

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

THE HONOURABLE MR.) MONDAY, THE 11TH
JUSTICE CAVANAGH) DAY OF JANUARY, 2021

B E T W E E N :

PACE SAVINGS & CREDIT UNION LIMITED

Applicant

- and -

**NOBLE HOUSE DEVELOPMENT CORPORATION, 2307400 ONTARIO INC., AND
2209326 ONTARIO LTD.**

Respondents

APPROVAL AND VESTING ORDER

THIS MOTION, made by msi Spergel inc., in its capacity as the Court-appointed receiver (in such capacity, the “**Receiver**”), without security, of all the assets, undertakings and properties of Noble House Development Corporation (“**Noble House**”), 2307400 Ontario Inc. (“**230**”) and 2209326 Ontario Ltd. (together with Noble House and 230, the “**Debtor**”) acquired for, or used in relation to a business carried on by the Debtor, and all proceeds thereof (collectively, the “**Property**”), for an order, *inter alia*, approving the sale transaction (the “**Transaction**”) contemplated by an agreement of purchase and sale between the Receiver, as vendor, and Shaffiq Dar in trust for a company to be named later (which was subsequently confirmed as F.P.A.D. Corporation now the “**Purchaser**”), as purchaser, dated November 10, 2020 (the “**Sale**

Agreement”), a copy of which is attached to the First Report of the Receiver dated December 21, 2020 (together with the supplement thereto dated January 7, 2021, the “**Report**”), and vesting in the Purchaser the Purchased Assets (as defined in the Sale Agreement), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Report and appendices thereto, the Factum of the Receiver dated January 5, 2021, the Affidavit of Giuseppe Luongo sworn January 6, 2021 and the Affidavit of John Jarvis sworn January 6, 2021, and on hearing the submissions of counsel for the Receiver 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 affidavits of Christine Doyle, 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 Purchased Assets 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 Purchased Assets described in the Sale Agreement, including, without limitation, all of the Debtor’s right, title and interest in and to the Real Property (as defined herein) 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 Mr. Justice Hailey made February 20, 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 Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

3. **THIS COURT ORDERS** that upon the registration in the Land Registry Office for the appropriate Land Titles Division 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 subject real property identified in **Schedule "B"** 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 "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 Purchased Assets shall stand in the place and stead of the Purchased Assets, 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 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 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 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.

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.

8. **THIS COURT ORDERS** that, notwithstanding Rule 59.05 of the *Rules of Civil Procedure* (Ontario), this Order is effective from the date on which it is made, and is enforceable without any need for entry and filing; provided, however, that any party may nonetheless submit a formal order for original, signing, entry and filing, as the case may be.

Schedule “A” – Form of Receiver’s Certificate

Court File No. CV-20-00635946-00CL

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RECEIVER’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**”) made February 20, 2020, msi Spergel inc. (“**Spergel**”) was appointed as receiver (in such capacity, the “**Receiver**”), without security, of all the assets, undertakings and properties of Noble House Development Corporation (“**Noble House**”), 2307400 Ontario Inc. (“**230**”) and 2209326 Ontario Ltd. (together with Noble House and 230, the “**Debtor**”) and all proceeds thereof (collectively, the “**Property**”).

- II. Pursuant to an Order of the Court dated January 11, 2021, the Court approved the agreement of purchase and sale between the Receiver, as vendor, and Shaffiq Dar in trust for a company to be named later (which was subsequently confirmed to be F.P.A.D. Corporation, now

the “**Purchaser**”), as purchaser, dated November 10, 2020 (the “**Sale Agreement**”), and provided for the vesting in the Purchaser of 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 Receiver 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 Receiver and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Receiver.

III. 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 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 Receiver and the Purchaser;
3. The Transaction has been completed to the satisfaction of the Receiver; and
4. This Certificate was delivered by the Receiver at _____ [TIME] on _____ [DATE].

MSI SPERGEL INC., solely in its capacity as the Court-appointed receiver of the Property, and not in its personal capacity or in any other capacity

Per: _____

Name:

Title:

SCHEDULE "B"
LEGAL DESCRIPTION OF THE REAL PROPERTY

Units 1 to 14, inclusive, Level 1, Muskoka Standard Condominium Plan No. 80, Town of Huntsville

PINs 48880-0001 to 48880-0014, inclusive

Unit 1, Level 2, Muskoka Standard Condominium Plan No. 80, Town of Huntsville

PIN 48880-0015

**SCHEDULE “C”
INSTRUMENTS TO BE DELETED FROM TITLE**

A. PIN 48880-0015(LT) – Unit 1, Level 2, Muskoka Standard Condominium Plan No. 80, Town of Huntsville

Reg. No.	Date	Instrument Type	Amount	Parties From	Parties To
MT151336	2015/04/20	Postponement		Harbouredge Mortgage Investment Corporation	The District Municipality of Muskoka
MT203624	2018/09/10	Transfer	\$375,000.00	DAD Ventures Inc.	Noble House Development Corporation
MT203625	2018/09/10	Charge	\$370,000.00	Noble House Development Corporation	Pasquale Luongo, Giuseppe Luongo, Bruno Rositano and Cristina Rositano
MT203626	2018/09/10	Notice of General Assignment of Rents		Noble House Development Corporation	Pasquale Luongo, Giuseppe Luongo, Bruno Rositano and Cristina Rositano
MT213302	2019/05/29	Construction Lien	\$25,000.00	Dael Thermal Group Inc.	
MT215140	2019/07/08	Certificate of Action		Dael Thermal Group Inc.	
MT227900	2020/05/13	Application Court Order		Ontario Superior Court of Justice	MSI Spergel Inc.

B. PINs 48880-0001, 48880-0002, 48800-0004, 48800-0006, 48800-0005 and 48800-0009 to 48800-0014, inclusive being Units 1, 2, 4, 5 and 6, Level 1 and Units 9 to 14, inclusive, Level 1, Muskoka Standard Condominium Plan No. 80, Town of Huntsville

Reg. No.	Date	Instrument Type	Amount	Parties From	Parties To
MT154628	2015/07/05	Charge	\$472,097.00	2209326 Ontario Ltd. and 2307400 Ontario Inc.	Catherine Elizabeth Wallace and Scott William Wallace
MT163881	2016/02/16	Notice		2209326 Ontario Ltd. and 2307400 Ontario Inc.	Catherine Elizabeth Wallace and Scott William Wallace
MT191216	2017/10/26	Charge	\$5,500,000.00	2209326 Ontario Ltd. and 2307400 Ontario Inc.	Pace Savings & Credit Union Limited
MT191217	2017/10/26	Notice of General Assignment of Rents		2209326 Ontario Ltd. and 2307400 Ontario Inc.	Pace Savings & Credit Union Limited
MT191258	2017/10/26	Postponement		Catherine Elizabeth Wallace and Scott William Wallace	Pace Savings & Credit Union Limited
MT194226	2018/01/04	Charge	\$450,000.00	2209326 Ontario Ltd. and 2307400 Ontario Inc.	Canadian Western Trust Company
MT210440	2019/03/05	Caution Land Bankruptcy		William Charles Player	BDO Canada Limited
MT213302	2019/05/29	Construction Lien	\$25,000.00	Dael Thermal Group Inc.	
MT215140	2019/07/08	Certificate of Action		Dael Thermal Group Inc.	
MT225233	2020/02/21	Application Court Order Appointing Receiver		Ontario Superior Court of Justice	MSI Spergel Inc.

C. PIN 48880-0003 – Unit 3, Level 1, Muskoka Standard Condominium Plan No. 80, Town of Huntsville

Reg. No.	Date	Instrument Type	Amount	Parties From	Parties To
MT154628	2015/07/05	Charge	\$472,097.00	2209326 Ontario Ltd. and 2307400 Ontario Inc.	Catherine Elizabeth Wallace and Scott William Wallace
MT163881	2016/02/16	Notice		2209326 Ontario Ltd. and 2307400 Ontario Inc.	Catherine Elizabeth Wallace and Scott William Wallace
MT191216	2017/10/26	Charge	\$5,500,000.00	2209326 Ontario Ltd. and 2307400 Ontario Inc.	Pace Savings & Credit Union Limited
MT191217	2017/10/26	Notice of General Assignment of Rents		2209326 Ontario Ltd. and 2307400 Ontario Inc.	Pace Savings & Credit Union Limited
MT191258	2017/10/26	Postponement		Catherine Elizabeth Wallace and Scott William Wallace	Pace Savings & Credit Union Limited
MT194226	2018/01/04	Charge	\$450,000.00	2209326 Ontario Ltd. and 2307400 Ontario Inc.	Canadian Western Trust Company
MT213302	2019/05/29	Construction Lien	\$25,000.00	Dael Thermal Group Inc.	
MT215140	2019/07/08	Certificate of Action		Dael Thermal Group Inc.	
MT225233	2020/02/21	Application Court Order Appointing Receiver		Ontario Superior Court of Justice	MSI Spergel Inc.

D. PIN 48880-0007 and 48880-0008 – Units 7 and 8, Level 1, Muskoka Standard Condominium Plan No. 80, Town of Huntsville

Reg. No.	Date	Instrument Type	Amount	Parties From	Parties To
MT154626	2015/07/06	Charge	\$375,000.00	2209326 Ontario Ltd. and 2307400 Ontario Inc.	Andrew Turner
MT154627	2015/07/06	Notice of General Assignment of Rents		2209326 Ontario Ltd. and 2307400 Ontario Inc.	Andrew Turner
MT154628	2015/07/05	Charge	\$472,097.00	2209326 Ontario Ltd. and 2307400 Ontario Inc.	Catherine Elizabeth Wallace and Scott William Wallace
MT163880	2016/02/16	Postponement		Andrew Turner	Deborah Brannan, Water Dragon Holdings Inc., Canadian Western Trust Company and MCP Holdings Inc.
MT163881	2016/02/16	Notice		2209326 Ontario Ltd. and 2307400 Ontario Inc.	Catherine Elizabeth Wallace and Scott William Wallace
MT191216	2017/10/26	Charge	\$5,500,000.00	2209326 Ontario Ltd. and 2307400 Ontario Inc.	Pace Savings & Credit Union Limited
MT191217	2017/10/26	Notice of General Assignment of Rents		2209326 Ontario Ltd. and 2307400 Ontario Inc.	Pace Savings & Credit Union Limited
MT191258	2017/10/26	Postponement		Catherine Elizabeth Wallace and Scott William Wallace	Pace Savings & Credit Union Limited
MT194226	2018/01/04	Charge	\$450,000.00	2209326 Ontario Ltd. and 2307400 Ontario Inc.	Canadian Western Trust Company
MT210440	2019/03/05	Caution Land Bankruptcy		William Charles Player	BDO Canada Limited
MT213302	2019/05/29	Construction Lien	\$25,000.00	Dael Thermal Group Inc.	
MT215140	2019/07/08	Certificate of Action		Dael Thermal Group Inc.	
MT225233	2020/02/21	Application Court Order Appointing Receiver		Ontario Superior Court of Justice	MSI Spergel Inc.

SCHEDULE “D”
PERMITTED ENCUMBRANCES, EASEMENTS AND RESTRICTIVE COVENANTS

A. PIN 48880-0015(LT) – Unit 1, Level 2, Muskoka Standard Condominium Plan No. 80, Town of Huntsville

Reg. No.	Date	Instrument Type	Parties From	Parties To
BU2519	1930/10/09	Transfer Easement	Harry Kitchen, et al.	The Bell Telephone Company of Canada, Limited
DM62325	1968/01/08	Bylaw		
DM79260	1970/10/05	Notice of Claim	Harry Kitchen & Alfred Kitchen	The Bell Telephone Company of Canada
DM180696	1984/04/27	Agreement	Claudex Inx.	Town of Huntsville
DM252917	1991/07/31	Agreement	Beaver Lumber Company Limited	Town of Huntsville
DM290896	1996/06/25	Transfer Easement	Town of Huntsville	The District Municipality of Muskoka
DM296056	1997/02/21	Agreement	Precision Panels Ltd.	Town of Huntsville
DM299414	1997/07/28	Agreement	Algonquin Industries International Inc.	Town of Huntsville
DM303917	1998/02/17	Agreement	3276970 Canada Inc.	Town of Huntsville
MT3301	2005/06/28	Notice of Agreement	Home Hardware Stores Limited	The Corporation of the Town of Huntsville
MT151229	2015/04/16	Notice	The District Municipality of Muskoka	2209326 Ontario Ltd. and 2307400 Ontario Inc.
MCP80	2015/05/19	Standard Condo Plan		
MT152390	2015/05/19	Condominium Declaration	2209326 Ontario Ltd. and 2307400 Ontario Inc.	
MT152758	2015/05/29	Condo Bylaw/98 (Bylaw No. 1)	Muskoka Standard Condominium Corporation No. 80	
MT152759	2015/05/29	Condo Bylaw/98 (Bylaw No. 2)	Muskoka Standard Condominium Corporation No. 80	

B. PIN 48880-0001 to 48800-0014(LT) – Unit 1 to 14, inclusive, Level 1, Muskoka Standard Condominium Plan No. 80, Town of Huntsville

Reg. No.	Date	Instrument Type	Parties From	Parties To
BU2519	1930/10/09	Transfer Easement	Harry Kitchen, et al.	The Bell Telephone Company of Canada, Limited
DM62325	1968/01/08	Bylaw		
DM79260	1970/10/05	Notice of Claim	Harry Kitchen & Alfred Kitchen	The Bell Telephone Company of Canada
DM180696	1984/04/27	Agreement	Claudex Inx.	Town of Huntsville
DM252917	1991/07/31	Agreement	Beaver Lumber Company Limited	Town of Huntsville
DM290896	1996/06/25	Transfer Easement	Town of Huntsville	The District Municipality of Muskoka
DM296056	1997/02/21	Agreement	Precision Panels Ltd.	Town of Huntsville
DM299414	1997/07/28	Agreement	Algonquin Industries International Inc.	Town of Huntsville
DM303917	1998/02/17	Agreement	3276970 Canada Inc.	Town of Huntsville
MT3301	2005/06/28	Notice of Agreement	Home Hardware Stores Limited	The Corporation of the Town of Huntsville
MT151229	2015/04/16	Notice	The District Municipality of Muskoka	2209326 Ontario Ltd. and 2307400 Ontario Inc.
MCP80	2015/05/19	Standard Condo Plan		
MT152390	2015/05/19	Condo Declaration	2209326 Ontario Ltd. and 2307400 Ontario Inc.	
MT152758	2015/05/29	Condo Bylaw/98 (Bylaw No. 1)	Muskoka Standard Condominium Corporation No. 80	
MT152759	2015/05/29	Condo Bylaw/98 (Bylaw No. 2)	Muskoka Standard Condominium Corporation No. 80	

PACE SAVINGS & CREDIT UNION LIMITED

-and-

**NOBLE HOUSE DEVELOPMENT CORPORATION, 2307400
ONTARIO INC., AND 2209326 ONTARIO LTD.**

Applicant

Respondents

Court File No. CV-20-00635946-00CL

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

Proceedings commenced at Toronto

APPROVAL AND VESTING ORDER

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