

This is the 1st affidavit of Kush Bhatia
in this case and was made on
January 29, 2024

No. S-238586
Vancouver Registry



IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

1038573 B.C. LTD.

Plaintiff

AND:

THE OWNERS, STRATA PLAN NW289, JENNY DONNA DICKISON, FERNANDO MARCELINO DUTRA DE SOUSA, 1276331 B.C. LTD., CARMELIA MARIA DA SILVA, HON-CHING RUDOLPH CHENG, 1161359 B.C. LTD., RICKY HEE MENG LAI, PIA FACCIIO, 1184416 B.C. LTD., MARK WILLIAM LOUTTIT and SARAH KINUKO LOUTTIT, BARRY DOUGLAS WATSON, AS ADMINISTRATOR OF THE ESTATE OF KENNETH JOHN WATSON, LI PING DUAN, NORMAN VICTOR LEECH, ROLANDO VINAS DIZON and NARCISA DIZON, NICHOLAS GEORGE KARAMOUZOS and MARIA KARAMOUZOS, CUI MING CHEN, YANKUI WANG and XIN TIAN, MARIA DA NATIVIDADE ALMEIDA, 1237765 B.C. LTD., JU-SHAN CHIANG and FLORA FU, 1184414 B.C. LTD., AMARSINGH BHATIA and NARANJAN KAUR BHATIA, PHUNG KIM VUONG and TUONG LAM, MONICA PAOLA ALIAGA, MARCELINO LOPES DE SOUSA and OLGA MARIA DUTRA DE SOUSA, 1184413 B.C. LTD., LUALHATI ONGKEKO CRISOSTOMO, RICHARD RAYMOND RAVENSBERGEN and DAWN MARIE RAVENSBERGEN, YUK FAR CHEUNG and YIN ON CHEUNG, GARY LUCIEN DREES, THOMAS PATRICK FLEMING, 1352962 B.C. LTD., WAN CHEN and HONG YANG, SU JUAN SITU, VAN DAO NGUYEN and THI BICH HANG NGUYEN, JULIAN BOZSIK, CHRISTIAN HERBERT JOSON-LIM and IRIS JUNE CALIBUGAN ADIONG, ANGELA JOY EYKELBOSH, NGUYEN THANH VUONG and TUYET NGOC DU, OM PARKASH LOOMBA and MERRAN LOOMBA, SUZANNE JUANITA KUDELSKI, YAN QIONG LU, PING HE, EDWARD LAWRENCE THUE, RICHARD CHARLES PATRICK SPENCER and DIANE MARIE SPENCER, ARTHUR SUMMERS WILLIAMSON, GARY DALE CHARTER and CRISTINA RIMANDO GAPAL, JU TAI ZHOU and YU QING LI, ZHI HAO YANG, DAISY CUETO EVANGELISTA and MARIA CHERRY EVANGELISTA, MEGAN MARY BURGHALL, NASIM BHALOO, HUI LIN DONG and LI WANG, MANSOUR MESHKI, HSIANG CHIAO HUANG, GORDON WILLIAM PATERSON, YVONNE JO-ANNE ENGLAND, GRACE JOANNA LEVSEN, PING CHOR CHAN, SO FAN LEE and TAK TAI LUI

Defendants

1038573 B.C. LTD.

Defendant by way of Counterclaim

AFFIDAVIT

TK

I, **KUSH KUMAR BHATIA**, businessman, c/o 800 – 543 Granville Street, of the City of Vancouver, in the Province of British Columbia, AFFIRM THAT:

1. I am the only director and officer of 1038573 B.C. Ltd. ("**573**"), the plaintiff in this action, and as such have personal knowledge of the facts and matters hereinafter deposed to save and except where stated to be based on information and belief, and, where so stated, I verily believe the same to be true.

2. I am making this affidavit in relation to the application of The Owners, Strata Plan NW289 (the "**Strata Corporation**") dated January 12, 2024.

3. In December 2022, 573 and the Strata Corporation agreed that 573 would purchase a 101-unit strata located in Burnaby at 3925 Kingsway and 5715 Jersey Avenue (the "**Property**").

4. 573 has brought this lawsuit to complete the purchase contract because of several features of the Property.

5. The Property is located near Vancouver, on a major thoroughfare (Kingsway), and has many nearby transit options (including bus traffic on Kingsway, and the Patterson Skytrain Station). There is also a lot of park land close by, including the large Central Park immediately to the south of the Property.

6. The Property's location makes it ideal for a future real estate development, as residents will have great access to park land and transit, and will be close to the City of Vancouver.

7. Also, the size of the Property and its age (I have reviewed records showing that the buildings on the Property were constructed in 1974) make the Property ripe for redevelopment.

8. The Property's current zoning also allows redevelopment. That will speed up the redevelopment process and reduce red-tape and expense. Because of the park land to the south, a new development will have excellent sightlines.

9. Attached as **Exhibit "A"** to my affidavit is a copy of a brochure by Cushman & Wakefield Ltd. on behalf of the Strata Corporation. The brochure sets out the Property's size, location, and some of its unique features.

TA

10. For all the above reasons, I believe that the Property is a unique opportunity for a redevelopment and 573 purchased it on that basis. I am not aware of any similar opportunities on the market today.

11. I was not physically present before the Commissioner of this affidavit, but was linked with the Commissioner using video technology. I am advised by the Commissioner and verily believe that this affidavit was sworn in accordance with (and following the procedure outlined in) the Supreme Court of British Columbia’s Notice to the Profession, the Public and the Media “Affidavits for use in Court Proceedings” dated March 27, 2020.

AFFIRMED BEFORE ME at Vancouver,
British Columbia, on January 29, 2024.



A Commissioner for taking Affidavits for
British Columbia

KUSH KUMAR BHATIA

TARANEH ASHRAFI
Barrister & Solicitor
DENNIS JAMES AITKEN LLP
800-543 Granville Street
Vancouver, BC V6C 1X8
(604) 235-0119

TA

This is **Exhibit "A"** referred to in the affidavit of Kush Bhatia made before me on this 29 th day of January, 2024



A Commissioner for taking Affidavits in
British Columbia

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Barrister & Solicitor
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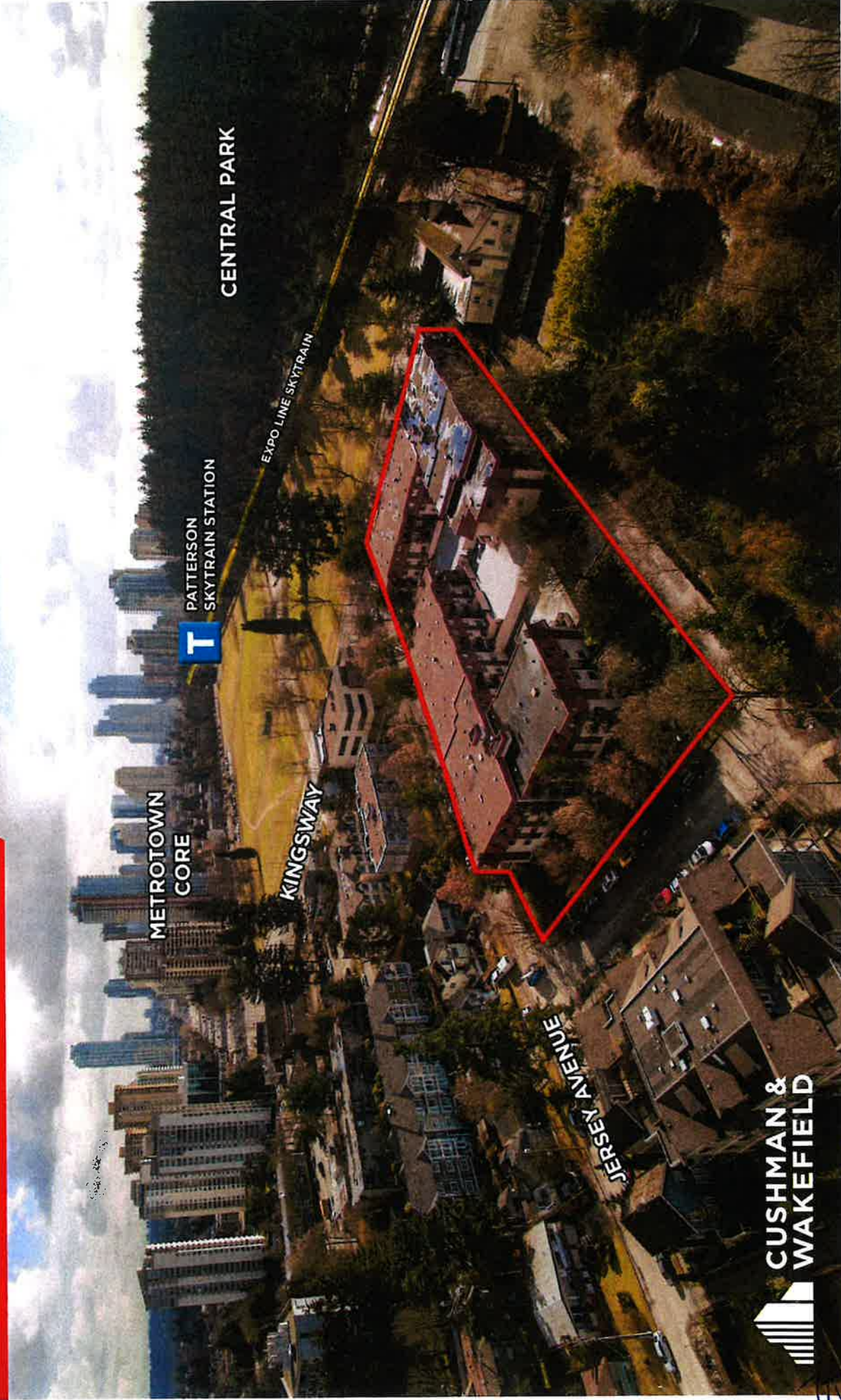
TK

FOR SALE

Significant Metrotown
Redevelopment Site

CAMERAY GARDENS
3925 KINGSWAY & 5715 JERSEY AVENUE
Burnaby, BC

002



**CUSHMAN &
WAKEFIELD**

CENTRAL PARK

TELUS
CORPORATE
OFFICES

EXPO LINE SKYTRAIN

KINGSWAY

JERSEY AVENUE

SANDELL STREET



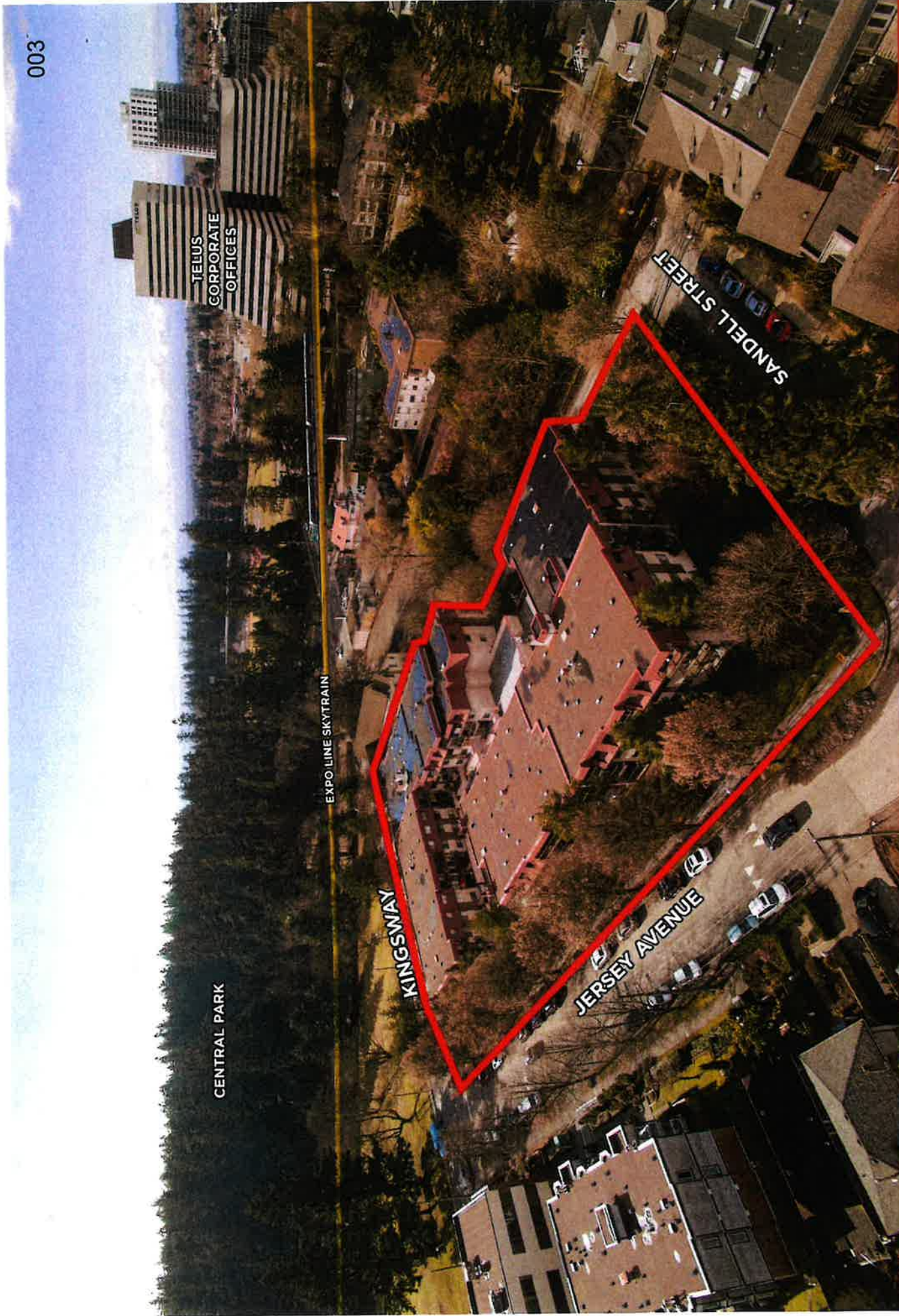
101
Existing Strata Lots
(Strata Plan NWS 289)



+ 83,200 SF
Approximate Site Area



+ 217' X ± 384'
Frontage Along Kingsway &
Jersey Avenue



THE OFFERING

On behalf of the owners of the strata corporation NWS 289 (the "Vendor"), Cushman & Wakefield Ltd. ("C&W") is pleased to offer for sale 3925 Kingsway and 5715 Jersey Street, Burnaby, BC (the "Property"). This high profile redevelopment opportunity is located in Metrotown, just steps from the Skytrain station and among a wide array of amenities available in the Metrotown area.

PROPERTY SUMMARY

The Property is located on the corner of Kingsway and Jersey Avenue in Burnaby's Metrotown Area. The Property site size is approximately 83,200 square feet with approximately 217 feet of frontage along Kingsway and 384 feet on Jersey Avenue. The site is generally rectangular in shape and is currently improved with a 101-unit strata building with underground parking.

FUTURE LAND USE

The Property is designated for redevelopment in the Metrotown Downtown Plan (the "Plan"). According to the Plan, the Property is located in the Central Park North subarea and is "...intended to be mixed-use with commercial and townhouse podiums and high rise apartments above...". The site incorporates the following redevelopment potential:

- Two tower redevelopment;
- Floor plates of up to 8,100 square feet;
- Residential density target of predominantly RM4s; with the potential for some RM5s according to the plan;
- Ground floor commercial.

THE OFFERING PROCESS

All prospective purchasers will be advised of an offer submission date after an initial marketing period. Purchasers are invited to submit offers to purchase to C&W on the Vendor's preferred form of Letter of Intent (available on the Data Room) at a minimum outlining:

- Purchase price and deposit structure;
- Purchaser's Conditions, if any;
- Potential non-cash benefits offered to the Vendor, including, but not limited to, provision of fixed-term tenancies after closing, buy-back incentives, and others.

AMENDMENTS TO THE STRATA PROPERTY ACT

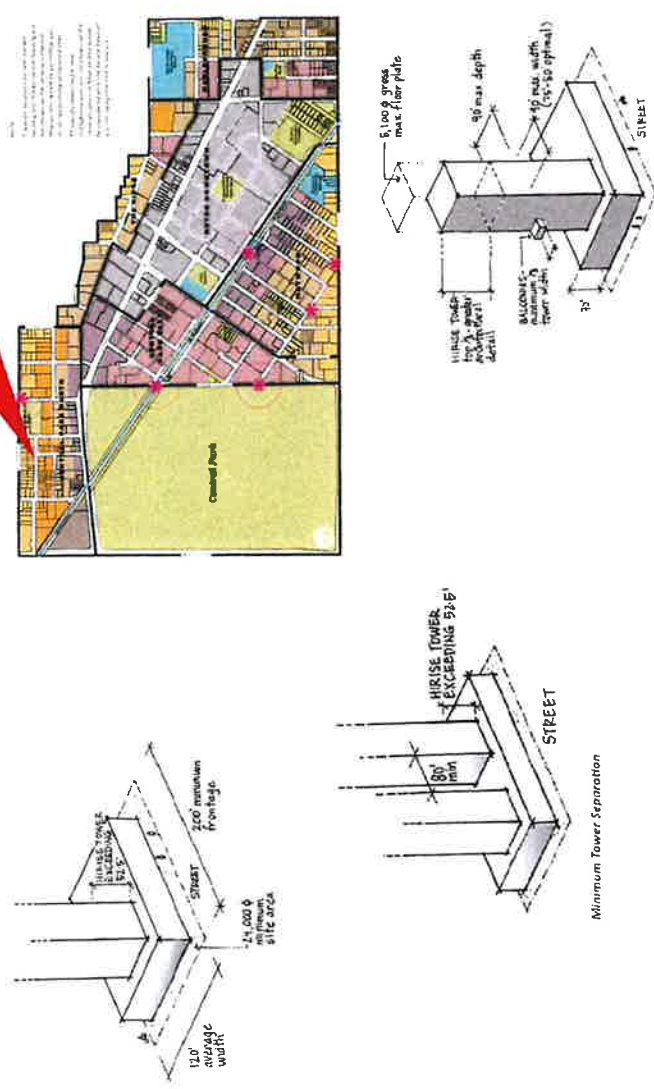
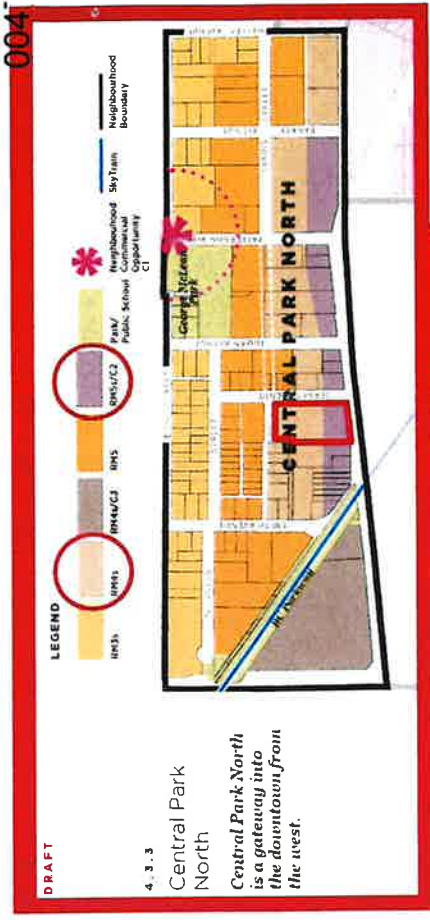
The Vendor is a strata corporation. Any offer to purchase all 101 strata lots and common property comprising Strata Plan NWS 289 is subject to the provisions of the Strata Property Act pursuant to, likely, an intended voluntary winding up of the strata corporation with a liquidator. On July 28, 2016, amendments to the Strata Property Act came into force, revising the requirements under the Strata Property Act for winding up of a strata corporation and cancellation of a strata plan.

REVIEW OF OFFERS

After the offer submission date, the Vendor, through C&W, will respond to offers to purchase the Property as quickly as reasonably possible under the circumstances. The Vendor is under no obligation to negotiate or accept any offers to purchase. The Vendor reserves the right to stop the sale process in respect to the Property, or to cease discussions with prospective purchasers, at any time prior to accepting an offer, without notice or liability.

PURCHASE PRICE

The Property sale is subject to a bid process with no formal asking price. All prospective purchasers are invited to contact C&W for additional information and price guidance.



Kevin Meikle*

K.H.M. Realty Ltd.
 Executive Vice President
 Managing Director, Capital Markets Group
 604 640 5834
 kevin.meikle@ca.cushwake.com

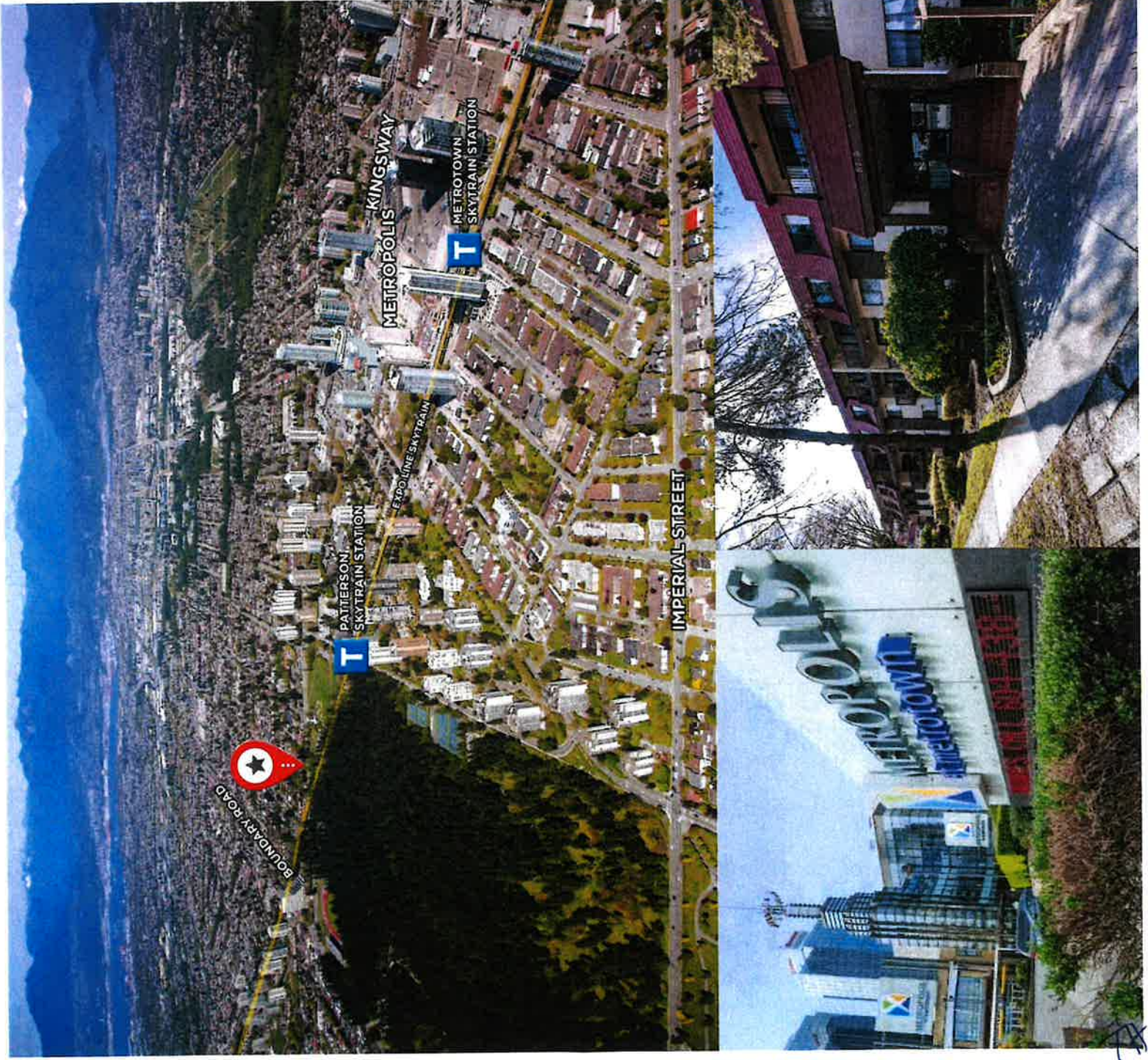
Edgar Buksevics

Personal Real Estate Corporation
 Associate Vice President, Capital Markets Group
 604 640 5859
 edgar.buksevics@ca.cushwake.com

Suite 700 - 700 West Georgia Street
 PO Box 10023, Pacific Centre
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 604 683 3111 / 1 877 788 3111
 cushmanwakefield.com

* Kevin Meikle is licensed with K.H.M. Realty Ltd. and has a contractual relationship with Cushman & Wakefield Ltd.

E.O.E.: This communication is not intended to cause or induce breach of an existing agency agreement. The information contained herein was obtained from sources which we deem reliable and, while thought to be correct, is not guaranteed by Cushman & Wakefield Ltd. 04/17 bg



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I, **KUSH KUMAR BHATIA**, businessman, c/o 800 – 543 Granville Street, of the City of Vancouver, in the Province of British Columbia, AFFIRM THAT:

1. I am the only director and officer of 1038573 B.C. Ltd. ("**573**"), the plaintiff in this action, and as such have personal knowledge of the facts and matters hereinafter deposed to save and except where stated to be based on information and belief, and, where so stated, I verily believe the same to be true.

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KUSH KUMAR BHATIA



This is **Exhibit "A"** referred to in the affidavit of Kush Bhatia made before me on this ____ th day of January, 2024

A Commissioner for taking Affidavits in
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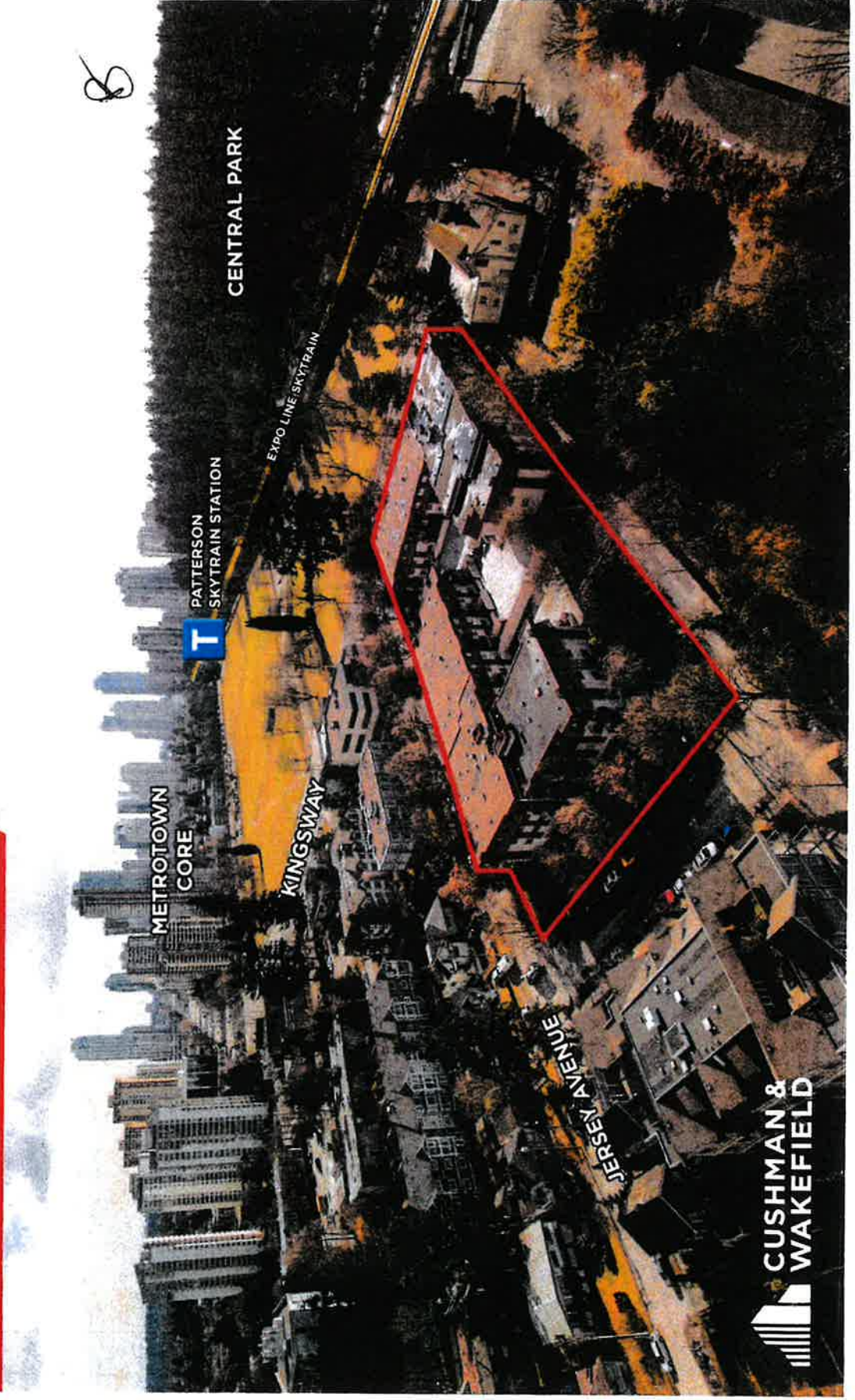
BS

FOR SALE

Significant Metrotown
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**CUSHMAN &
WAKEFIELD**



CENTRAL PARK

TELUS
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OFFICES

EXPO LINE SKYTRAIN

KINROSSWAY

JERSEY AVENUE

SANDELL STREET



101

Existing Strata Lots
(Strata Plan NW5-289)



+83,200 SF

Approximate Site Area



+217' X ±384'

Frontage Along Highway &
Jersey Avenue

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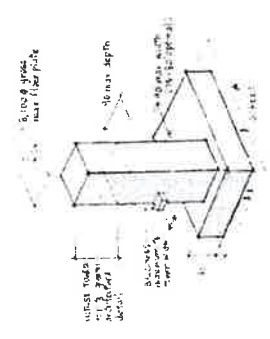
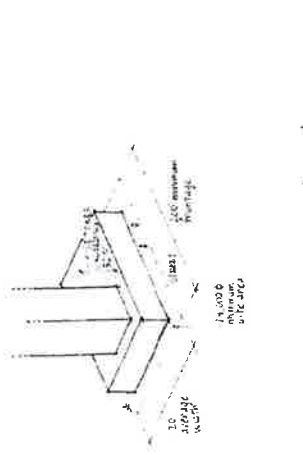
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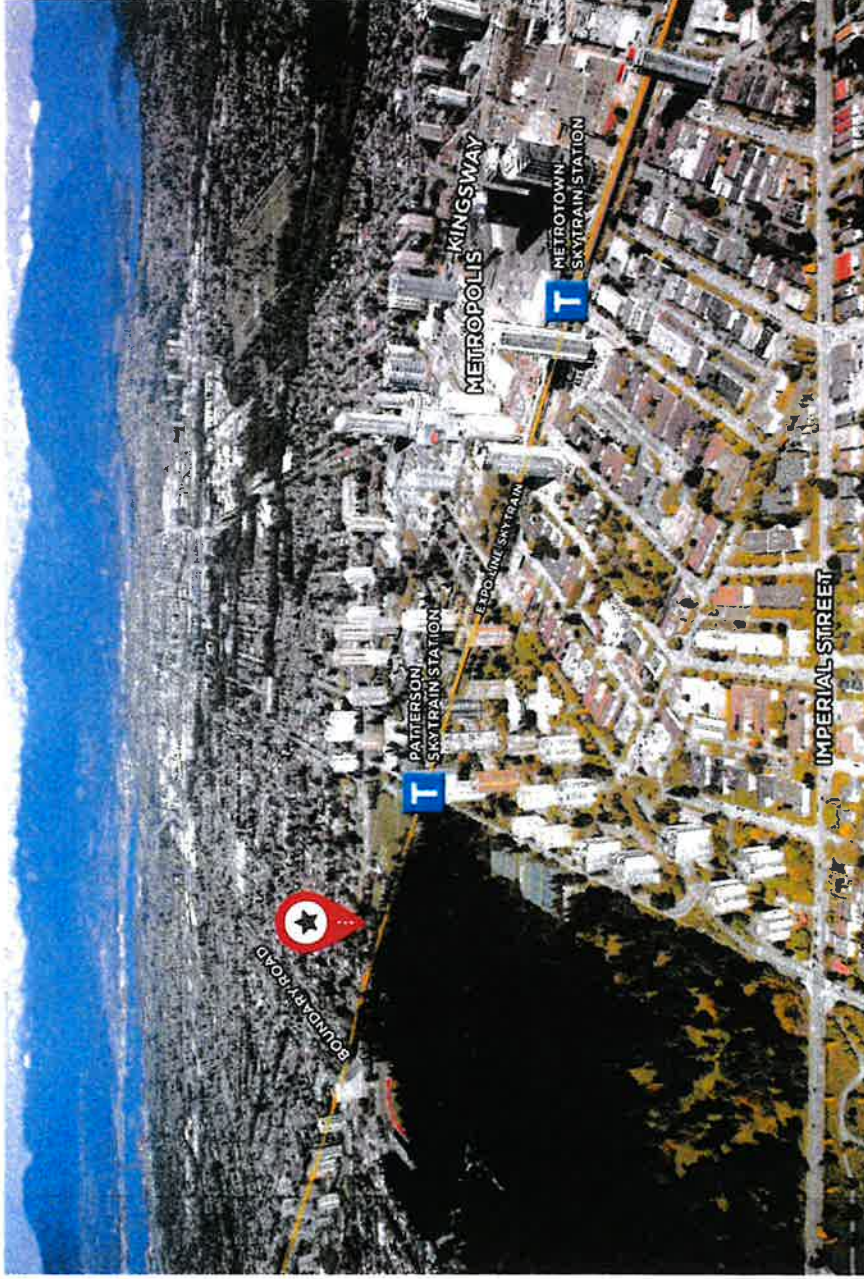
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Defendants

1038573 B.C. LTD.

Defendant by way of Counterclaim

CERTIFICATE

I, Taraneh Ashrafi, am the lawyer acting for the Plaintiff and Defendant by way of Counterclaim, 1038573 B.C. LTD.

I advise as follows:

1. that the attached Affidavit #1 of Kush Bhatia is being submitted for filing electronically as per the Notice to the Profession, the Public and the Media regarding Affidavits for use in Civil and Family Proceedings dated March 27, 2020; and
2. that I am satisfied that the process described was necessary as it was unsafe for the deponent, Kush Bhatia and myself to be present together due to the current COVID-19 precautions in place in Vancouver, British Columbia.

DATED: January 29, 2024



Taraneh Ashrafi
Counsel for the Plaintiff and Defendant by
way of Counterclaim,
1038573 B.C. LTD.

TARANEH ASHRAFI
Barrister & Solicitor
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