

**ONTARIO
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE MR.

)

TUESDAY, THE 18TH

JUSTICE C. MACLEOD

)

DAY OF MARCH, 2025

)

B E T W E E N:

STARBANK DEVELOPMENTS 2000 CORP.

Applicant

- and -

**EVOKE DEVELOPMENTS OTTAWA GP CORP.
AND EVOKE DEVELOPMENTS OTTAWA, LP**

Respondents

APPROVAL AND VESTING ORDER

THIS MOTION, made by Alvarez & Marsal Canada Inc. (“**A&M**”), in its capacity as the Court-appointed receiver (the “**Receiver**”) of the assets, undertakings, and properties of Evoke Developments Ottawa GP Corp. and Evoke Developments Ottawa, LP (collectively, 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 Canada Property (Trustee) No. 1 Limited, as trustee for and on behalf of CJPT Real Estate No. 1 Trust (the “**Purchaser**”) dated January 7, 2025 and appended to the Second Report of the Receiver dated January 20, 2025 (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 “**Purchased Assets**”), was heard this day via videoconference.

ON READING the Second Report and on hearing the submissions of counsel for the Receiver, the Applicant, the Purchaser, those other parties that were present as listed on the counsel slip, and no one appearing for any other person on the service list, although properly served as appears from the affidavits of Amy Casella sworn January 20 and 21, 2025, filed:

SERVICE

1. **THIS COURT ORDERS** that the time for service and filing 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.

APPROVAL AND VESTING

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, including but not limited to the lands and premises municipally known as 1546 Scott Street, Ottawa, Ontario, as legally described in **Schedule B** hereto (the "**Scott Property**"), the Project Rights and Documents¹ in the possession or subject to the control of the Receiver (subject to Section 18 of the Sale Agreement), and the Lease shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, pledges, debentures, assignments by way of security, conditional sales contracts, or other title retention agreements or similar interests or instruments charging, or creating a security interest in the Scott Property or any part thereof or interest therein, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or

¹ All capitalized terms not defined in this Order have the meaning defined in the Sale Agreement.

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 Roger dated May 21, 2024; (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 of Ottawa-Carleton (No. 4) of an Application for Vesting Order in the form prescribed by the *Land Titles Act*, the Land Registrar is hereby directed to: (a) enter Canada Property (Trustee) No. 1 Limited as the owner of the Scott Property in fee simple; (b) delete and expunge from title to the Scott Property all of the Claims listed in Schedule C hereto; and (c) register this Order on title to the Scott Property.

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.

GENERAL

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-24-00095400-0000

**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N:

STARBANK DEVELOPMENTS 2000 CORP.

Applicant

- and -

**EVOKE DEVELOPMENTS OTTAWA GP CORP.
AND EVOKE DEVELOPMENTS OTTAWA, LP**

Respondents

RECEIVER’S CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable Justice Roger of the Ontario Superior Court of Justice (the “**Court**”) dated May 21, 2024, Alvarez & Marsal Canada Inc. was appointed as the receiver (the “**Receiver**”) of the assets, undertakings, and properties of Evoke Developments Ottawa GP Corp. and Evoke Developments Ottawa, LP (collectively, the “**Debtor**”), including the real property municipally known as 1546 Scott Street, Ottawa, Ontario.

B. Pursuant to an Order of the Court dated [DATE, 2025], the Court approved the agreement of purchase and sale made as of January 7, 2025 (the “**Sale Agreement**”) between the Receiver and Canada Property (Trustee) No. 1 Limited, as trustee for and on behalf of CJPT Real Estate No. 1 Trust (the “**Purchaser**”) and provided for the vesting in the Purchaser 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 at _____ [TIME] on _____ [DATE].

**ALVAREZ & MARSAL CANADA INC., in its
capacity as Receiver of the undertaking,
property and assets of Evoke Developments
Ottawa GP Corp. and Evoke Developments
Ottawa, LP, and not in its personal capacity**

Per: _____
Name:
Title:

Schedule B – The Scott Property

PIN: 04034-0023 (LT)

Description: PCL 3-3, SEC 58 ; PT LTS 3 & 4, PL 58 , N/S BULLMAN ST ; PT LTS 3 & 4, PL 58 , S/S SCOTT ST ; PT LTS 1290 & 1292, PL 157 , PT LT 1303, PL 157 , PART 6, 8 & 10 , 4R6192 , S/T & T/W LT625664 ; OTTAWA

Address: 1546 Scott Street, Ottawa, Ontario

Registered Owner: Evoke Developments Ottawa GP Corp.

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

1. Instrument No. OC2483934, registered on April 28, 2022, being a charge by Evoke Developments Ottawa GP Corp. in favour of Starbank Developments 2000 Corp.
2. Instrument No. OC2483966, registered on April 28, 2022, being a notice of assignment of rent – general by Evoke Developments Ottawa GP Corp. in favour of Starbank Developments 2000 Corp.
3. Instrument No. OC2591139, registered on April 25, 2023, being a notice by Evoke Developments Ottawa GP Corp. in favour of Starbank Developments 2000 Corp.
4. Instrument No. OC2693113, registered on May 30, 2024, being an application to register court order, by the Ontario Superior Court of Justice in favour of Alvarez & Marsal Canada Inc.

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

(unaffected by the Vesting Order)

1. any registered reservations, restrictions, rights of way, easements or covenants that run with the Lands;
2. any registered agreements with a municipality or a supplier of utility service including, without limitation, electricity, water, sewage, gas, telephone or cable television or other telecommunication service;
3. all Applicable Laws, by-laws and regulations and all outstanding work orders, deficiency notices and notices of violation affecting the Lands;
4. a “right-of-way for vehicular and pedestrian traffic in favour of the owners and occupants from time to time” of the property municipally known as 1560 Scott Street, Ottawa, and operating as the Holland Cross commercial complex (the “**Holland Cross Property**”) over Part 8 of Plan 4R-6192, as contained in Instrument No. LT625664;
5. an “easement for installation, operation and maintenance, repair and replacement of underground services in favour of the owners and occupants from time to time” of the Holland Cross Property over and under Part 8 of Plan 4R-6192, as contained in Instrument No. LT625664;
6. any minor easements for the supply of utility service to the Lands or adjacent properties;
7. encroachments disclosed by any errors or omissions in existing surveys of the Lands or neighbouring properties and any title defect, encroachment or breach of a zoning or building bylaws or any other Applicable Law, by-laws or regulations which might be disclosed by a more up-to-date survey of the land and survey matters generally;
8. the exceptions and qualifications set forth in Section 44(1) of the *Land Titles Act* (Ontario), save and except paragraphs 3, 4, 5, 6, 11, and 14 thereof;
9. the reservations contained in the original grant from the Crown;
10. liens for property taxes if such taxes are not due and payable;
11. Instrument No. N404745, registered on July 27, 1987, being an agreement in favour of The Corporation of the City of Ottawa;
12. Instrument No. N418705Z, registered on December 1, 1987, being a deposit of a plan;
13. Instrument No. N425467, registered on January 29, 1988, being an agreement in favour of The Regional Municipality of Ottawa-Carleton;

14. Instrument No. 4R6192, registered on March 29, 1988, being a reference plan; and
15. Instrument No. OC2178676, registered on December 20, 2019, being a notice of lease in favour of Brewers Retail Inc.

**STARBANK DEVELOPMENTS 2000 CORP.
AL.**

Applicant

- and - EVOKE DEVELOPMENTS OTTAWA GP CORP. ET

Respondents
Court File No. CV-24-00095400-00CL

***ONTARIO*
SUPERIOR COURT OF JUSTICE**

Proceedings commenced at OTTAWA

APPROVAL AND VESTING ORDER

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**Lawyers for Alvarez & Marsal Canada
Inc., in its capacity as Court-Appointed
Receiver**