

**ONTARIO
SUPERIOR COURT OF JUSTICE**

**THE HONOURABLE MR.
JUSTICE CAMPBELL**

)
) *MON* DAY, the *8th* day of *JANUARY, 2007* *AKO.*
~~DECEMBER, 2006~~

BETWEEN:

**CHARMAINE SIU MAN LAU
and PETER KONG**

Plaintiffs

and

**BAYVIEW LANDMARK INC., HENRY LAM and LINDA LAM,
JEFFREY BEBER and LEVITT, BEBER,
KITMAN DEVELOPMENTS INC., LIVING REALTY INC.,
and LIVING REALTY (H.K.) LIMITED**

Defendants

PROCEEDINGS COMMENCED UNDER THE *CLASS PROCEEDINGS ACT*

ORDER

THIS MOTION made by the proposed representative Plaintiffs, for an Order approving the settlement of this action, was heard this day.

ON READING the Affidavit of Keith M. Landy, and Minutes of Settlement, filed, and on hearing submissions of counsel for the Plaintiffs and counsel for the Defendants, Henry Lam and Linda Lam acting and appearing in person,

1. **THIS COURT DECLARES** that the Settlement set forth in the Minutes of Settlement attached hereto as Schedule A to this Order, is fair, reasonable and in the best interests of the members of the Class.

2. **THIS COURT ORDERS** that the Settlement is approved pursuant to Section 29 of *The Class Proceedings Act*, 1992.

3. **THIS COURT DECLARES** that each Class Member, his or her heirs, administrators, successors, executors, servants, legal representatives and assigns or their respective past, present parents, subsidiaries and related or affiliated entities, employees, agents, officers, directors, shareholders, partners, attorneys, insurers, representatives, executors, administrators, predecessors, successors, transferees and assigns have released and shall be conclusively deemed to have **fully, finally and forever released** the Defendants, and each of their respective employees, agents, officers, directors, shareholders, partners, principals, members, attorneys, insurers, subrogees, representatives, executors, administrators, predecessors, successors, heirs, transferees and assigns from any and all actions, causes of action, common law and statutory liabilities, contracts, claims of negligence, claims of negligent misrepresentation, claims of fiduciary duty, claims for equitable relief, claims and demands of every nature or kind, available, asserted or which could have been asserted, that were certified as common issues or that were not certified as common issues pursuant to the *Class Proceedings Act*, whether known or unknown, including for damages, contribution, indemnity, costs, expenses and interest, which they ever had,

now have or may hereafter have, directly or indirectly, or in any way relating to or arising, directly or indirectly, by way of any subrogated or assigned right or otherwise or in any way relating to or arising from the allegations and all subject matters which were or could have been raised in the Statement of Claim in this action.

4. **THIS COURT ORDERS AND ADJUDGES** that all crossclaims in this action be and the same are hereby dismissed without costs.

5. **THIS COURT DECLARES** that the Minutes of Settlement in its entirety, forms part of this Order and is binding upon all of the Defendants, the Representative Plaintiffs, and upon all members of the Class.

6. **THIS COURT ORDERS** that all fees, disbursements and GST payable to Landy, Marr LLP, and Himelfarb, Proszanski, as set out in the Affidavit of Keith M. Landy, sworn on December, 19th, 2006, ("the fees") are hereby approved.

7. **THIS COURT ORDERS** that the Defendants, Living Realty Inc., Levitt, Beber, Linda Lam and Henry Lam shall pay the monies set forth in the Minutes of Settlement ("the settlement monies").

8. THIS COURT DECLARES that the settlement monies and the fees are to be paid to the Plaintiffs' solicitors Landy Marr LLP, and that the settlement monies are to be distributed by Landy Marr LLP and Himelfarb, Proszanski to the Members of the Plaintiff Class, in accordance with the schedule to be prepared by Jim Muccilli, as attached hereto as Schedule B to this Order.

9. THIS COURT ORDERS that Notification to the Class Members shall be as follows:

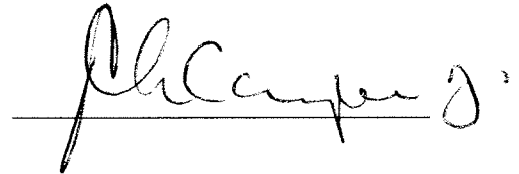
- i) Notification shall be published in the following newspapers:
 - a) Toronto Star
 - b) Ming Pao Daily News or Sing Tao Newspaper
 - c) a local Hong Kong newspaper
- ii) published on the Landy Marr LLP website;
- iii) by ordinary and registered mail to the last known addresses of the 133 unit purchasers who are the Class Members

10. THIS COURT ORDERS that if Class Members have not contacted Landy Marr LLP, by June 30th, 2007, the settlement monies not paid to these purchasers, shall be paid to the remaining Class Plaintiffs on a pro-rata basis, provided the payments do not exceed 100%. Any sums beyond 100% of recovery shall be returned on a pro-rata basis to the Defendants Living Realty Inc., Levitt & Beber and Henry Lam and Linda Lam.

11. THIS COURT ORDERS AND ADJUDGES that no part of this settlement, in any way, prevents Living Realty Inc. from continuing with its Third Party Claim and further

ORDERS AND ADJUDGES that the settlement of the main action does not affect any of the rights of Living Realty Inc in its Third Party Claim.

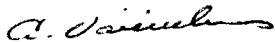
12. THIS COURT ORDERS AND ADJUDGES that the entire action including all claims raised in the Statement of Claim, that were certified as common issues or that were not certified as common issues pursuant to the *Class Proceedings Act*, be and are hereby dismissed against all Defendants without costs, and with prejudice.

A handwritten signature in cursive script, appearing to read "Phil Campbell", is written over a horizontal line.

S:\Maggie\Bayview Landmark Developments Action\Settlement\Order - Settlement. Doc.Doc

ENTERED AT / INSCRIT À TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO.:

JAN 09 2007

AS DOCUMENT NO.:
À TITRE DE DOCUMENT NO.:
PER / PAR: 

**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N:

CHARMAINE SIU MAN LAU
and PETER KONG

Plaintiffs

and

BAYVIEW LANDMARK INC., HENRY LAM and LINDA LAM,
JEFFREY BEBER and LEVITT, BEBER,
KITMAN DEVELOPMENTS INC., LIVING REALTY INC.,
and LIVING REALTY (H.K.) LIMITED

Defendants

PROCEEDINGS COMMENCED UNDER THE *CLASS PROCEEDINGS ACT*

MINUTES OF SETTLEMENT

WHEREAS, the Parties wish to finally settle the above-noted action:

AND WHEREAS, this Agreement was reached after arms-length negotiations between counsel and Henry Lam and Linda Lam personally, taking into account the expense of further proceedings, the strengths and weaknesses of the Plaintiffs' claims and defenses thereto, and other relevant and appropriate factors; and

AND WHEREAS, Class Counsel Landy Marr LLP and Himelfarb Proszanski believe that the settlement is fair, reasonable, and adequate, and in the best interests of the Class members:

THE PARTIES agree to settle the action on the following terms:

- 1) The total settlement payable in all the actions shall be \$3,200,000.00, inclusive of claim, interest and costs (\$2,700,000 for claim and interest, and \$500,000.00 for party and party (partial indemnity) costs);
- 2) The said sum of \$3,200,000.00 shall be paid on or before December 30th, 2006 to Landy Marr LLP, in trust, by the following parties in the following amounts:
 - i) \$650,000.00 by Living Realty Inc. ("Living Realty");
 - ii) \$2,450,000.00 by Levitt, Beber; and
 - iii) \$100,000.00 (certified cheque or bank draft) from Henry Lam and Linda Lam;
- 3) Plaintiffs' counsel shall receive fees, GST and disbursements as approved by the Court;
- 4) The Class members in the Class Action shall receive their pro-rata distribution of the remaining proceeds of settlement, that being their share of monies available after payment of Plaintiffs' counsel fees, disbursements and GST as approved by the Court. The pro-rata amount shall be determined by Landy Marr LLP and Himelfarb Proszanski with the assistance of Jim Muccilli, C.A., utilizing the individual amounts of deposits

as a percentage of the total deposits paid by the Class members as disclosed by the Muccilli Report served in the action;

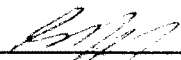
- 5) If any member of the Class fails to claim his/her portion of the settlement proceeds, the undistributed monies shall be paid to the remaining Class members on a pro-rata basis after further Court order approving the payment, provided that the amount received by individual class members does not exceed 100 % of their claims. Any excess sums beyond 100 % of recovery shall be returned on a pro-rata basis to Living Realty and Levitt & Beber, and Henry Lam and Linda Lam;
- 6) This settlement is conditional on Court approval. The settlement monies shall not be released from trust until the Court has approved the settlement. After approval of the settlement and the Plaintiffs' solicitors fees, these monies may be immediately released from trust to pay the Plaintiffs and their solicitors;
- 7) The parties agree to prepare and file motions for approval of the Settlement as soon as practicable. The parties agree to use their best efforts to obtain the approvals of the Courts in accordance with applicable rules, although this does not require any party to agree to amend this Agreement. The parties agree that any proposed order, findings, or judgment submitted to the Courts in connection with this Settlement shall be in a form reasonably satisfactory to counsel;

- 8) The parties consent to an Order in the form attached hereto as schedule "A" to these minutes of settlement;
- 9) The parties consent to an Order dismissing the entire action, including all claims raised in the Statement of Claim, without costs;
- 10) The parties consent to an Order dismissing all crossclaims in the action, without costs.
- 11) Provided that Henry Lam, Linda Lam and Kam Sang Company Inc., consent to the dismissal, without costs, of the Kingsland actions as defined, Levitt, Beber agrees to provide a full and final release for Henry Lam, Linda Lam and KAM SANG COMPANY INC, in all matters, all claims and potential claims of any kind, including but not limited to, fraud or breach of trust, and including all Levitt, Beber claims in this action, and including all claims in 00-CV-195957CP, 00-CV-195957CPA, 97-CV-138971, 97-CV-138971A, 50928/98, and 53723/99 ("Kingsland actions"), and agree to dismiss all claims in the Kingsland actions on a without cost basis; and
- 12) The settlement contemplated in these Minutes of Settlement does not affect the rights of Living Realty Inc, in any fashion whatsoever, to proceed or continue its Third Party Claim.

13) Miscellaneous Provisions

- i) The parties shall co-operate, assist, and undertake all reasonable actions in order to accomplish the above on a timely basis.
- ii) The Court shall retain exclusive and continuing jurisdiction over the Class Action and all parties named or described herein, including all Class members and over this Agreement, and to interpret and enforce this Agreement, its terms, conditions and obligations.
- iii) This Agreement constitutes the entire agreement by and among the parties with regard to the subject of this Agreement and shall supersede any previous Agreements and understandings between the parties with respect to the subject matter of this Agreement. This Agreement may not be modified or amended except in writing signed by all parties and subject to the Court's approval.
- iv) This Agreement may be executed in one or more counterparts, each of which will be deemed an original but all of which together shall constitute one and the same instrument.
- v) This Agreement is a compromise of disputed claims and it may not be construed or deemed to be an admission of any claim or allegation or any liability or wrongdoing of any kind by any party hereto, such claims and liability being expressly denied.
- vi) The parties acknowledge that they have required that this Settlement Agreement and all related documents be prepared in English.

Dated at Toronto, this day of December, 2006

 _____ Samuel S. Marr	 _____ Richard Quance
on behalf of the law firm of Landy Marr LLP and the law firm of Himelfarb, Proszanski, on behalf of the Plaintiffs	

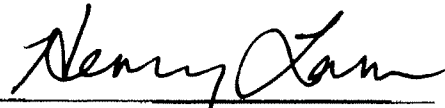
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- ii) The Court shall retain exclusive and continuing jurisdiction over the Class Action and all parties named or described herein, including all Class members and over this Agreement, and to interpret and enforce this Agreement, its terms, conditions and obligations.
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- vi) The parties acknowledge that they have required that this Settlement Agreement and all related documents be prepared in English.

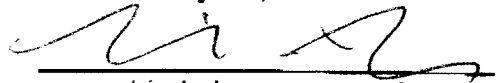
Dated at Toronto, this

day of December, 2006

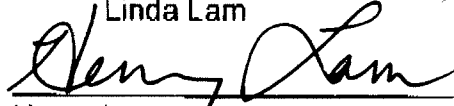
Samuel S. Marr
Richard Quanceon behalf of the law firm of
Landy Marr LLP and the law firm of
Himelfarb, Proszanski, on behalf of the
Plaintiffs



Henry Lam



Linda Lam



Henry Lam on behalf BAYVIEW
LANDMARK Inc. and KITMAN
DEVELOPMENTS INC

(I have authority to bind the corporations)

W.A. Kelly, Q.C., Barristers, on behalf of
the Defendants Jeffrey P. Beber and
Levitt, Beber in this action and in the
Kingsland actions

Chris Stribopoulos
of the law firm of O'DONNELL,
ROBERTSON & SANFILIPPO
on behalf of the Defendant Living Realty
Inc.

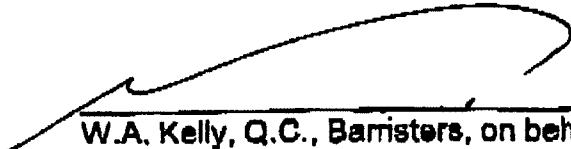
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Henry Lam

Linda Lam

Henry Lam on behalf BAYVIEW
LANDMARK Inc. and KITMAN
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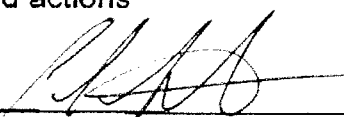
Henry Lam

Linda Lam

Henry Lam on behalf BAYVIEW
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Kingsland actions



Chris Stribopoulos
of the law firm of O'DONNELL,
ROBERTSON & SANFILIPPO
on behalf of the Defendant Living Realty
Inc.

SCHEDULE "B"

Bayview Landmark Inc. - Pro-Rata Distribution of Proceeds (Net of Legal Fees and Disbursements) of \$2,097,600

UNIT #s	NAME OF PURCHASER	Total Unit Deposit	Pro-Rata Share of Total %	Share of \$2,097,600 Net Proceeds
1	Danny K.C. Chan	101,580	1.71%	35,934
2	Danny K.C. Chan	89,940	1.52%	31,817
3	Wan-Hing Fung	89,940	1.52%	31,817
5, 6 and 7	Amouyal Services	243,540	4.11%	86,153
8, 9, 10, 11, 12, 13, & 15	Ronald Lee	160,000	2.70%	56,601
16	Yin Ping Luk / Hing Lung Cheung	44,280	0.75%	15,664
17, 20, 57, 81, and 113	William Sani Investment Ltd.	107,460	1.81%	38,014
18, 56, 59, 82, & 110	A. Sonu's Investment Ltd.	126,048	2.13%	44,590
19	Yin Ping Luk / Hing Lung Cheung	31,440	0.53%	11,122
21	Yin Ping Luk / Hing Lung Cheung	43,410	0.73%	15,356
22	Sau Yuen Connie Wong	42,300	0.71%	14,964
23	Shek Hung Chan	24,960	0.42%	8,830
25	Irene Fok in Trust	38,460	0.65%	13,605
26	Alice Ho	47,400	0.80%	16,768
27	Wat Fung Wan in Trust	37,890	0.64%	13,404
28	Tam Yuet Foon Lai	55,710	0.94%	19,708
29	Alan Sit	32,700	0.55%	11,568
30	Kwai Fong Ma	32,940	0.56%	11,653
31	Kwong Sang WAT	54,660	0.92%	19,336
32	John Lam in Trust	68,280	1.15%	24,154
33	Wai Choi	41,070	0.69%	14,529
35	Wayne S. W. Ma	37,890	0.64%	13,404
36	Shum Ping and Ha Kim Ping	48,030	0.81%	16,991
37	Po Lin Khan	44,070	0.74%	15,590
38	Stella Lau	41,460	0.70%	14,667
39	Chea-Boo Koh	50,610	0.85%	17,903
50	Kwon-Man Chiu	43,110	0.73%	15,250
51	Danny Seto - in Trust	42,900	0.72%	15,176
55	Danny Seto - in Trust	36,600	0.62%	12,947
60	Yu-Kwan Chan - in Trust	24,300	0.41%	8,596
61	Yu-Kwan Chan - in Trust	42,630	0.72%	15,081
62	568314 Ontario Limited	42,660	0.72%	15,091
63	568314 Ontario Limited	42,660	0.72%	15,091
65	Mae King Sze	44,430	0.75%	15,717
66	Hing Fat Tsui and Lung Shun Tsui in Trust	49,440	0.83%	17,490
68	Belinda Chung in Trust	48,030	0.81%	16,991
70	Helina Koo in Trust	48,030	0.81%	16,991
71	Hing Fat Tsui and Lung Shun Tsui in Trust	48,750	0.82%	17,246
72	Chun Chi Tse In Trust	37,890	0.64%	13,404
73	So Kow Shum	40,290	0.68%	14,253
75	Vickie Y W. Fung & Yiu Kwan SIT	40,290	0.68%	14,253

Bayview Landmark Inc. - Pro-Rata Distribution of Proceeds (Net of Legal Fees and Disbursements) of \$2,097,600

UNIT #s	NAME OF PURCHASER	Total Unit Deposit	Pro-Rata Share of Total %	Share of \$2,097,600 Net Proceeds
76	Wilson LEUNG In Trust	41,220	0.70%	14,582
77	Michael CHEUNG	34,490	0.58%	12,201
78	Chandra SARDANA in trust of Sunder BHAGNARI	32,070	0.54%	11,345
79	Chandra SARDANA in trust of Sunder BHAGNARI	32,070	0.54%	11,345
80	Emilie WONG, In Trust	32,970	0.56%	11,663
83	Jenny SETO, In Trust	29,820	0.50%	10,549
85	So Kow SHUM	14,940	0.25%	5,285
86A	Chu Chung CHEUNG, In Trust	68,400	1.15%	24,197
86B	Chu Chung CHEUNG, In Trust	68,400	1.15%	24,197
86C	Guo Ling LI	68,400	1.15%	24,197
86D	Yuk Wah MA	68,400	1.15%	24,197
86E	Lynn CHEONG, In Trust	68,400	1.15%	24,197
86F	Chu Chung CHEUNG, In Trust	69,900	1.18%	24,727
86G	Lin Wei YEUNG	68,400	1.15%	24,197
86H	Shek Hung CHAN In Trust	68,400	1.15%	24,197
86J	Angela LAU	68,400	1.15%	24,197
86K	Alan SIT	68,400	1.15%	24,197
86L	Chris CHEUNG	68,400	1.15%	24,197
K87	Joseph NG, In Trust	14,940	0.25%	5,285
88	King-Kwok WONG	28,820	0.49%	10,195
89	Kwok Hung CHENG & Lai Chu YEUNG	29,820	0.50%	10,549
90	Kang Por LIU	30,390	0.51%	10,751
91	Jason LIU, In Trust	33,960	0.57%	12,013
92	Charmaine Siu Man LAU	33,060	0.56%	11,695
93	Charmaine Siu Man LAU	33,060	0.56%	11,695
95	Heui Ling CHAO, In Trust	33,450	0.56%	11,833
96	Hsien-Tsan LIANG	41,790	0.70%	14,783
97	Hsien-Tsan LIANG	40,890	0.69%	14,465
98	Yuen Ching TAM	40,890	0.69%	14,465
99	Shum PING & Ha Kim PING	38,460	0.65%	13,605
100	Jett FUNG, In Trust	48,750	0.82%	17,246
101	Henry WAI, In Trust	48,750	0.82%	17,246
102	Esther WAI, In Trust	48,750	0.82%	17,246
103	Jett FUNG, In Trust	49,440	0.83%	17,490
105	Mei King SZE & Kin Fong CHAN	44,430	0.75%	15,717
106	Judy LIN, In Trust	42,660	0.72%	15,091
107	Stephen KOO	49,770	0.84%	17,606
108	Yu-Kwan CHAN In Trust	42,630	0.72%	15,081
109	Oi Ling CHAN	24,840	0.42%	8,787
111	Sai Man YUEN & Lin Kit Wah YUEN	24,300	0.41%	8,596

Bayview Landmark Inc. - Pro-Rata Distribution of Proceeds (Net of Legal Fees and Disbursements) of \$2,097,600

UNIT #s	NAME OF PURCHASER	Total Unit Deposit	Pro-Rata Share of Total %	Share of \$2,097,600 Net Proceeds
112	Sai Man YUEN & Lin Kit Wah YUEN	24,960	0.42%	8,830
115	Pao Chuan KO & Lin Chuan KO	28,080	0.47%	9,933
116	Cho Yau LEUNG, In Trust	39,840	0.67%	14,094
117	Chok Sun LIU	46,560	0.79%	16,471
118	Wai-Ping LO	41,580	0.70%	14,709
119	Stanley YOUNG	52,200	0.88%	18,466
120	Leung Ki NG	41,460	0.70%	14,667
121	Wai-Ping TUNG	44,070	0.74%	15,590
122	Sui Hong FAN, In Trust	48,030	0.81%	16,991
123	Christina LAM	37,890	0.64%	13,404
125	Lai Kam FAN, In Trust	41,040	0.69%	14,518
126	Bun-Ming LIEM, In Trust	65,970	1.11%	23,337
127	Peter CHAN, In Trust	54,660	0.92%	19,336
128 & 129	Valerie FONG	65,670	1.11%	23,231
130	Peter CHAN, In Trust	55,710	0.94%	19,708
131	William Wai Lam AU & Mi-Fong LEUNG	37,890	0.64%	13,404
132	Susanna Yin Sheung SZETO & Raymond Wah SZETO	47,400	0.80%	16,768
133	Peter K.W. KONG & Helen H.L. YUEN, In Trust	38,460	0.65%	13,605
135	Lai-Chun LIU	24,960	0.42%	8,830
136	Alice W.H. CHEUNG In Trust of Gary H.H. LAM	42,870	0.72%	15,165
137	Kui To LAI	43,980	0.74%	15,558
138	Lai-Wan WAT, In Trust	31,860	0.54%	11,271
139	Alice YUNG	31,860	0.54%	11,271
150	Wai Hing YEUNG, In Trust	44,880	0.76%	15,876
151	Michael WONG, In Trust	46,312	0.78%	16,383
155	Michael WONG, In Trust	85,986	1.45%	30,418
156	1044711 Ontario Inc.	83,554	1.41%	29,557
157	1044711 Ontario Inc.	83,554	1.41%	29,557
159	Po-Ling LAW	86,520	1.46%	30,607
160	Hok Leung KWAN	109,250	1.84%	38,648
161	Hok Leung KWAN	38,680	0.65%	13,683
162	Lin Wei YEUNG	58,020	0.98%	20,525
170	Yuk Yan MA	101,580	1.71%	35,934
171	Cisy LEE	20,400	0.34%	7,217
172	Valerie FONG	20,400	0.34%	7,217
TOTAL		5,929,543	100.00%	2,097,600

CHARMAINE SIU MAN LAU et al

and

BAYVIEW LANDMARK INC. et al

Court File No. 96-CU-113906

out

SUPERIOR COURT OF JUSTICE

PROCEEDING COMMENCED AT TORONTO

ORDER

LANDY, MARR LLP
Barristers & Solicitors
Suite 900
2 Sheppard Avenue East
Toronto, Ontario
M2N 5Y7

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Samuel S. Marr (28544M)
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Richard P. Quance
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Richard P. Quance
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Solicitors for the Plaintiffs