

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

JASTRAM PROPERTIES LTD.

PLAINTIFF

AND:

HSBC BANK CANADA

DEFENDANT

Brought under the *Class Proceedings Act*, R.S.B.C. 1996, c. 50

NOTICE OF APPLICATION

Names of Applicant: The Plaintiff, Jastram Properties Ltd.

To: The Defendant, HSBC Bank Canada

TAKE NOTICE that an application will be made by the applicant, Jastram Properties Ltd., to the Case Management Judge, the Honourable Mr. Justice Gomery, at the courthouse at 800 Smithe Street, Vancouver, B.C., on 18/SEP/2024 at 9:00 a.m. for the orders set out in Part 1 below.

The Applicant estimates that the application will take 1 hour.

- This matter is within the jurisdiction of an associate judge.
- This matter is not within the jurisdiction of an associate judge.

Part 1: ORDERS SOUGHT

1. The Settlement Agreement dated for reference June 19, 2024 (the “Settlement Agreement”), attached as Schedule “A” to the Affidavit #1 of Mark W. Munteer made August 8, 2024 (“Munteer Affidavit #1”), and to be attached as Schedule “A” to the Order, is incorporated

by reference into the Order and that the definitions in the Settlement Agreement shall be applied in interpreting the Order.

2. The Settlement Agreement is fair, reasonable and in the best interests of the class;
3. The Settlement Agreement is hereby approved pursuant to s. 35 of the *Class Proceedings Act* and shall be implemented in accordance with its terms and the terms of this Order;
4. This Order, including the Settlement Agreement, is binding upon each Class Member,
5. Upon the Effective Date of Settlement, the Plaintiff and each Class Member, has released and shall be conclusively deemed to have forever, finally and absolutely released the Releasees, as set out in paragraph 22 of the Settlement Agreement.
6. Class Counsel's legal fee of 33⅓% of the Settlement Amount and taxes thereon, and disbursements in the amount of \$14,731.60, inclusive of taxes, are approved and shall be paid from the Settlement Amount.
7. On the Effective Date of Settlement, the Plaintiff has leave to dismiss this action against the Defendant, with prejudice, as if a trial on the merits had occurred, and without costs payable to any person.
8. The parties will be at liberty to apply in this action for further directions with respect to any matters arising under the Settlement Agreement, over which this court retains continuing jurisdiction

Part 2: FACTUAL BASIS

9. The Settlement Agreement is fair, reasonable and in the best interests of the Class, for the reasons set out in Mounteer Affidavit #1 at paragraphs 17 to 40 and having regard to the factors set out in *Jastram Properties Ltd. v Tan*, 2020 BCSC 1610 at para. 26
10. Class Counsel's retainer agreement was approved by this Court in *Jastram Properties Ltd v. Tan*, 2021 BCSC 2432 and provides for a legal fee of 33⅓% of the total amount recovered for

the Class under any judgement or settlement; Affidavit #2 of Mark W Mounteer made August 15, 2024 ("Mounter Affidavit #2). The proposed legal fee of 33⅓% of the Settlement Amount payable under the Settlement Agreement is appropriate, having regard to the time spent by Class counsel on this matter, as set out in paragraph 5 of Mounteer Affidavit #2, and the factors set out in *Jastram Properties Ltd. v Tan*, 2021 BCSC 2432 at para. 42

11. The disbursements of \$14,731.60, inclusive of taxes, were reasonable and necessary for the conduct of the class proceeding; Mounteer Affidavit #2, paras. 7-8.

Part 3: LEGAL BASIS

12. The Plaintiff relies on ss. 35 and 38 of the *Class Proceedings Act*, R.S.B.C. 1996, c. 50.

Part 4: MATERIAL TO BE RELIED ON

13. Affidavit #1 of Mark W. Mounteer made August 8, 2024.

14. Affidavit #2 of Mark W. Mounteer made August 15, 2024.

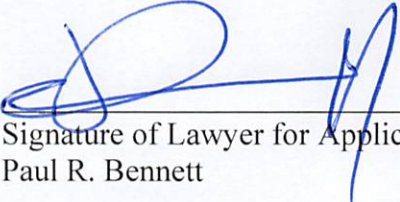
TO THE PERSONS RECEIVING THIS NOTICE OF APPLICATION: If you wish to respond to this notice of application, you must, within 5 business days after service of this notice of application or, if this application is brought under Rule 9-7, within 8 business days after service of this notice of application:

- (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 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: 15/AUG/2024

BENNETT MOUNTEER LLP

Per:


 Signature of Lawyer for Applicant
 Paul R. Bennett

THIS NOTICE OF APPLICATION was prepared by the law firm of Bennett Mounter LLP, whose place of business and address for service is #400 – 856 Homer Street, Vancouver, British Columbia, V6B 2W5. Telephone: (604) 639-3680. Fax: (604) 639-3681. Counsel Reference: Paul R. Bennett and Mark W. Mounter

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
- 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