



FORCE FILED

NO. H220369  
VANCOUVER REGISTRY

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

BETWEEN:

PLW INVESTMENT LTD.

PETITIONER

AND:

1025332 B.C. LTD., 1025334 B.C. LTD., 1025336 B.C. LTD., CHONGYE DEVELOPMENTS LTD., WASHINGTON PROPERTIES (POINT GREY) INC., WASHINGTON PROPERTIES (QEP) INC., LUCKY FIVE INVESTMENTS LTD., 1094321 B.C. LTD., PRARDA DEVELOPMENTS CORPORATION, 1256306 B.C. LTD., 1256319 B.C. LTD., AMY BARSHA WASHINGTON (A.K.A. FENGYUN SHAO), EDISON WASHINGTON (A.K.A. QIANG WANG), LINDA WASHINGTON, 35 PARK PARKING INC. AND EARLSTON MORTGAGE CORP.

RESPONDENTS

**NOTICE OF APPLICATION**

**Name of applicant: Alvarez & Marsal Canada Inc., in its capacity as court appointed receiver and manager**

To: the Service List

TAKE NOTICE that an application will be made by the Petitioner to the presiding judge or master at the courthouse at 800 Smithe Street, Vancouver, British Columbia on April 25, 2023 at 9:45 a.m. for the order set out in Part 1 below.

*April 28*

**Part 1: ORDER SOUGHT**

1. an Order substantially in the form attached hereto as **Schedule "A"** approving the sale of certain lands and premises which are the subject of this receivership proceeding.

## **Part 2: FACTUAL BASIS**

1. This is a receivership proceeding and the subject property is a residence at 835 Eyremount Drive, West Vancouver, B.C (the "**Property**"). The respondent, Amy Barsha Washington ("**Ms. Washington**"), is the registered owner of the Property.
2. The Receivership Order was granted on October 27, 2022, and amended November 7, 2022. Pursuant to Orders made November 7, 2022, December 7, 2022, and February 7, 2023, the Receivership Order was stayed until April 7, 2023.
3. Ms. Washington has had the Property listed for sale (on and off) since 2018.
4. On or about March 28, 2023, Ms. Washington entered into a contract of purchase and sale in respect of the Property, which is scheduled to close on May 25, 2023 (the "**Purchase Agreement**"). After the stay of the Receivership Order expired on April 7, 2023, the Receiver has exclusive conduct of sale of the Property.
5. The Receiver understands the purchase price is sufficient to repay the first mortgagee, Pacifica Mortgage Investment Corporation, in full, and that both Ms. Washington and the Petitioner support the above noted sale of the Property. Accordingly, the Receiver and the proposed purchasers have executed an addendum to the original Purchase Agreement to allow the Receiver to complete the transaction.
6. The Receiver therefore seeks approval of the sale of the Property for \$8,100,000.
7. The Receiver notes Ms. Washington and certain other Respondents have applied to discharge the Receiver, or further stay the Receivership Order to October 31, 2023. In the event that application is successful, the amount of \$90,000 from the sale proceeds should be paid to the Receiver in respect of the Receiver's Charge (as defined in the Receivership Order).

## **Part 3: LEGAL BASIS**

1. The Petitioner will rely on the Receivership Order, Rule 13-5 of the *Supreme Court Civil Rules* and s. 15 of the *Law and Equity Act*, R.S.B.C. 1996, c. 253.

## **Part 4: MATERIAL TO BE RELIED ON**

1. Receivership Order made October 27, 2022;
2. Order (Slip Rule) Amending Receivership Order, made November 7, 2022;

3. Order made November 7, 2022;
4. Order made December 7, 2022;
5. Order made February 7, 2023;
6. Affidavit #1 of Miriam Dominguez, made 25/APR/2023; and
7. Receiver's First Report to the Court, made 25/APR/2023.

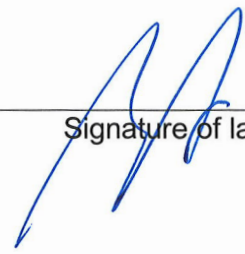
The applicant(s) estimate(s) that the application will take 5 minutes.

- ☐ This matter is within the jurisdiction of a master.
- ☒ This matter is not within the jurisdiction of a master.

TO THE PERSONS RECEIVING THIS NOTICE OF APPLICATION: If you wish to respond to this Notice of Application, you must, within 5 business days after service of this Notice of Application or, if this application is brought under Rule 9-7, within 8 business days of service of this Notice of Application,

- (a) file an Application Response in Form 33,
- (b) file the original of every affidavit, and of every other document, that
  - (i) you intend to refer to at the hearing of this application, and
  - (ii) has not already been filed in the proceeding, and
- (c) serve on the applicant 2 copies of the following, and on every other party of record one copy of the following:
  - (i) a copy of the filed Application Response;
  - (ii) a copy of each of the filed affidavits and other documents that you intend to refer to at the hearing of this application and that has not already been served on that person;
  - (iii) if this application is brought under Rule 9-7, any notice that you are required to give under Rule 9-7(9).

Date: 25/APR/2023

  
\_\_\_\_\_  
Signature of lawyer for filing party  
Jordan Schultz

To be completed by the court only:

Order made

- ☐ in the terms requested in paragraphs \_\_\_\_\_ of Part 1 of this Notice of Application
- ☐ with the following variations and additional terms:

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Date:

Signature of ☐ Judge ☐ Master

## APPENDIX

### THIS APPLICATION INVOLVES THE FOLLOWING:

- ☐ discovery: comply with demand for documents
- ☐ discovery: production of additional documents
- ☐ other matters concerning document discovery
- ☐ extend oral discovery
- ☐ other matter concerning oral discovery
- ☐ amend pleadings
- ☒ add/change parties
- ☐ summary judgment
- ☐ summary trial
- ☐ service
- ☐ mediation
- ☐ adjournments
- ☐ proceedings at trial

- ☐ case plan orders: amend
- ☐ case plan orders: other
- ☐ experts



to Charles Cao Yang Jiang and Susanna Yuanyuan Fan, as joint tenants (the “**Purchasers**”), for the purchase price of \$8,100,000 and on the other terms and conditions set out in the contract of purchase and sale dated March 28, 2023, as subsequently amended from time to time (collectively, the “**Contract**”), is hereby approved and the Receiver or agent of the Receiver be authorized to execute and deliver all documents and instruments required to complete the sale.

2. On filing a certified copy of this Order in the Vancouver Land Title Office together with a letter from the Receiver’s solicitor authorizing the filing, the Lands be conveyed to and vest in the Purchasers as registered owners in fee simple, free and clear of any estate, right, title, interest, equity of redemption and other claims of the parties, together with any other charges, liens, encumbrances caveats, or certificates of pending litigation registered against the Lands subsequent to the Petitioner’s Certificate of Pending Litigation, but subject to the reservations, provisos, exceptions, and conditions express in the original grants thereof from the Crown.

3. All persons claiming possession of the Lands, or any portion thereof, shall deliver vacant possession of the Lands to the Purchasers, or their agents, successors or assigns, on the Possession Date, as defined in the Contract (herein, the “**Possession Date**”).

4. If any person fails to deliver vacant possession of the Lands to the Purchaser at the Possession Date, then the Receiver shall be at liberty to apply to the Registrar for a Writ of Possession, under Rule 13-2(13) and without further Order of the Court.

5. The net sale proceeds after adjustments shall be paid to Dentons Canada LLP, in trust, or otherwise in accordance with the written direction of Dentons Canada LLP, and then disbursed in accordance with the following priorities without further Order:

- (a) first, payment of water and sewer rates, property taxes, arrears of property taxes, interest and penalties on arrears of property taxes, owing in respect of the Lands;
- (b) second, in payment of real estate commission in an amount not exceeding 7% of the first \$100,000 of the gross selling price and 3.5% of the remainder, plus applicable taxes thereon;
- (c) third, to Pacifica Mortgage Investment Corporation, or its solicitors, the amount required to pay the outstanding balance of its mortgage No. 3429364, its mortgage No. CA3429606, and its assignment of rents CA3429607;

- (d) fourth, to the Receiver, the sum of \$90,000, in respect of the Receiver's Charge (as defined in the Receivership Order made October 27, 2022) against the Lands;
- (e) fifth, the balance to the Receiver to be held pending further Order of this Honourable Court.

6. The commission payable from the Sale Proceeds pursuant to paragraph 5(b) hereof shall specifically exclude any bonus or other amount above and beyond the commission amount specified in paragraph 5(b).

7. For the purpose of issuing title and in respect of the Lands, the following charges, liens, encumbrances, caveats, mortgages, and certificates of pending litigation be cancelled insofar as they apply to the Lands:

	<b>Party</b>		<b>Nature of Charge</b>	<b>Registration No.</b>
(a)	Pacifica Investment Corporation	Mortgage	Mortgage	CA3429364
(b)	Pacifica Investment Corporation	Mortgage	Mortgage	CA3429606
(c)	Pacifica Investment Corporation	Mortgage	Assignment of Rents	CA3429607
(d)	PLW Ltd.	Investment	Mortgage	CA7267442
(e)	PLW Ltd.	Investment	Assignment of Rents	CA7267443
(f)	PLW Ltd.	Investment	Mortgage	CA8410392
(g)	PLW Ltd.	Investment	Certificate of Pending Litigation	CB224804



- (h) Pacifica Mortgage Certificate of Pending CB478319  
Investment Litigation  
Corporation
- (i) Pacifica Mortgage Certificate of Pending CB478327  
Investment Litigation  
Corporation

together with any other charges, liens, encumbrances, caveats, or certificates of pending litigation registered against the Lands subsequent to the Petitioner's Certificate of Pending Litigation.

8. The Parties hereto and the Purchasers be at liberty to apply for such further and other direction as may be necessary to carry out the full purport and effect of this Order.

9. Endorsement of this Order by counsel appearing on this application other than counsel for the Receiver is dispensed with.

THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS, IF ANY, THAT ARE INDICATED ABOVE AS BEING BY CONSENT:

\_\_\_\_\_  
Signature of Jordan Schultz  
Lawyer for the Receiver

By the Court.

\_\_\_\_\_  
Registrar

**SCHEDULE "A"**

**LIST OF COUNSEL**

<b>Name</b>	<b>Appearing for</b>