

## **Frequently Asked Questions and Answers** **Regarding Deposit Return Procedure Order**

On June 14, 2018, the Ontario Superior Court of Justice (the “**Court**”) issued a Deposit Return Procedure Order (the “**Deposit Return Procedure Order**”) in respect of Tarn Construction Corporation (“**Tarn Construction**”). Pursuant to the Deposit Return Procedure Order, the Court approved and established a process for returning Proven Deposits paid to Tarn Construction by Purchasers of proposed condominium units in the contemplated residential condominium development located at 2035 Kennedy Road, Toronto, known as ‘The Kennedys’ pursuant to agreements of purchase and sale entered into with Tarn Construction (the “**APSs**”).

These Frequently Asked Questions and Answers have been prepared for assistance only and should be read in conjunction with the Deposit Return Procedure Order that is located on KPMG’s website at [www.kpmg.com/ca/tarn](http://www.kpmg.com/ca/tarn) (the “**Website**”). All capitalized terms in this document have the same meaning given to them in the Deposit Return Procedure Order unless otherwise defined herein.

### **1. What is the Deposit Return Procedure?**

The Deposit Return Procedure is a Court approved process that allows KPMG to return the Proven Deposits made by Purchasers that have entered into an APS with Tarn Construction upon termination of the APS.

### **2. What if I have an upcoming Deposit payment to be made under my APS?**

Given that the Receiver will be terminating the APSs, the Deposit Return Procedure Order provides that Purchasers are no longer required to make Additional Deposits under their APSs. In the event that a cheque for an Additional Deposit is received by the Deposit Trustee or the Receiver from and after the date of the Deposit Return Procedure Order, the cheque will be returned to the Purchaser as soon as practicable.

### **3. Will I receive interest on my Proven Deposit?**

No. The Deposit Return Procedure Order confirms that interest is not payable on the Proven Deposits pursuant to the *Condominium Act* and its regulations.

Section 82 of the *Condominium Act* provides that if a Purchaser is entitled to a return of money paid under an APS upon termination and the APS is terminated, then Tarn Construction shall pay interest at the prescribed rate to the Purchaser on the money returned. However, the prescribed rate of interest under the regulations is calculated at two per cent per annum below the bank rate and the bank rate has been below two per cent during the entire period that the Deposit Trustee has held the Deposits such that no interest is payable on the Proven Deposits.

**4. What is a Deposit Return Package and what does it include?**

The Deposit Return Package includes the information required for Purchasers to receive a cheque in the amount of their Proven Deposits. The Deposit Return Package consists of: (a) Fifth Communication to Purchasers; (b) two copies of the Release Agreement; (c) two copies of the Certificate of Identity per Purchaser; and (d) a deposit return checklist; and (e) these Frequently Asked Questions and Answers regarding the Deposit Return Procedure.

**5. Who will receive a Deposit Return Package from KPMG?**

Any Purchaser who has Proven Deposits with Bennett Jones LLP, the Deposit Trustee, as determined pursuant to the Deposit Confirmation Procedure and the Disputed Deposits Resolution Procedure.

**6. When will Purchasers receive a Deposit Return Package?**

KPMG will send a Deposit Return Package to all Purchasers who have Proven Deposits by Thursday June 21, 2018. The Deposit Return Package will be mailed out to Purchasers from Toronto, Ontario and will include each Purchaser's customized Release Agreement and Certificate of Identity. You should receive your Deposit Return Package by the first week of July 2018.

**7. What should you do if you are a Purchaser and you did not receive a Deposit Return Package?**

Deposit Return Packages are being mailed out to Purchasers, with Proven Deposits, by KPMG by June 21, 2018. If you are a Purchaser and you do not receive a Deposit Return Package by July 6, 2018, you can either contact KPMG by email at [tarn@kpmg.ca](mailto:tarn@kpmg.ca) or phone at 1-855-222-8083 to request your Deposit Return Package be resent or you can download blank forms of the Deposit Return Package from the Website at [www.kpmg.com/ca/tarn](http://www.kpmg.com/ca/tarn).

**8. What is required to have Proven Deposits returned to Purchasers?**

In order for a Purchaser(s) to receive their Proven Deposits, each Purchaser must deliver to the Receiver (a) an executed Release Agreement (executed by each Purchaser named in the APS); and (b) a properly completed Certificate of Identity attaching **copies** of **two** pieces of current (and not expired) government issued identification (one of which must include a photo of the Purchaser and one of which must include the Purchaser's address) from each Purchaser named in the APS.

Once the Receiver has reviewed your documentation and confirmed that the Release Agreement and Certificate of Identity for each Purchaser have been properly filled out and executed, the Receiver will terminate the Purchaser's APS in accordance with its terms and deliver a cheque to the Purchaser in the

amount of their Proven Deposit.

**9. What if the APS is in the name of more than one Purchaser?**

To the extent that an APS is in the name of more than one Purchaser, **each Purchaser** named in the APS must sign the Release Agreement and each Purchaser must deliver their own Certificate of Identity attaching **copies** of **two** pieces of government issued identification.

**10. How can Purchasers obtain their Proven Deposit from the Receiver?**

Purchasers have two options to obtain their Proven Deposits:

1. Attend, at your own expense, at the former condominium sales office located at the Delta Toronto East Hotel at 2035 Kennedy Road between the hours of **8:30 a.m. and 8:30 p.m. on Wednesday July 11, 2018 or Saturday July 14, 2018.**
2. If you cannot attend in person, you may deliver your executed Release Agreement and Certificate of Identity attaching **copies** of **two** pieces of government issued identification by sending it by regular mail, courier, email or facsimile to the following:

KPMG Inc.,  
In its capacity as court-appointed Receiver  
of Tarn Construction Corporation  
333 Bay Street, Suite 4600  
Toronto, Ontario, M5H 2S5

Attention: Marcel Réthoré  
Fax: 416-777-3364  
E-mail: [tarn@kpmg.ca](mailto:tarn@kpmg.ca)

The Receiver will review the Purchaser's documentation received to ensure it has been properly filled out and executed and once this has been confirmed then it will deliver a cheque to the Purchaser in the amount of the Purchaser's Proven Deposit.

**11. Can I receive my Proven Deposits in another form of payment (wire, cash, e-transfer, etc.)?**

The Receiver will be returning all Proven Deposits via cheque either in person on July 11, 2018 or July 14, 2018 or via regular mail, with no exceptions.

**12. What if the APS is in the name of more than one Purchaser, can the cheque be made out to one Purchaser instead of both?**

If the APS is in the name of more than one Purchaser, then the Receiver will address the cheque in the name of both Purchasers, with no exceptions.

**13. What if I try to pick up my cheque without all the required documents?**

Purchasers that attend in person with incomplete or unsatisfactory Release Agreements, Certificates of Identity and/or without copies of the appropriate identification will **not** be provided with a cheque for their Proven Deposits.

Purchasers will be required to fill in all documents to the satisfaction of the Receiver prior to receiving their cheque for their Proven Deposits. If a Purchaser does not have the necessary documentation, they will have to leave in order to obtain the necessary documents and either return, at their own expense, on July 11, 2018 or July 14, 2018 or to send their documents to the Receiver by regular mail, courier, email or facsimile.

**14. What are valid forms of government issued identification?**

Government issued photo identification that is valid, current and not-expired, that has the first name and surname that matches the first name and surname of the Purchaser as contained in the APS. Valid forms of government issued identification can include the following:

- Canadian passport;
- Military ID;
- Driver's license that is issued by a province or territory or the equivalent abroad;
- Certificate of Indian Status;
- Foreign passport that contains name, surname, date of birth, signature, sex, and photo of Purchaser;
- Non-driver's license issued by a province or territory;
- Canadian health card;
- Social insurance card;
- ID card issued by the federal, provincial or territorial government; or
- Employee identification issued by the federal, provincial or territorial government.

One of the two forms of ID must contain the Purchaser's address that matches the address on their APS or on file with Tarn Construction.