notice of Assignment of Rents – General	N/A	189 Carrville Development Inc.	10226190 Ontario Inc.

INSTRUMENTS TO BE DELETED FROM PIN NO. 03108-0031 (LT)

Reg. No.	Date	Instrument Type	Amount	Parties From	Parties To
YR2648826	2017/04/03	Charge	\$1,768,500	169 Carrville Development Inc.	Home Trust Company
YR2649347	2017/04/04	Charge	\$4,000,000	169 Carrville Development Inc.	2557725 Ontario Inc.
YR2649348	2017/04/04	Notice of Assignment of Rents – General	N/A	169 Carrville Development Inc.	2557725 Ontario Inc.
YR2686741	2017/06/16	Charge	\$1,000,000	169 Carrville Development Inc.	10226190 Ontario Ltd.

Reg. No.	Date	Instrument Type	Amount	Parties From	Parties To
YR2686742	2017/06/16	Notice of Assignment of Rents – General	N/A	169 Carrville Development Inc.	10226190 Ontario Ltd.

INSTRUMENTS TO BE DELETED FROM PIN NO. 03108-0032 (LT)

Reg. No.	Date	Instrument Type	Amount	Parties From	Parties To
YR2782827	2018/01/12	Charge	\$1,150,000	159 Carrville Development Inc.	2611809 Ontario Inc.
YR2782828	2018/01/12	Notice of Assignment of Rents – General	N/A	159 Carrville Development Inc.	2611809 Ontario Inc.

**INSTRUMENTS TO BE DELETED FROM PIN NO. 03108-0028 (LT), 03108-0029 (LT), 03108-0030 (LT), 03108-0031 (LT)
AND 03108-0032 (LT)**

Reg. No.	Date	Instrument Type	Amount	Parties From	Parties To
YR2782829	2018/01/12	Charge	\$2,500,000	159 Carrville Development Inc. 169 Carrville Development Inc. 189 Carrville Development Inc.	2611622 Ontario Inc.
YR2782830	2018/01/12	Notice of Assignment of Rents – General	N/A	159 Carrville Development Inc. 169 Carrville Development Inc. 189 Carrville Development Inc.	2611622 Ontario Inc.

Reg. No.	Date	Instrument Type	Amount	Parties From	Parties To
YR2782831	2018/01/12	Charge	\$500,000	159 Carrville Development Inc. 169 Carrville Development Inc. 189 Carrville Development Inc.	2612316 Ontario Inc.
YR2782832	2018/01/12	Notice of Assignment of Rents – General	N/A	159 Carrville Development Inc. 169 Carrville Development Inc. 189 Carrville Development Inc.	2612316 Ontario Inc.

SCHEDULE "E"
PERMITTED ENCUMBRANCES FROM PIN NOS. 03108-0028, 03108-0029 (LT), 03108-0030 (LT) AND 03108-0031 (LT)

Reg. No.	Date	Instrument Type	Amount	Parties From	Parties To
RH69583	1976/04/06	Bylaw	N/A		

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED
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OTHER COMPANIES LISTED ON SCHEDULE "A" HERETO (the "Applicants")

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

Proceeding commenced at Toronto

APPROVAL AND VESTING ORDER

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Counsel to KSV Kofman Inc., solely in its
capacity as Court-appointed monitor and not
in its personal capacity