

This is the 1<sup>st</sup> Affidavit of Derek Lai  
in this case and was made on January 30<sup>th</sup>, 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 FACCIO, 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

AND:

1038573 B.C. LTD.

DEFENDANT BY WAY OF COUNTERCLAIM

**AFFIDAVIT**

I, Derek Lai, chartered professional accountant, of Crowe MacKay & Company Ltd., of 1100 - 1177 West Hastings St., Vancouver B.C., V6E 4T5, SWEAR THAT:

1. I am a Senior Vice President of Crowe MacKay & Company Ltd. (“**Crowe MacKay**” or the “**Liquidator**”) and as such have personal knowledge of the facts and matters hereinafter deposed to, save and except where the same are stated upon information and belief, and, as to such facts, I verily believe the same to be true.

2. Crowe MacKay, represented by me, was appointed the liquidator of The Owners, Strata Plan NWS289, also known as Cameray Gardens, (“**Cameray Gardens**”) by way of resolution passed at a special general meeting of Cameray Gardens held on February 15, 2022. That appointment was confirmed by order of Justice Milman granted June 17, 2022 pursuant to section 278.1 of the *Strata Property Act*.

3. On or about December 7, 2022, the Liquidator (representing Cameray Gardens) entered into a written conditional purchase and sale agreement (the “**PSA**”) with the plaintiff and defendant by way of counterclaim 1038573 B.C. Ltd. (the “**Purchaser**”). Under the PSA, the Liquidator agreed to sell the 101 strata lots and associated common property on Strata Plan NWS289 (the “**Strata Lands**”) to the Purchaser for a purchase price of \$61 million (the “**Purchase Price**”). I executed the PSA on behalf of the Liquidator, along with the addendum extending the completion date to December 15, 2023 (the “**Completion Date**”).

4. On May 20, 2023, the Liquidator held a special general meeting (the “**SGM**”) at Cameray Gardens for the purpose of obtaining the required authority under section 282 of the *Strata Property Act* for the Liquidator to dispose of the Strata Lands pursuant to the terms of the PSA. Seventy-six strata lot owners attended the SGM in person or by proxy. All 76 owners voted to approve the PSA. Attached hereto and marked as **Exhibit “A”** is a true copy of the SGM minutes, confirming the results of the votes that were put to the strata owners. I attended the SGM and these minutes are an accurate record of what occurred at the SGM.

5. On or about May 24, 2023, I executed a Mutual Notice of Second Condition Satisfaction and/or Waiver on behalf of Cameray Gardens, whereby the Liquidator confirmed that all conditions precedent contained in s. 6.1(b) of the PSA had been satisfied or waived. Attached hereto and marked as **Exhibit “B”** is a true copy of that Notice.

6. The PSA contemplated that, if 100% of the Cameray Gardens strata owners approved of the PSA, the sale of the Strata Lands to the Purchaser could be completed by way of individual contracts between the Purchaser and the strata lot owners. Completing a strata wind-up sale by way of individual contracts results in a savings to the purchaser on the payment of property purchase tax. If the sale of the Strata Lands completed in this way, the Purchase Price would increase by an amount equal to 50 percent of the Purchaser’s property transfer tax savings.

7. In the months leading up to the Completion Date, the Liquidator sought, but was ultimately unable to obtain, 100% approval of the PSA from the strata lot owners. Attached hereto and marked as **Exhibit “C”** is a true copy of an email exchange between the Liquidator’s counsel and the Purchaser’s counsel, dated October 6 to November 6, 2023, regarding this issue. Attached hereto and marked as **Exhibit “D”** is a true copy of a subsequent email exchange dated November 15-16, 2023, wherein the Liquidator’s counsel confirms that the parties would be proceeding with the “normal closing process”.

8. At all material times—and particularly in the weeks leading up the Completion Date—the Liquidator (or its legal counsel at Lawson Lundell LLP, at my instruction) took all steps necessary to effect the completion of the PSA as scheduled. These steps included:

- (a) Requesting property tax certificates from the Purchaser’s counsel, MLT Aikins LLP (to ensure that any pre-authorized payment plans were cancelled before the Completion Date) and providing input on the Form A Freehold Transfer. Attached hereto and marked as **Exhibit “E”** are true copies of emails from Jillian Sych of Lawson Lundell LLP to MLT Aikins LLP on November 20, 2023, setting out these requests;
- (b) Preparing a form of notice to effect the termination of any service contracts relating to Cameray Gardens that the Purchaser did not intend to keep (though













































































































































































































