

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE) WEDNESDAY, THE 10TH
JUSTICE CONWAY) DAY OF JUNE, 2020

B E T W E E N:

KRASHNIK INVESTMENTS LIMITED
AND GABEL INVESTMENTS LIMITED

Applicants

- and -

186 OLD KENNEDY DEVELOPMENT INC.

Respondent

APPROVAL AND VESTING ORDER

THIS MOTION, made by Pollard & Associates Inc. in its capacity as receiver and manager (in such capacities, the "**Receiver**"), without security, of the undertaking, property and assets of 186 Old Kennedy Development Inc. (the "**Debtor**") for an order, among other things, approving the sale transaction (the "**Transaction**") contemplated by an agreement of purchase and sale dated May 8, 2020 (the "**Agreement**") and appended to the Report of the Receiver dated May 25, 2020 (the "**Report**") between the Receiver and Chengyi Wei, in trust for a company to be incorporated, and as assigned by Chengyi Wei, in trust for a company to be incorporated, as purchaser, to W Garden Corporation, as assignee (the "**Purchaser**") pursuant to an assignment and assumption agreement dated May 29, 2020 (hereinafter collectively with Agreement, the "**Sale Agreement**"), and vesting in the Purchaser the Debtor's right, title and interest in and to

the assets described in the Sale Agreement (the "**Purchased Assets**"), was heard this day via video conference as a result of the COVID-19 pandemic.

ON READING the Report and on hearing the submissions of counsel for the Receiver, Vector Financial Services Limited, 10226190 Canada Ltd., Krashnik Investments Limited, Rick Liu, 2592898 Ontario Inc., 2620094 Ontario Inc., 2627235 Ontario Inc., 2638796 Ontario Inc., 2646429 Ontario Inc., KSV Advisory Inc., Yi Zhou, and Gabel Investments Limited, no one appearing for any other person on the service list, although properly served as appears from the affidavit of Hayley Morgan sworn June 2, 2020 filed:

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and 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 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.
3. **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 Purchased Assets 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 C.A. Gilmore dated January 31, 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.

4. **THIS COURT ORDERS** that upon the registration in the Land Registry Office for the Land Titles Division LRO #65, York Region, of an Application for Vesting Order in the form prescribed by the *Land Titles Act*, the Land Registrar is hereby directed to enter the W Garden Corporation 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.

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 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.

6. **THIS COURT ORDERS AND DIRECTS** the Receiver to file with the Court a copy of the Receiver'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 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.



Schedule A – Form of Receiver’s Certificate

Court File No. CV-19-627410-00CL

Estate File No. 31-458917

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B E T W E E N:

**KRASHNIK INVESTMENTS LIMITED
AND GABEL INVESTMENTS LIMITED**

Applicants

- and -

186 OLD KENNEDY DEVELOPMENT INC.

Respondent

RECEIVER’S CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable C.A. Gilmore of the Ontario Superior Court of Justice, Commercial List, (the "Court") dated January 31, 2020, Pollard & Associates Inc. was appointed as the receiver and manager (in such capacities, the "Receiver") of the undertaking, property and assets of 186 Old Kennedy Development Inc. (the “Debtor”).

B. Pursuant to an Order of the Court dated June 10, 2020, the Court approved the agreement of purchase and sale made as of May 8, 2020 (the “Agreement”) between the Receiver and Chengyi Wei, in trust for a company to be incorporated and as assigned by Chengyi Wei, in trust for a company to be incorporated, as purchaser, to W Garden Corporation, as assignee (the "Purchaser") pursuant to an assignment and assumption agreement dated May 29, 2020 (hereinafter collectively with Agreement, the “Sale Agreement”), and provided for the vesting in the Purchaser, or as it may direct in writing, 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 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.

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 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; and
3. The Transaction has been completed to the satisfaction of the Receiver.
4. This Certificate was delivered by the Receiver by email as a result of the COVID pandemic at _____ [TIME] on _____ [DATE].

POLLARD & ASSOCIATES INC., in its capacity as Receiver and Manager of the undertaking, property and assets of 186 Old Kennedy Development Inc., and not in its personal capacity

Per: _____

Name:

Title:

Schedule B – Purchased Assets

PIN 02953 – 0027 LT

DESCRIPTION PT E1/2 LT 2 CON 5 MARKHAM AS IN MA91925 EXCEPT PT 10 EXPROP PL
MA66625; T/W MA91925; S/T MA91925; S/T MA91925; CITY OF MARKHAM

PIN 02953 – 0028 LT

DESCRIPTION PT E1/2 LT 2 CON 5 MARKHAM AS IN MA97577; T/W MA97577; S/T MA97577 ;
MARKHAM

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

1. Instrument No. YR2502470 registered 2016/07/07;
2. Instrument No. YR2502471 registered 2016/07/07;
3. Instrument No. YR2502472 registered 2016/07/07;
4. Instrument No. YR2519679 registered 2016/08/05;
5. Instrument No. YR2610952 registered 2017/01/17;
6. Instrument No. YR2634744 registered 2017/03/06;
7. Instrument No. YR2652437 registered 2017/04/11;
8. Instrument No. YR2677044 registered 2017/05/31;
9. Instrument No. YR2681040 registered 2017/06/07;
10. Instrument No. YR2696594 registered 2017/07/05;
11. Instrument No. YR2721004 registered 2017/08/22;
12. Instrument No. YR2739089 registered 2017/09/29;
13. Instrument No. YR2739090 registered 2017/09/29;
14. Instrument No. YR2739091 registered 2017/09/29;
15. Instrument No. YR2748892 registered 2017/10/23;
16. Instrument No. YR2757175 registered 2017/11/09;
17. Instrument No. YR2767494 registered 2017/11/30;
18. Instrument No. YR2776725 registered 2017/12/21;
19. Instrument No. YR2786487 registered 2018/01/22;
20. Instrument No. YR2789240 registered 2018/01/29;
21. Instrument No. YR2791970 registered 2018/02/02;
22. Instrument No. YR2798638 registered 2018/02/23;
23. Instrument No. YR2798639 registered 2018/02/23;
24. Instrument No. YR2798640 registered 2018/02/23;
25. Instrument No. YR2801248 registered 2018/03/01;

26. Instrument No. YR2804762 registered 2018/03/13;
27. Instrument No. ; R2805097 registered 2018/03/14
28. Instrument No. YR2811422 registered 2018/04/03;
29. Instrument No. YR2811423 registered 2018/04/03;
30. Instrument No. YR2811424 registered 2018/04/03;
31. Instrument No. YR2845658 registered 2018/07/04;
32. Instrument No. YR2845659 registered 2018/07/04;
33. Instrument No. YR2845660 registered 2018/07/04;
34. Instrument No. YR2862636 registered 2018/08/17;
35. Instrument No. YR2862637 registered 2018/08/17;
36. Instrument No. YR2862638 registered 2018/08/17;
37. Instrument No. YR2870816 registered 2018/09/07;
38. Instrument No. YR2870891 registered 2018/09/07;
39. Instrument No. YR3054277 registered 2020/01/09;

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

(unaffected by the Vesting Order)

1. Instrument No. R650335 registered 1994/11/15;
2. Instrument No. 65R30487 registered 2007/12/11;

B E T W E E N

KRASHNIK INVESTMENTS LIMITED et al.
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-and-

186 OLD KENNEDY DEVELOPMENT
Respondent

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Estate File No. 31-458917

ONTARIO
SUPERIOR COURT OF JUSTICE

Proceeding commenced at TORONTO

APPROVAL AND VESTING ORDER

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