

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

THE HONOURABLE MADAM	)	WEDNESDAY, THE 23 <sup>rd</sup>
	)	
JUSTICE CONWAY	)	DAY OF MARCH, 2022

B E T W E E N:

**ROYAL BANK OF CANADA**

Plaintiff

- and -

**HIGHYON ASSETS CORP., HIGHYON REALTY INC.,  
BING PU and SHUYAN XU**

Defendants

**APPROVAL AND VESTING ORDER**

THIS MOTION, made by msi Spergel inc. in its capacity as the Court-appointed receiver (the "Receiver") of the undertaking, property and assets of Highyon Assets Corp. (the "Debtor") for an order approving the sale transaction (the "Transaction") contemplated by an agreement of purchase and sale (the "Sale Agreement") between the Receiver and 1000002868 Ontario Corporation (the "Purchaser") dated February 25, 2022 and appended to the Report of the Receiver dated March 14, 2022 (the "Report"), and vesting in the Purchaser the Debtor's right, title and interest in and to the assets described in the Sale Agreement (the "Lands"), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Report and on hearing the submissions of counsel for the Receiver, the Applicant and the Purchaser, no one appearing for any other person on the service list, although properly served as appears from the affidavit of Lindsay Ferguson, sworn March 14, 2022, filed:

1. THIS COURT ORDERS AND DECLARES that the Transaction is hereby approved, and the execution of the Sale Agreement by the Receiver is hereby authorized and approved, with such minor amendments as the Receiver may deem necessary. The Receiver 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 Lands to the Purchaser.

2. THIS COURT ORDERS AND DECLARES that upon the delivery of a Receiver's certificate to the Purchaser substantially in the form attached as Schedule A hereto (the "Receiver's Certificate"), all of the Debtor's right, title and interest in and to the Lands described in the Sale Agreement and listed on Schedule B hereto 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, 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 Gilmore dated October 16, 2020; (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 Lands are hereby expunged and discharged as against the Lands.

3. THIS COURT ORDERS that upon the registration in the Land Registry Office for the Land Titles Division of the Region of York an Application for Vesting Order, in the form prescribed by the *Land Titles Act*, the Land Registrar is hereby directed to enter the Purchaser as the owner of the subject Lands identified in Schedule B in fee simple, and is hereby directed to delete and expunge from title to the Lands all of the Claims listed in Schedule C 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 Lands shall stand in the place and stead of the Lands, and that from and after the delivery of the Receiver's Certificate all Claims and Encumbrances

shall attach to the net proceeds from the sale of the Lands with the same priority as they had with respect to the Lands immediately prior to the sale, as if the Lands 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 Receiver to file with the Court a copy of the Receiver'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 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 Lands 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.

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 Receiver 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 Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

  
\_\_\_\_\_  
Justice, Ontario Superior Court of Justice  
Commercial List

**Schedule A – Form of Receiver’s Certificate**

Court File No. CV-20-00648781-00CL

**ONTARIO**

**SUPERIOR COURT OF JUSTICE**

**COMMERCIAL LIST**

**B E T W E E N:**

**ROYAL BANK OF CANADA**

Plaintiff

- and –

**HIGHYON ASSETS CORP., HIGHYON REALTY INC.,  
BING PU and SHUYAN XU**

Defendants

**RECEIVER’S CERTIFICATE**

**RECITALS**

A. Pursuant to an Order of the Honourable Madam Justice Gilmore of the Ontario Superior Court of Justice (the "Court") dated October 16, 2020 , msi Spergel inc. was appointed as the receiver (the "Receiver") of the undertaking, property and assets of Highyon Assets Corp. (the “Debtor”).

B. Pursuant to an Order of the Court dated [DATE], the Court approved the agreement of purchase and sale made as of February 25, 2022 (the "Sale Agreement") between the Receiver and 1000002868 Ontario Corporation (the "Purchaser") and provided for the vesting in the Purchaser of the Debtor’s right, title and interest in and to the Lands, which vesting is to be effective with respect to the Lands upon the delivery by the Receiver to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Lands; (ii) that the conditions to Closing as set out in sections 11 and 12 of the Sale Agreement have been satisfied or waived by

the Receiver and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Receiver.

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

THE RECEIVER CERTIFIES the following:

1. The Purchaser has paid and the Receiver has received the Purchase Price for Lands payable on the Closing Date pursuant to the Sale Agreement;
2. The conditions to Closing as set out in sections 11 and 12 of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and
3. The Transaction has been completed to the satisfaction of the Receiver.
4. This Certificate was delivered by the Receiver at \_\_\_\_\_ [TIME] on \_\_\_\_\_ [DATE].

**MSI SPERGEL INC., in its capacity as  
Receiver of the undertaking, property and  
assets of HIGHYON ASSETS CORP., and  
not in its personal capacity**

Per: \_\_\_\_\_

Name:

Title:

## **Schedule B – Lands**

**350 Highway 7 Avenue East, Suite 302, Richmond Hill ON L4B 3N2**

PIN 29302-0093

Unit 18, Level 3, York Region Condominium Plan No. 771

Town of Richmond Hill, York County

**350 Highway 7 Avenue East, Suite 310, Richmond Hill ON L4B 3N2**

PIN 29302-0094

Unit 19, Level 3, York Region Condominium Plan No. 771

Town of Richmond Hill, York County

### **Parking**

PIN 29302-0326

Unit 186, Level A, York Region Condominium Plan No. 771

Town of Richmond Hill, York County

PIN 29302-0327

Unit 187, Level A, York Region Condominium Plan No. 771

Town of Richmond Hill, York County

## **Schedule C – Claims to be deleted and expunged from title to Lands**

### **350 Highway 7 Avenue East, Suite 302, Richmond Hill ON L4B 3N2**

PIN 29302-0093

YR2100855 (February 28, 2014) – Transfer

YR2840572 (June 22, 2018) – Charge

YR2904645 (December 3, 2018) – Charge

YR3052188 (January 2, 2020) – Charge

YR3117703 (July 10, 2020) – Charge

YR3157858 (October 21, 2020) – Application to Register Court Order

### **350 Highway 7 Avenue East, Suite 310, Richmond Hill ON L4B 3N2**

PIN 29302-0094

YR1640019 (April 29, 2011) – Transfer

YR2840572 (June 22, 2018) – Charge

YR2904645 (December 3, 2018) – Charge

YR3052188 (January 2, 2020) – Charge

YR3117703 (July 10, 2020) – Charge

YR3157858 (October 21, 2020) – Application to Register Court Order

### **Parking**

PIN 29302-0326

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PIN 29302-0327

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YR2904645 (December 3, 2018) – Charge

YR3052188 (January 2, 2020) – Charge

YR3117703 (July 10, 2020) – Charge

YR3157858 (October 21, 2020) – Application to Register Court Order



**Schedule D – Permitted Encumbrances, Easements and Restrictive Covenants  
related to the Lands**

**(unaffected by the Vesting Order)**

**350 Highway 7 Avenue East, Suite 302, Richmond Hill ON L4B 3N2**

PIN 29302-0093

R488826 (November 15, 1988) – Airport Zoning Regulations

R505310 (April 26, 1989) – Agreement

R510516 (June 7, 1989) - Agreement

R542751 (May 17, 1990) – Joint Licensing Agreement

LT712904 (November 21, 1990) – Declaration

LT718291 (December 7, 1990) – Bylaw #1

LT718292 (December 7, 1990) – Bylaw #2

LT718293 (December 7, 1990) – Bylaw #3

LT719295 (December 10, 1990) – Bylaw #4

LT720186 (December 12, 1990) – Amendment to Declaration

LT722320 (December 18, 1990) – Bylaw #5

65R15192 (May 13, 1991) – Reference Plan

LT876092 (November 3, 1992) – Special Bylaw #6

LT929391 (August 16, 1993) – Bylaw #7

LT941283 (October 22, 1993) – Special Bylaw #7

LT968662 (April 11, 1994) – Special Bylaw #9

LT1059097 (September 12, 1995) – Special Bylaw #7

LT1293064 (August 20, 1998) – Notice of Change of Address

LT1507736 (July 31, 2000) – Notice of Change of Address

YR1089753 (November 20, 2007) – Bylaw #6

65R31704 (June 12, 2009) – Reference Plan

YR1373973 (September 14, 2009) – Plan Expropriation

YR1564335 (October 21, 2010) – Application to Register Court Order

**350 Highway 7 Avenue East, Suite 310, Richmond Hill ON L4B 3N2**

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ROYAL BANK OF CANADA

v.

HIGHYON ASSETS CORP., *et al.*

Plaintiff

Defendants

Court File No. CV-20-00648781-00CL

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**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

PROCEEDING COMMENCED AT TORONTO

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**APPROVAL AND VESTING ORDER**

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Lawyers for the Receiver,  
msi Spergel inc.