

COURT FILE NUMBER 1701-10806
COURT COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE CALGARY
PLAINTIFF ILAN HANDELSMAN
DEFENDANTS ALI GHANI, ALI GHANI AS LITIGATION
REPRESENTATIVE FOR THE ESTATE OF
ABDUL GHANI, BROADMOOR
COMMERCIAL PLAZA DEVELOPMENT
CORP., HORIZON COMMERCIAL
DEVELOPMENT CORP., HERITAGE
PLAZA DEVELOPMENTS INC., PRISM
PLACE DEVELOPMENT LTD., PRISM
REAL ESTATE INVESTMENT
CORPORATION, SUMMERSIDE
DEVELOPMENT TRUST, SUMMERSIDE
COMMERCIAL TRUST, PRISM
SUMMERSIDE LIMITED PARTNERSHIP,
PRISM SUMMERSIDE DEVELOPMENT
CORP., JANE DOE, JOHN DOE, and ABC
CORP.



100348

DOCUMENT CERTIFICATION ORDER

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT Matthew J. Epp / Robyn Gurofsky / Jack R. Maslen
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File No. 444097-000001

DATE ON WHICH ORDER WAS PRONOUNCED: Dec 2, 2020

NAME OF JUSTICE WHO MADE THIS ORDER: The Honourable Associate Chief
Justice J.D. Rooke

LOCATION OF HEARING: Calgary, Alberta

UPON the Plaintiff having filed an Application for Certification as a Class Proceeding on June 28, 2019 (the “**Certification Application**”); AND UPON hearing from counsel to the Plaintiff, and counsel for Ali Ghani and Abdul Ghani, for the purpose of the Certification Application, on March 9, 2020 (the “**Certification Hearing**”); AND UPON the Court ordering certification in an oral decision at the Certification Hearing; AND UPON the Court having granted an Order re: Litigation Funding Approval on May 7, 2020 (filed on July 15, 2020), in which, among other things, the Court approved the incorporation of 2052227 Alberta Ltd. (“**227**”) as a litigation funding vehicle for this action (the “**Funding Order**”); AND UPON the Court having subsequently granted an Order re: Estate of Abdul Ghani on September 9, 2020 (filed on September 10, 2020), in which, among other things, the Court appointed Ali Ghani as the litigation representative for the estate of Abdul Ghani (the “**Estate Order**”); AND UPON noting that the Plaintiff filed a Second Amended Statement of Claim on October 30, 2020 (the “**Second Amended Statement of Claim**”), pursuant to the Estate Order; AND UPON noting that the Funding Order and Estate Order were required before this Honourable Court could finalize its order arising from the Certification Hearing;

IT IS HEREBY ORDERED AND DECLARED THAT:

CERTIFICATION

1. All capitalized terms used herein, but not otherwise defined, shall have the meanings given to them in the Second Amended Statement of Claim.
2. The within action is certified as a class proceeding pursuant to the *Class Proceedings Act*, SA 2003, c C-16.5 (the “*CPA*”).
3. The definition of the “**Class**” certified is:

“All persons who purchased shares or trust units of the Prism Entities, wherever they may reside or be domiciled, between January 1, 2008 and December 31, 2014, except the Excluded Persons”.

4. The definitions of the “**Sub-Classes**” certified are:

“Broadmoor Sub-Class”

“All persons who purchased shares of Broadmoor Commercial, wherever they may reside or be domiciled, between January 1, 2008 and December 31, 2014, except the Excluded Persons”.

"Heritage Sub-Class"

"All persons who purchased shares of Heritage Developments, wherever they may reside or be domiciled, between January 1, 2008 and December 31, 2014, except the Excluded Persons".

"Horizon Sub-Class"

"All persons who purchased shares of Horizon Commercial, wherever they may reside or be domiciled, between January 1, 2008 and December 31, 2014, except the Excluded Persons".

"Place Sub-Class"

"All persons who purchased shares of Prism Place, wherever they may reside or be domiciled, between January 1, 2008 and December 31, 2014, except the Excluded Persons";

"Summerside Sub-Class"

"All persons who purchased trust units of the Mutual Fund Trust, wherever they may reside or be domiciled, between January 1, 2008 and December 31, 2014, except the Excluded Persons".

5. For the purpose of the Class definition and Sub-Classes definitions, set out in paragraphs 4 and 5 hereof, **"Excluded Persons"** shall mean:

"(i) the Defendants, and as applicable, their legal representatives, heirs, predecessors, successors, assigns, affiliates or any individual who is a family member of the Ghanis, or (ii) any investors in Prism Place Development Ltd. that received proceeds from the sale of the lands legally described as Plan A, Block 68, Lots 25 to 32, excepting thereout all mines and minerals and the right to work the same, in or around February 2017."

6. Ilan Handelsman is appointed representative Plaintiff for the Class and for each Sub-Class.
7. The nature of the claims asserted on behalf of the Class and Sub-Classes, and the relief sought by the Class and Sub-Classes are set out in the Second Amended Statement of Claim.
8. The common issues for the Class and Sub-Classes are attached hereto as **Schedule "A"**.
9. The notice of certification of this action as a class proceeding (the "Notice") in the form attached hereto as **Schedule "B"** is hereby approved. Where practicable, the Notice shall attach a filed/certified copy of this Order and a filed/certified copy of the Funding Order and any amendments thereto.

10. The opt-out form for this class proceeding (the “**Opt-Out Form**”) in the form attached hereto as **Schedule “C”** is hereby approved.
11. Within twenty (20) days after the filing of this Order, counsel to the Plaintiff (“**Class Counsel**”) shall cause the Notice to be disseminated by:
 - (a) emailing a copy of the Notice to all Class Members who have provided their contact information to Class Counsel or the Plaintiff;
 - (b) publishing the Notice (excluding attachments, notwithstanding anything to the contrary in the Funding Order) once in the *Calgary Herald* and *Edmonton Journal*;
 - (c) publishing the Notice (excluding attachments, notwithstanding anything to the contrary in the Funding Order) via appropriate social media;
 - (d) publishing the Notice and Opt-Out Form on Class Counsel’s website;
 - (e) emailing the Notice to any person who requests it; and
 - (f) providing the Notice to the Canadian Bar Association National Class Action Database.
12. A member of the Class may opt-out of this proceeding by submitting a completed Opt-Out Form, in accordance with the directions set out in the Notice by no later than the date that is ninety (90) calendar days after the date on which the Notice is first published (the “**Opt-Out Deadline**”). No person may opt-out of this proceeding after the Opt-Out Deadline, except with approval of the Court, and a person who otherwise opts out in accordance with the directions set out in the Notice by the Opt-Out Deadline shall not a member of the Class on or after the date such person opts out of the proceeding.
13. The Plaintiff’s litigation plan in the form attached hereto as **Schedule “D”** is hereby approved, and may be amended without further order of the Court upon agreement of the parties.

14. The costs for the Certification Application shall follow the event in any event of the cause, payable forthwith, in an amount to be assessed.
15. The costs for disseminating the Notice and Opt-Out Form shall be determined in the cause.

SCHEDULE “A”

COMMON ISSUES

Attached.

COMMON ISSUES

Unless otherwise indicated, defined terms used herein have the meanings ascribed to them in the Second Amended Statement of Claim or in the Certification Order.

COMMON ISSUES FOR THE CLASS

The common issues in respect of the Class are as follows:

1. Piercing the Corporate Veil

- a. Did Ghani Jr. and/or Ghani Sr. expressly direct a wrongful thing to be done by the Prism Entities, including (without limitation) any of the following:
 - i. Did the Ghanis cause the books and records of the Prism Entities to be falsified?
 - ii. Did the Ghanis cause the Prism Entities to conceal financial information from the Class?
 - iii. Did the Ghanis cause the Prism Entities to fail to call shareholder or unitholder meetings?
 - iv. Did the Ghanis cause the Prism Entities to enter improper non-arm's length transactions?
 - v. Did the Ghanis cause the Prism Entities to improperly transfer, divert, dissipate or misappropriate assets?
 - vi. Did the Ghanis cause the Prism Entities to improperly disregard share redemption rights?
 - vii. Did the Ghanis cause any of the lands owned by the Prism Entities to be sold without notice to, or approval from, the Class?
 - viii. Did the Ghanis improperly comingle monies or assets of the Prism Entities?
 - ix. Did the Ghanis cause any of the Prism Entities to be dissolved without notice to, or approval from, the Class?

- x. Did the Ghanis improperly disregard shareholder resolutions or other corporate formalities or procedures?
- xi. Did the Ghanis use the Prism Entities for a fraudulent purpose?
- b. If the answer to (a) is yes, are Ghani Jr. and/or the estate of Ghani Sr. liable to the Class?
- c. If the answer to (b) is yes, what is the appropriate remedy, as against Ghani Jr. and/or the estate of Ghani Sr., in favour of the Class?

2. Unjust Enrichment

- a. Was Ghani Jr., Ghani Sr. and/or PREIC enriched by their acts and omissions relating to the Prism Entities?
- b. If the answer to (a) is yes, was there a corresponding deprivation to the Class?
- c. If the answer to (b) is yes, was there a juristic reason for the enrichment(s)?
- d. If the answer to (c) is no, what is the appropriate remedy in favour of the Class for the unjust enrichment of Ghani Jr., Ghani Sr. and/or PREIC?

3. Misrepresentation

- a. Did any of the offering memoranda of the Prism Entities, provided to the Class, contain representations on behalf of Ghani Jr., Ghani Sr. and/or PREIC?
- b. If the answer to (a) is yes, was the representation(s) false, untrue or inaccurate at the time they were made?
- c. If the answer to (b) is yes, did Ghani Jr., Ghani Sr. and/or PREIC know the representation(s) was false, ought to have known the representation(s) was false, or knowingly or recklessly make the false representation(s)?
- d. If the answer to (c) is yes, was the representation(s) intended by Ghani Jr., Ghani Sr. and/or PREIC to induce the Class members to purchase the Securities?
- e. If the answer to (d) is yes, can reliance by the Class on the false representation(s) be inferred from the circumstances?

- f. If the answer to (e) is yes, what consequences flow from the inferred reliance?

4. Other

- a. Did Ghani Jr. and/or Ghani Sr. exercise *de facto* or *de jure* control over the Prism Entities, and if so, what are the particulars?
- b. Does the conduct of any or all the Defendants justify an award of punitive damages, and if so, what are the particulars?
- c. What damages did the Class suffer as a consequence of investing in the Prism Entities, and how should damages be remedied?
- d. Is an aggregate damages award appropriate in respect of all or part of the liability of the Defendants to the Class, and if so, what are the particulars?
- e. Is an order for an accounting, following and/or tracing appropriate, and if so, what are the particulars?
- f. Is an order for restitution or constructive trust appropriate, and if so, what are the particulars?
- g. Are the Class members entitled to pre-judgment or post-judgment interest, and if so, what are the particulars?

COMMON ISSUES FOR THE PLACE SUB-CLASS

The common issues in respect of the Place Sub-Class are as follows:

1. Oppression

- a. Are the Place Sub-Class members complainants within the meaning of Sections 239 and 242 of the *ABCA*?
- b. If the answer to (a) is yes, did any act or omission of Prism Place effect a result, or were the business and affairs of Prism Place carried on or conducted in a manner, or did Ghani Jr. exercise his powers as a director in a manner, that was oppressive or unfairly

prejudicial or that unfairly disregarded the interests of the Place Sub-Class within the meaning of Section 242 of the *ABCA*?

- c. If the answer to (b) is yes, should the Court make an order that Prism Place and/or Ghani Jr. compensate the Place Sub-Class pursuant to Section 242(3) of the *ABCA*, and if so, what is the appropriate amount of compensation for the Place Sub-Class?
- d. If the answer to (b) is yes, what other remedy or remedies should be ordered by the Court to rectify the conduct of Prism Place and/or Ghani Jr. that is oppressive, unfairly prejudicial or that unfairly disregards the interests of the Place Sub-Class?

2. Conspiracy

- a. Did any of Prism Place, PREIC, Ghani Jr. and/or Ghani Sr. conspire to harm the Place Sub-Class?
- b. If the answer to (a) is yes, did any of Prism Place, PREIC, Ghani Jr. and/or Ghani Sr. act in furtherance of the conspiracy?
- c. If the answer to (b) is yes, were the acts, or any of them, unlawful?
- d. If the answer to (c) is yes, did any of Prism Place, PREIC, Ghani Jr. and/or Ghani Sr. know, or ought to know, that the conspiracy would likely cause injury to the Place Sub-Class?
- e. If the answer to (d) is yes, what is the appropriate remedy in favour of the Place Sub-Class?

3. Breach of Contract

- a. Did the Place Sub-Class members have a contractual relationship with Prism Place by virtue of, among other things, subscription agreements or the Prism Place Offering Memoranda?
- b. If the answer to (a) is yes, did Prism Place breach any of its contractual obligations to the Place Sub-Class?

- c. If the answer to (b) is yes, what is the appropriate remedy in favour of the Place Sub-Class?

COMMON ISSUES FOR THE SUMMERSIDE SUB-CLASS

The common issues in respect of the Summerside Sub-Class are as follows:

1. Oppression

- a. Are the Summerside Sub-Class members complainants within the meaning of Sections 239 and 242 of the *ABCA*?
- b. If the answer to (a) is yes, did any act or omission of Summerside Corp. effect a result, or were the business and affairs of Summerside Corp. carried on or conducted in a manner, or did Ghani Jr. or Ghani Sr. exercise their powers as directors in a manner, that was oppressive or unfairly prejudicial or that unfairly disregarded the interests of the Summerside Sub-Class within the meaning of Section 242 of the *ABCA*?
- c. If the answer to (b) is yes, should the Court make an order that Summerside Corp., Ghani Jr. and/or the estate of Ghani Sr. compensate the Summerside Sub-Class pursuant to Section 242(3) of the *ABCA*, and if so, what is the appropriate amount of compensation for the Summerside Sub-Class?
- d. If the answer to (b) is yes, what other remedy or remedies should be ordered by the Court to rectify the conduct of Summerside Corp., Ghani Jr. and/or Ghani Sr. that is oppressive, unfairly prejudicial or that unfairly disregards the interests of the Summerside Sub-Class?

2. Conspiracy

- a. Did any of Summerside Corp., PREIC, Ghani Jr. and/or Ghani Sr. conspire to harm the Summerside Sub-Class?
- b. If the answer to (a) is yes, did any of Summerside Corp., PREIC, Ghani Jr. and/or Ghani Sr. act in furtherance of the conspiracy?
- c. If the answer to (b) is yes, were the acts, or any of them, unlawful?

- d. If the answer to (c) is yes, did any of Summerside Corp., PREIC, Ghani Jr. and/or Ghani Sr. know, or ought to know, that the conspiracy would likely cause injury to the Summerside Sub-Class?
- e. If the answer to (d) is yes, what is the appropriate remedy in favour of the Summerside Sub-Class?

3. Breach of Trust

- a. Did Ghani Jr. or Ghani Sr. owe duties as trustees to the Summerside Sub-Class?
- b. If the answer to (a) is yes, did Ghani Jr. or Ghani Sr. breach their duties as trustees?
- c. If the answer to (b) is yes, what is the appropriate remedy for Ghani Jr.'s or Ghani Sr.'s breach of trust?

4. Knowing Assistance and/or Knowing Receipt

- a. Did PREIC knowingly assist any breach of trust by Ghani Jr. and/or Ghani Sr.?
- b. Did PREIC knowingly receive any trust property in breach of trust by Ghani Jr. and/or Ghani Sr.?
- c. If the answer to (a) or (b) is yes, what is the appropriate remedy against PREIC in favour of the Summerside Sub-Class?

5. Breach of Contract

- a. Did the Summerside Sub-Class members have a contractual relationship with the Mutual Fund Trust, Ghani Jr. and/or Ghani Sr. (in their capacity as trustees) by virtue of, among other things, subscription agreements or the Mutual Fund Trust Offering Memorandum?
- b. If the answer to (a) is yes, did the Mutual Fund Trust, Ghani Jr. and/or Ghani Sr. breach any contractual obligations to the Summerside Sub-Class?
- c. If the answer to (b) is yes, what is the appropriate remedy in favour of the Summerside Sub-Class?

COMMON ISSUES FOR THE BROADMOOR SUB-CLASS

The common issues in respect of the Broadmoor Sub-Class are as follows:

1. Oppression

- a. Are the Broadmoor Sub-Class members complainants within the meaning of Sections 239 and 242 of the *ABCA*?
- b. If the answer to (a) is yes, did Ghani Jr. or Ghani Sr. exercise their powers as directors of Broadmoor Commercial in a manner that was oppressive or unfairly prejudicial or that unfairly disregarded the interests of the Broadmoor Sub-Class within the meaning of Section 242 of the *ABCA*?
- c. If the answer to (b) is yes, should the Court make an order that Ghani Jr. or the estate of Ghani Sr. compensate the Broadmoor Sub-Class pursuant to Section 242(3) of the *ABCA*, and if so, what is the appropriate amount of compensation for the Broadmoor Sub-Class?
- d. If the answer to (b) is yes, what other remedy or remedies should be ordered by the Court to rectify the conduct of Ghani Jr. or Ghani Sr. that is oppressive, unfairly prejudicial or that unfairly disregards the interests of the Broadmoor Sub-Class?

COMMON ISSUES FOR THE HERITAGE SUB-CLASS

The common issues in respect of the Heritage Sub-Class are as follows:

1. Oppression

- a. Are the Heritage Sub-Class members complainants within the meaning of Sections 239 and 242 of the *ABCA*?
- b. If the answer to (a) is yes, did Ghani Jr. or Ghani Sr. exercise their powers as directors of Heritage Developments in a manner that was oppressive or unfairly prejudicial or that unfairly disregarded the interests of the Heritage Sub-Class, within the meaning of Section 242 of the *ABCA*?

- c. If the answer to (b) is yes, should the Court make an order that Ghani Jr. or the estate Ghani Sr. compensate the Heritage Sub-Class pursuant to Section 242(3) of the *ABCA*, and if so, what is the appropriate amount of compensation for the Heritage Sub-Class?
- d. If the answer to (b) is yes, what other remedy or remedies should be ordered by the Court to rectify the conduct of Ghani Jr. or Ghani Sr. that is oppressive, unfairly prejudicial or that unfairly disregards the interests of the Heritage Sub-Class?

COMMON ISSUES FOR THE HORIZON SUB-CLASS

The common issues in respect of the Horizon Sub-Class are as follows:

1. Oppression

- a. Are the Horizon Sub-Class members complainants within the meaning of Sections 239 and 242 of the *ABCA*?
- b. If the answer to (a) is yes, did Ghani Jr. exercise his powers as a director of Horizon Commercial in a manner that was oppressive or unfairly prejudicial or that unfairly disregarded the interests of the Horizon Sub-Class within the meaning of Section 242 of the *ABCA*?
- c. If the answer to (b) is yes, should the Court make an order that Ghani Jr. compensate the Horizon Sub-Class pursuant to Section 242(3) of the *ABCA*, and if so, what is the appropriate amount of compensation for the Horizon Sub-Class?
- d. If the answer to (b) is yes, what other remedy or remedies should be ordered by the Court to rectify the conduct of Ghani Jr. that is oppressive, unfairly prejudicial or that unfairly disregards the interests of the Horizon Sub-Class?

SCHEDULE “B”

NOTICE OF CERTIFICATION

CLASS ACTION REGARDING:

ALI GHANI, ALI GHANI AS LITIGATION REPRESENTATIVE FOR THE ESTATE OF ABDUL GHANI, BROADMOOR COMMERCIAL PLAZA DEVELOPMENT CORP., HORIZON COMMERCIAL DEVELOPMENT CORP., HERITAGE PLAZA DEVELOPMENTS INC., PRISM PLACE DEVELOPMENT LTD., PRISM REAL ESTATE INVESTMENT CORPORATION, SUMMERSIDE DEVELOPMENT TRUST, SUMMERSIDE COMMERCIAL TRUST, PRISM SUMMERSIDE LIMITED PARTNERSHIP, PRISM SUMMERSIDE DEVELOPMENT CORP., JANE DOE, JOHN DOE, and ABC CORP.

NOTICE OF CERTIFICATION

What is the Class Action?

A lawsuit has been certified as a class action against Ali Ghani, the estate of Abdul Ghani (through Ali Ghani as the litigation representative), Broadmoor Commercial Plaza Development Corp., Horizon Commercial Development Corp., Heritage Plaza Developments Inc., Prism Place Development Ltd., Prism Real Estate Investment Corporation, Summerside Development Trust, Summerside Commercial Trust, Prism Summerside Limited Partnership, Prism Summerside Development Corp., Jane Doe, John Doe and ABC Corp. (collectively, the “**Defendants**”).

The lawsuit alleges that Ali Ghani and the late Abdul Ghani (the “**Ghanis**”) formed the Defendant corporations, partnerships and trusts, and caused them (except for Prism Real Estate Investment Corporation) to sell shares or trust units to the public for the purpose of developing real-estate projects in Alberta. Instead of developing and/or operating the real-estate projects for the benefit of the public investors, the lawsuit alleges that the Ghanis wrongfully misappropriated the value from the companies, partnerships and trusts for their personal gain. Among other things, the lawsuit alleges that the Ghanis caused financial information to be concealed from investors, entered improper transactions, and transferred monies to themselves or their companies. The lawsuit alleges that the Ghanis caused the investors to lose their entire investments.

The Representative Plaintiff, Ilan Handelsman, seeks damages and other relief on his own behalf and on behalf of everyone who invested in the Defendant entities during the relevant period.

How do I know if I am a member of the Class?

The Court has defined the class (the “**Class**”) as follows:

All persons who purchased shares or trust units of the Prism Entities, wherever they may reside or be domiciled, between January 1, 2008 and December 31, 2014, except the Excluded Persons.

For the purpose of the Class definition, “**Prism Entities**” means:

Broadmoor Commercial Plaza Development Corp., Heritage Plaza Developments Inc., Prism Place Development Ltd., Horizon Commercial Development Corp., Summerside

Development Trust, Summerside Commercial Trust, Prism Summerside Limited Partnership, and Prism Summerside Development Corp.

“Excluded Persons” means:

*(i) the Defendants, and as applicable, their legal representatives, heirs, predecessors, successors, assigns, affiliates or any individual who is a family member of the Ghanis, or
(ii) any investors in Prism Place Development Ltd. that received proceeds from the sale of the lands legally described as Plan A, Block 68, Lots 25 to 32, excepting thereout all mines and minerals and the right to work the same, in or around February 2017.*

The Court has also defined sub-classes for investors in each of the Prism Entities.

If you purchased an investment in the Prism Entities, then you are likely a member of the Class.

If you are not sure whether you are a member of the Class, you should speak to the firm Borden Ladner Gervais LLP who is counsel to the Representative Plaintiff (“**Class Counsel**”).

How do I participate in this Class Action?

Class members who wish to participate in the class action do not need to do anything at this time. They are automatically included in the class action.

What if I do not want to participate in this Class Proceeding?

Any Class member who wishes to opt-out of the class action must do so by sending a written opt-out form, signed by the class member, stating that he or she opts out of the class action. The written opt-out form can be obtained from Class Counsel, and must be sent by mail, courier or by e-mail to Class Counsel, and must be received by Class Counsel no later than _____, 2020.

No class member will be permitted to opt-out of the class action after _____, 2020. If you opt-out of the class action, you will take full responsibility for initiating your own lawsuit against the Defendants and for taking all legal steps necessary to protect your claim, if you wish to proceed with a claim.

How is this action being funded? What are the costs to me?

The Representative Plaintiff is using Class Counsel to represent him and the Class in this lawsuit. The Representative Plaintiff has formed a company, 2052227 Alberta Ltd., to raise money for his legal fees and expenses for this class action. 2052227 Alberta Ltd. has sold shares to Class members and the proceeds of such sales will pay for the Representative Plaintiff’s legal expenses for this action.

The Court has granted an order approving 2052227 Alberta Ltd. as a litigation funding vehicle for this class action and has also pre-approved a distribution mechanism for any recoveries generated from or as a result of this class action. The Court’s order states, in summary, that any recoveries will be paid: (i) to pay any outstanding liabilities of 2052227 Alberta Ltd., (ii) to reimburse shareholders in 2052227 Alberta Ltd. for their principal investment plus interest, (iii) to 2052227 Alberta Ltd.’s consultant, and (iv) to Class members who invested in 2052227 Alberta Ltd. **Class members who did not invest in 2052227 Alberta Ltd. will be entitled to a smaller proportion of any recoveries.** A copy of the Court’s order(s) relating to 2052227 Alberta Ltd. will be posted on Class Counsel’s website and may be obtained from Class Counsel.

If you wish to be a shareholder in 2052227 Alberta Ltd. you must do so by **no later than** _____, and you should contact Class Counsel for further information.

If the class action is successful in establishing that the Defendants are liable to pay money to the Class members, the Court may provide further directions regarding how recoveries should be allocated.

How do I find out more about this Class Action?

Questions about the matters in this Notice should not be directed to the Court. The certification order and other information with respect to the class action can be obtained at the following website maintained by Class Counsel _____.

Questions for Class Counsel may also be directed by e-mail, fax or telephone to:

Jack R. Maslen
Borden Ladner Gervais LLP
1900, 520 3rd Ave. S.W.
Calgary, AB T2P 0R3
Telephone: (403) 232-9790
Facsimile: (403) 266-1395
Email: jmaslen@blg.com

SCHEDULE "C"

OPT-OUT FORM

TO: BORDEN LADNER GERVAIS LLP

I, _____ (insert full legal name), have received notice of the class action commenced by Ilan Handelsman, as Representative Plaintiff, against Ali Ghani, Ali Ghani as litigation representative for the estate of Abdul Ghani, Broadmoor Commercial Plaza Development Corp., Horizon Commercial Development Corp., Heritage Plaza Developments Inc., Prism Place Development Ltd., Prism Real Estate Investment Corporation, Summerside Development Trust, Summerside Commercial Trust, Prism Summerside Limited Partnership, Prism Summerside Development Corp., Jane Doe, John Doe, and ABC Corp.

I believe that I am a member of the Class. I invested in one or more of Broadmoor Commercial Plaza Development Corp., Horizon Commercial Development Corp., Heritage Plaza Developments Inc., Prism Place Development Ltd. or Summerside Development Trust between January 1, 2008 and December 31, 2014.

I do **NOT** wish to participate in this Class Action.

I understand that by **OPTING OUT** of this Class Action, I will **NOT** be eligible for any benefit that may be available to the Class upon resolution of this matter.

I understand that, if I wish to pursue any remedy with respect to my investment, I must do so **ON MY OWN**.

DATED THIS ____ DAY OF _____, 2020

(signature)

(witness)

Insert Mailing Address:

Telephone Number:

_____ Email Address: _____

SCHEDULE “D”

LITIGATION PLAN

INTRODUCTION

1. The *Class Proceedings Act* requires a workable litigation plan as part of the certification process. Ilan Handelsman, as the representative plaintiff in this matter (the “**Representative Plaintiff**”), hereby proposes the following litigation plan.

CERTIFICATION APPLICATION

2. The certification application was heard and decided by the Honourable Associate Chief Justice J.D. Rooke on March 9, 2020.

NOTIFICATION TO THE CLASS AND OPT-OUT PROCEDURE

3. The Representative Plaintiff shall provide a notice of certification (the “**Notice**”) to the members of the class (the “**Class**”), advising, among other things:
 - a. that the Court has certified the within action as a class proceeding;
 - b. of the class definition;
 - c. that Borden Ladner Gervais LLP is Class Counsel and may be contacted for any questions;
 - d. a person may only opt-out of the class proceeding by sending a written opt-out election to the recipient designated by the Court, before a date and time fixed by the Court; and
 - e. a person may not-opt out of the class proceeding after the date fixed by the Court.
4. The Notice shall be issued no later than forty-five (45) days after the date the certification order (the “**Certification Order**”) is filed.

REQUEST FOR PARTICULARS

5. The Defendants Ali Ghani and the Estate of Abdul Ghani through Ali Ghani as litigation representative (collectively, the “**Defendants**”) shall deliver to the Plaintiff a request for particulars, if any, no later than fifteen (15) days after the date the Certification Order is filed and served.
6. The Plaintiff shall provide his response to the request for particulars, if any, no later than fifteen (15) days after receipt from the Defendants unless agreed otherwise.
7. If either the Plaintiff or Defendants dispute any of the request for particulars, or any responses thereto, the parties shall seek to have any such dispute(s) resolved by the Court in a case management meeting to occur within thirty (30) days of the Plaintiff’s response to the request for particulars or as soon as practicable thereafter.

STATEMENTS OF DEFENCE AND REPLIES

8. The Defendants shall provide Statements of Defence, if any, no later than thirty (30) days after the date the Certification Order is filed and served, unless the Defendants deliver a Request for Particulars in which case Statements of Defence must be provided no later than sixty (60) days after the date the Certification Order is filed (unless the Court directs otherwise).
9. The Representative Plaintiff shall provide Replies, if any, no later than thirty (30) days after receipt of the Statements of Defence(s).

DOCUMENT PRODUCTION AND DOCUMENT MANAGEMENT

10. Class Counsel and counsel to the Defendants agree upon a document production protocol (the “**Protocol**”) within thirty (30) days after the delivery of the Replies (or, if no Replies, sixty (60) days from the delivery of the Statements of Defence). In preparing and agreeing to the Protocol, the parties shall have regard to Civil Practice Note 4 – Guidelines for the Use of Technology in any Civil Litigation Matter.
11. The Representative Plaintiff will deliver his Affidavit of Records no later than thirty (30) days after the Protocol is agreed.
12. The Defendants will deliver their Affidavits of Records no later than thirty (30) days after the Representative Plaintiff delivers his Affidavit of Records.

QUESTIONING

13. Questioning, in accordance with the *Alberta Rules of Court*, will be completed within sixty (60) days from the date the Defendants provide their Affidavits of Records, unless the parties agree otherwise.

COMPLETED UNDERTAKINGS

14. Each party or individual questioned as part of the questioning shall provide answers to undertaking requests within thirty (30) days of the undertakings requests having been made.

QUESTIONING ON UNDERTAKINGS

15. Questioning on answers to undertakings shall be completed within thirty (30) days of the provision of such undertakings.

ISSUES ARISING FROM QUESTIONING

16. In addition to regular Case Management Meetings, the Representative Plaintiff proposes that there be a Case Management Meeting scheduled to take place within thirty (30) days of the deadline for the conclusion of questioning on undertakings to deal with any applications that may arise from any objections.
17. Following the completion of the questioning process, including the resolution of any objections, the parties may attend a Case Management Meeting to address amendments to the common issues defined in the Certification Order, if any, which arise from the questioning

process. The Representative Plaintiff proposes that this meeting occur within thirty (30) days of the resolution of objections.

EXCHANGE OF EXPERT REPORTS

18. The Representative Plaintiff anticipates that expert reports may be provided by some or all of the parties, and the Representative Plaintiff proposes that expert reports be exchanged in accordance with the sequence outlined in Rule 5.35 of the *Alberta Rules of Court*. Specifically, the Representative Plaintiff proposes that:
 - a. primary reports be due within thirty (30) days of the completion of any amendments to the common issues;
 - b. rebuttal reports due within thirty (30) days of the deadline for service of primary reports; and
 - c. surrebuttal reports due within thirty (30) days of the deadline for rebuttal reports.

ALTERNATIVE DISPUTE RESOLUTION

19. The Representative Plaintiff and the Defendants shall consider alternative dispute resolution, from time to time, and may discuss and agree upon the format of such a process.
20. If the parties participate in alternative dispute resolution, and if the parties reach a proposed settlement of the Action, which the Court approves, this Litigation Plan will require amendment.

TRIAL OR SUMMARY JUDGMENT ON THE COMMON ISSUES

21. If appropriate, the Representative Plaintiff may seek summary judgment on one or more of the common issues at any time after the exchange of Affidavits of Records.
22. If the Representative Plaintiff does not seek summary judgment on the common issues, or if any common issues remain following an application for summary judgment, the Representative Plaintiff will seek to have the common issues trial set down.
23. The Representative Plaintiff anticipates that the common issues trial will take no more than thirty (30) days (the “**Common Issues Trial**”).
24. Following the Common Issues Trial, the Representative Plaintiff will ask the Court to:
 - a. settle the form and content of a notice of resolution of the common issues (the “**Notice of Resolution**”); and
 - b. order that the Notice of Resolution be distributed substantially in accordance with the method for the Notice, except that the Notice of Resolution shall not be delivered to any Class Member who opted-out of the proceedings.

RESOLUTION OF ANY REMAINING INDIVIDUAL ISSUES

25. The Representative Plaintiff anticipates that the Common Issues Trial will resolve all core liability issues, and that the only individual issues that will remain, if any, will relate to damages or remedies.
26. The Representative Plaintiff anticipates seeking an aggregate award of monetary relief at the Common Issues Trial, and, if awarded, Class Counsel will request that the Court approve and order the distribution of the aggregate award amongst Class Members in the appropriate proportions. The methodology for distributing the aggregate award would be worked out between Class Counsel, a claims administrator, and any experts retained by Class Counsel for that purpose, subject to Court approval.
27. In the event that the Representative Plaintiff is successful at the common issues stage in respect of liability, but an aggregate award of monetary relief is not granted, it is proposed that a Case Management Conference be convened before this Honourable Court to determine the most efficient and practical means of determining the individual issues which remain to be resolved, including damages or remedies.
28. In the further event of punitive or exemplary damages being awarded, Class Counsel request this Honourable Court to determine the manner in which such damages ought to be distributed to the Class.

CLASS COUNSEL'S FEES AND THE COSTS OF ADMINISTRATION

29. The Representative Plaintiff, together with other members of the Class, have formed 2052227 Alberta Ltd. ("227") as a litigation funding vehicle for this Action, and which is paying the Representative Plaintiff's legal costs. On May 7, 2020, the Honourable Associate Chief Justice J.D. Rooke granted an Order, among other things, approving 227 as a litigation funding vehicle for this class proceeding.
30. The Representative Plaintiff will ask the Court to order that the Defendants pay all of the Plaintiff's legal costs and any administration costs for this Action.

CASE MANAGEMENT

31. It is proposed that the parties appear before the Case Management Justice for case management meetings as may be required to implement this Litigation Plan and to resolve any issues that may arise.

SCHEDULE SUMMARY

32. The following is a summary of the proposed schedule from the filing Certification Order to the final resolution of this action. This summary schedule is subject to modification by the agreement of the parties, or by further order or direction of the Court.

STEP	DAYS ALLOTTED FOR COMPLETION
Filing of Certification Order	0
Notification to Class	45
Request for Particulars	15
Response to Request for Particulars	15
Resolution of Issues from Request for Particulars	30
Statements of Defence	30
Replies to Statements of Defence	30
Parties to agree to Document Production Protocol	30
Document Production by the Representative Plaintiff	30
Document Production by the Defendants	30
Initial Questioning Completed	60
Undertakings Responses	30
Questioning on Undertakings	30
Issues Arising from Questioning (if any)	30
Amendments to Common Issues (if any)	30
Expert Reports (if required) — Primary	30
Expert Reports (if required) — Rebuttal	60
Expert Reports (if required) — Surrebuttal	30
Common Issues Trial	As scheduled by the Court
Individual Issues Trial	As scheduled by the Court