

COURT OF APPEAL FILE NO. CA49320  
VANCOUVER REGISTRY

**COURT OF APPEAL FOR BRITISH COLUMBIA**

BETWEEN:

HIS MAJESTY THE KING IN RIGHT OF THE  
PROVINCE OF BRITISH COLUMBIA

APPELLANT

AND:

PEAKHILL CAPITAL INC.,  
KSV RESTRUCTURING INC.,  
CENYARD PACIFIC DEVELOPMENTS INC., and  
CENYARD SOUTHVIEW GARDENS LTD.

RESPONDENTS

**ORDER**

BEFORE THE HONOURABLE MADAM JUSTICE SAUNDERS

Vancouver, British Columbia, September 25, 2023.

THE APPLICATION of Cenyard Southview Gardens Ltd. (the “Applicant”), coming on for hearing at Vancouver, British Columbia, on Monday, the 25th day of September, 2023; AND ON HEARING William L. Roberts and Anna Paczkowski, counsel for the Applicant, Owen James, counsel for the Appellant, Vicki Tickle, counsel for the respondent KSV Restructuring Inc., Elie Laskin, counsel for the respondent Peakhill Capital Inc., and Jordan Schultz and Emma Newbery, counsel for the respondent Cenyard Pacific Developments Inc.; AND ON READING THE materials filed herein; AND ON JUDGMENT BEING PRONOUNCED ON THIS DATE;

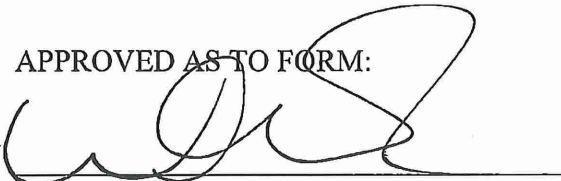
IT IS ORDERED THAT the stay imposed by s. 195 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 (the “BIA”) of the Order of Mr. Justice Loo, pronounced on August 25, 2023, granting a reverse vesting order in SCBC Vancouver Action No. S-231065 (the “RVO”), is lifted on the following terms:



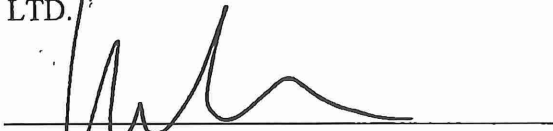
- (a) upon closing of the Primary Transaction, the Applicant, or its assignee Cenyard Investments Ltd. (the "Assignee"), will pay \$3,342,100 (the "Disputed Amount") into trust with its solicitors, Lawson Lundell LLP, and the Disputed Amount will be held in trust by Lawson Lundell LLP on the terms set out in paragraph (b) below, unless otherwise agreed to in writing by the Applicant or the Assignee and the Appellant, or pursuant to a further order of this Court;
- (b) if the appeal is allowed, the Disputed Amount will be paid to the Appellant upon the expiry of the applicable appeal period. If the Appeal is dismissed, the Disputed Amount will be repaid to the Applicant or the Assignee upon the expiry of the applicable appeal period. If a further appeal, or an application for leave to appeal, from the Court of Appeal's decision is filed, the Disputed Amount shall remain in trust with Lawson Lundell LLP, pending determination of the further appeal or application for leave to appeal, as the case may be;
- (c) by consent, no party to this appeal, including the Assignee, may assert the appeal is moot, including as a result of the closing of the Primary Transaction referred to in the RVO, or assert that the appeal ought not to be allowed as a result of this order; and
- (d) by consent, if the Primary Transaction referred to in the RVO closes, the remedies on appeal will be limited to remedies related to the Disputed Amount and costs of the appeal, and the Primary Transaction will stand and will not be reversed.

IT IS FUTHER ORDERED THAT the costs of this application shall be in the cause.

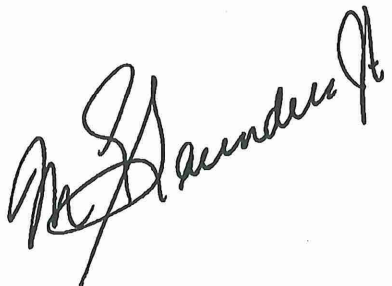
APPROVED AS TO FORM:



William L. Roberts  
COUNSEL FOR THE RESPONDENT,  
CENYARD SOUTHVIEW GARDENS  
LTD.




Owen James  
COUNSEL FOR HIS MAJESTY THE  
KING IN RIGHT OF THE PROVINCE OF  
BRITISH COLUMBIA



  
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Jordan Schulz  
COUNSEL FOR THE RESPONDENT,  
CENYARD PACIFIC DEVELOPMENTS  
INC.


  
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Elie Laskin  
COUNSEL FOR THE RESPONDENT,  
PEAKHILL CAPITAL INC.

  
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Vicki Tickle  
COUNSEL FOR THE RESPONDENT,  
KSV RESTRUCTURING INC.,  
RECEIVER





BY THE COURT

  
\_\_\_\_\_  
REGISTRAR

ENTERED  
SEP 25 2023  
VANCOUVER  
REGISTRY

