

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
[COMMERCIAL LIST]**

THE HONOURABLE ) MONDAY THE 16<sup>TH</sup> DAY  
 )  
JUSTICE MCEWEN ) OF JUNE, 2014

**BANK OF MONTREAL**

Applicant

- and -

**NFC ACQUISITION GP INC., NFC ACQUISITION CORP.,  
NFC ACQUISITION L.P., NEW FOOD CLASSICS and  
NFC LAND HOLDINGS CORP.**

Respondents

**APPROVAL AND VESTING ORDER**

THIS MOTION, made by FTI Consulting Canada Inc., in its capacity as the Court-appointed receiver (the “**Receiver**”) of the undertakings, property and assets of NFC ACQUISITION GP INC., NFC ACQUISITION CORP., NFC ACQUISITION L.P., NEW FOOD CLASSICS AND NFC LAND HOLDINGS CORP. (collectively, the “**Debtors**”), for an order approving the transaction (the “**Transaction**”) contemplated by an agreement of purchase and sale between the Receiver and 1711484 Alberta Ltd. (the “**Purchaser**”) dated May 7, 2014 (the “**Sale Agreement**”), appended to the eighth report of the Receiver dated June 10, 2014 (the “**Eighth Report**”), vesting in the Purchaser the Debtors’ right, title and interest in the real property described in **Schedule “D”** hereto

(the “**Owned Lands**”) and related relief, was heard this day at 330 University Avenue, Toronto, Ontario.

**ON READING** the Eighth Report and on hearing the submissions of counsel for the Receiver and Bank of Montreal, no one appearing for any other person on the service list, although properly served as appears from the affidavit of service of Karin Schwarz sworn June 12, 2014, and filed:

1. **THIS COURT ORDERS** that the time for service of the notice of motion and the motion record herein be and is hereby abridged and the service thereof validated, so that the motion is properly returnable today.

2. **THIS COURT ORDERS AND DECLARES** that the Transaction is hereby approved. The Receiver is hereby authorized and directed to take such steps and execute such documents as may be necessary or desirable for the completion of the Transaction. The Receiver and the Purchaser are hereby authorized to enter into non-material amendments to the Sale Agreement by mutual agreement in writing without further order of the Court.

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**”) and registration of the Alberta Order and issuance of the new certificates of title in the name of the Purchaser as provided therein: (A) all of the Debtors’ right, title and interest in and to the Owned Lands shall vest absolutely in the Purchaser, free and clear of and from any and all encumbrances, security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages,

trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or 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 Court ordered encumbrances or charges established in Court File No. CV12-9554-00CL or in this proceeding; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act*, R.S.A. 2000, c. P-7 (the "**PPSA**") or any other personal property registry system; and (iii) those Claims listed on **Schedule "B"** hereto, provided that the Claims shall not include the permitted encumbrances, easements and restrictive covenants listed on **Schedule "C"** hereto (the "**Permitted Encumbrances**") and the Owned Lands shall remain subject to the Permitted Encumbrances. For greater certainty, this Court orders that all of the Claims affecting or relating to the Owned Lands, other than the Permitted Encumbrances, are hereby expunged and discharged as against the Owned Lands; and **(B)** all of the Debtors' right, title and interest in and to the Leases described in **Schedule "E"** hereto shall vest absolutely in the Purchaser, free and clear of and from any and all Claims.

4. **THIS COURT ORDERS AND DIRECTS** the Receiver to file with the Court a copy of the Receiver's Certificate, forthwith after delivery thereof.

5. **THIS COURT ORDERS AND DECLARES** that the Receiver is authorized to seek an order from the Court of Queen's Bench of Alberta directing the Registrar of the South Alberta Land Registration District (the "**Registrar**") to do the things set forth in paragraph 7 below.

6. **THIS COURT ORDERS AND DIRECTS** that upon the filing of a certified copy of the Receiver's Certificate, filed in this Ontario proceeding, together with a certified copy of this Order with the Registrar and payment of any applicable registration fees, the Registrar shall register this Order and shall:

- (a) discharge and expunge from title to the Owned Lands identified in **Schedule "D"** hereto the registered instruments listed in **Schedule "B"** hereto;
- (b) cancel certificates of title number 001 274 875+1 and 001 274 875+2;
- (c) issue new certificates of title in favour of the Purchaser (namely 1711484 Alberta Ltd. of c/o Ridout Barron, 1827-14th Street SW., Calgary, Alberta, T2T 3T1 Attention: Joshua Switzer) as registered owner in fee simple of the Owned Lands identified in **Schedule "D"** hereto subject only to the registrations described under section (B) of **Schedule "C"** hereto; and
- (d) transfer caveats 741 112 004 and 791 035 783 referenced in **Schedule "E"** hereto in the name of the Purchaser (namely 1711484 Alberta Ltd. of c/o Ridout Barron, 1827-14th Street SW., Calgary, Alberta, T2T 3T1 Attention: Joshua Switzer);

notwithstanding the requirements of section 191(1) of the *Land Titles Act*, R.S.A. 2000,  
c. L-4.

7. **THIS COURT ORDERS AND DECLARES** that for the purposes of determining the nature and priority of Claims, the proceeds from the sale of the Owned Lands, net of the commissions payable to Barclay Street Real Estate Ltd. (the “**Net Proceeds**”) shall stand in the place and stead of the Owned Lands, and that from and after the delivery of the Receiver’s Certificate, all Claims expunged and discharged as against the Owned Lands shall attach to the Net Proceeds with the same priority as they had with respect to the Owned Lands immediately prior to the sale.

8. **THIS COURT ORDERS AND DECLARES** that the Transaction may be completed without compliance with: (a) the provisions of Part V of the PPSA; (b) the relevant provisions of the *Civil Enforcement Act* (Alberta) R.S.A. 2000, c. C.-15; and (c) section 244 of the *Bankruptcy and Insolvency Act* (Canada) R.S.C. 1985 c. B-3 (the “**BIA**”).

9. 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 BIA in respect of the Debtors and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of the Debtors;

the vesting of the Owned Lands in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtors and shall not be void or voidable by creditors of the Debtors, nor shall it constitute nor be deemed

to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the BIA 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.

10. **THIS COURT ORDERS THAT**, pending closing of the Transaction or further order of this Honourable Court, the Confidential Appendix to the Eighth Report of the Receiver dated June 10, 2014, be sealed, kept confidential and not form part of the public record.

11. **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.

A handwritten signature in black ink, appearing to read 'McE...', is written over a horizontal line.

**SCHEDULE "A"**  
**FORM OF RECEIVER'S CERTIFICATE**

Court File No. CV-12-9616-00CL

**BANK OF MONTREAL**

Applicant

- and -

**NFC ACQUISITION GP INC., NFC ACQUISITION CORP.**  
**NFC ACQUISITION L.P., NEW FOOD CLASSICS and**  
**NFC LAND HOLDINGS CORP.**

Respondents

**RECEIVER'S CERTIFICATE**

**RECITALS**

1. Pursuant to an Order of the Ontario Superior Court of Justice (the "**Court**") dated February 22, 2012 (the "**Appointment Order**"), FTI Consulting Canada Inc. was appointed as the receiver (the "**Receiver**") of the undertaking, property and assets of NFC Acquisition GP Inc., NFC Acquisition L.P., NFC Acquisition Corp., New Food Classics and NFC Land Holdings Corp. (the "**Debtors**").
2. Pursuant to an Order of the Court dated June \_\_\_\_, 2014, the Court approved the agreement of purchase and sale made as of May 7, 2014 (the "**Sale Agreement**") between the Receiver and 1711484 Alberta Ltd. (the "**Purchaser**") and provided for the vesting in favour of the Purchaser of the Debtors' right, title and interest in and to the Owned Lands and Leases, as defined in the Sale Agreement, which vesting is to be effective 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 Owned Lands and the Leases; (ii) that the conditions to Closing as set out in Article 5 of 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, and upon registration of the Order and issuance of the new certificates of title in the name of the Purchaser as provided therein.
3. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.

**THE RECEIVER CERTIFIES** the following:

- (a) The Purchaser has paid and the Receiver has received the Purchase Price for the Owned Lands and the Leases, payable on the Closing Date pursuant to the Sale Agreement;
- (b) The conditions to Closing as set out in Article 5 of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and
- (c) Except for issuance of the new certificates of title in the name of the Purchaser, the Transaction has been completed to the satisfaction of the Receiver.

This Certificate was delivered by the Receiver at [TIME] on [DATE].

**FTI Consulting Canada Inc.**, solely in its capacity as court-appointed receiver of the assets, undertakings and properties of **NFC Acquisition GP Inc., NFC Acquisition L.P., NFC Acquisition Corp., New Food Classics and NFC Land Holdings Corp.**, and not in its personal or corporate capacity

By: \_\_\_\_\_  
Name:  
Title:



**SCHEDULE "B"**  
**CLAIMS TO BE DISCHARGED AND EXPUNGED**  
**FROM TITLE TO OWNED LANDS**

**Specific Encumbrances**

**Instruments to be discharged and expunged from Plan 4541JK Lands (being the lands described in certificate of title number 001 274 875+1) and Plan 7510546 Lands (being the lands described in certificate of title number 001 274 875 +2):**

Mortgage 061 097 877  
Mortgage 061 097 879  
Tax Notification 141 095 296

**Instruments to be discharged and expunged from Plan 4541JK Lands (being the lands described in certificate of title number 001 274 875+1):**

Builder's Lien 121 056 088  
Builder's Lien 121 056 315  
Certificate of Lis Pendens 121 225 115

**SCHEDULE "C"**  
**PERMITTED ENCUMBRANCES**

**(A) General Permitted Encumbrances applicable to the Lands:**

- (i) all exceptions, reservations and conditions to which the titles to the Owned Lands and Leased Lands are subject pursuant to the *Land Titles Act* (Alberta) other than liens for unpaid municipal taxes;
- (ii) all caveats and instruments registered by or on behalf of the Purchaser;
- (iii) any reservations, restrictions, rights of way, easements or covenants (collectively "**Rights in the Lands**"), limited to and only to the extent that the Rights in the Lands, run with and constitute an interest in land pursuant to Applicable Law;
- (iv) any unregistered 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 supplying utilities to the Owned Lands or Leased Lands;
- (v) all laws, by-laws and regulations and all outstanding work orders, deficiency notices and notices of violation affecting the Owned Lands or Leased Lands;
- (vi) any minor easements for the supply of utility service to the Owned Lands or Leased Lands or adjacent properties;
- (vii) encroachments disclosed by any existing surveys of the Owned Lands or Leased Lands or neighbouring properties and any title defect, encroachment or breach of a zoning or building by-law or any other applicable law, by-law or regulation which might be disclosed by a more up-to-date survey of the Owned Lands and Leased Lands and survey matters generally;

continued.....

**(B) Specific Permitted Encumbrances for each parcel of the Owned Lands as outlined below:**

**Plan 4541JK Lands:  
(being the lands  
described in certificate  
of title number 001 274  
875+1)**

Registration Number	Date (D/M/Y)	Particulars
401EF	07/12/1929	Caveat Re: Restrictive Covenant
2680HK	08/08/1958	Utility Right of Way
4052IV	20/01/1964	Utility Right of Way
1449IU	13/02/1967	Easement
821 198 591	22/11/1982	Caveat Re: Easement

**Plan 7510546 Lands:  
(being the lands  
described in certificate  
of title number 001 274  
875 +2)**

Registration Number	Date (D/M/Y)	Particulars
401EF	07/12/1929	Caveat Re: Restrictive Covenant
751 065 933	30/06/1975	Easement
751 065 934	30/06/1975	Caveat
971 210 813	22/07/1997	Easement
971 240 180	18/08/1997	Easement

**SCHEDULE "D"**  
**LEGAL DESCRIPTIONS OF THE OWNED LANDS**

1. FIRST

PLAN 4541JK  
BLOCK 1  
LOT 3E CONTAINING 0.46 OF AN ACRE, MORE OR LESS,  
EXCEPTING THEREOUT ALL MINES AND MINERALS  
AND THE RIGHT TO WORK THE SAME

SECOND

PLAN 4541JK  
BLOCK 1  
LOT 3F CONTAINING 0.24 OF AN ACRE, MORE OR LESS  
EXCEPTING THEREOUT ALL MINES AND MINERALS  
AND THE RIGHT TO WORK THE SAME

(the "**Plan 4541JK Lands**")

2. PLAN 7510546

BLOCK 1  
LOT 1  
EXCEPTING THEREOUT ALL MINES AND MINERALS  
AREA: 0.214 HECTARES (0.53 ACRES) MORE OR LESS

(the "**Plan 7510546 Lands**")

**SCHEDULE "E"**  
**LEASES AND LEASED LANDS**

The terms "Leases as used herein and in the Receiver's Certificate shall mean the leases referenced in the Caveats registered as Instrument Nos. 741 112 004 and 791 035 783 in the South Alberta Land Registration District against title to lands described as:

Firstly:

PLAN 2092JK  
BLOCK 1  
THAT PORTION OF LOT 3A WHICH LIES TO THE NORTH EAST  
OF LOTS 3E AND 3F IN BLOCK 1 ON PLAN 4541JK  
EXCEPTING THEREOUT ALL MINES AND MINERALS  
AND THE RIGHT TO WORK THE SAME

Secondly:

PLAN 2092JK  
BLOCK 1  
THAT PORTION OF LOT 3B WHICH LIES TO THE NORTH EAST  
OF LOTS 3E AND 3F IN BLOCK 1 ON PLAN 4541JK  
EXCEPTING THEREOUT ALL MINES AND MINERALS  
AND THE RIGHT TO WORK THE SAME

and the portions of the aforesaid lands referenced in the said Leases are collectively referred to as the "**Leased Lands**".

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Applicant

and

NFC ACQUISITION GP INC., NFC ACQUISITION CORP.  
NFC ACQUISITION L.P., NEW FOOD CLASSICS and  
NFC LAND HOLDINGS CORP.

Respondents

Court File No. CV-12-9616-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
[COMMERCIAL LIST]**

**Proceeding commenced at TORONTO**

**APPROVAL AND VESTING ORDER**

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Appointed Receiver of NFC ACQUISITION GP INC.,  
NFC ACQUISITION CORP., NFC LAND HOLDINGS  
CORP. and NEW FOOD CLASSICS