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COURT FILE NUMBER 2101-00793

COURT QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE CALGARY

APPLICANT THOMAS H. FERGUSON

RESPONDENT ALI TEJPAR, ZAHRA TEJPAR, REGISTRAR OF TITLES for the  
LAND TITLES OFFICE, JOHN DOE, JANE DOE, ABC  
CORPORATION

DOCUMENT **DESK APPLICATION**

ADDRESS FOR SERVICE **Curtis E. Marble**  
AND CONTACT Carbert Waite LLP  
INFORMATION OF 2300 Encor Place, 645 – 7th Avenue SW  
PARTY FILING THIS Calgary, Alberta T2P 4G8  
DOCUMENT Phone: 403.705.3642  
Fax: 403.263.5553  
File: 120632.001

### **NOTICE TO RESPONDENT: WITHOUT NOTICE**

This application is made against you. You are a respondent.

You have the right to state your side of this matter before the master.

To do so, you must be in Court when the application is heard as shown below:

Date:

Time:

Where: Desk Application

Before Whom: Master in Chambers

Go to the end of this document to see what else you can do and when you must do it.

### **Remedy claimed or sought:**

1. A Master's signature on the Order that has been signed by counsel for both parties which:
  - (a) Allows for filing of the Amended Application and the Amended Cross-Application;
  - (b) Deems delivery of the letter to the address for service on the Certificate of Title of the relevant properties affected by the caveat at issue in the within action by hand delivery, as set out in the Affidavit of Service of Hugoline Morton, filed July 5, 2021,

or by courier, as set out in the Affidavit of Penny McConnell, filed July 5, 2021, good and sufficient notice of the Application and the Cross-Application; and

- (c) Allows for service of the Amended Application and Amended Cross-Application in the manner set out above, deeming such delivery as good and sufficient notice of the Amended Application and Amended Cross-Application five days after delivery of such letter.

- 2. Such further relief as this Honourable Court deems just.

**Grounds for making this application:**

- 3. The Applicant Thomas H. Ferguson has brought an Application for a permanent injunction which, among other things, seeks to enforce the terms of a caveat which prohibits subdivision and construction of multiple dwellings on a lot against which the caveat is registered.
- 4. The Cross-Applicants Ali Tejpar and Zahra Tejpar have brought a Cross-Application which, among other things, seeks a declaration that the caveat has no binding effect on lands which they own.
- 5. The Application and Cross-Application are set to be heard concurrently in a full-day special that is scheduled for July 23, 2021.
- 6. The Applicant and Cross-Applicants wish to amend their respective Application and Cross-Application. The parties have exchanged proposed amendments, and consent to filing of the Amended Application and Amended Cross-Application as attached to the Consent Order as Schedule "A" and Schedule "B", respectively.
- 7. The owners of properties affected by the caveat at issue in these proceedings are entitled to notice of legal action which seeks to enforce or discharge the Caveat. Personal service of all filed materials on each potentially affected property owner is not feasible.
- 8. The Applicant and Cross-Applicants submit that sufficient notice of the proceedings is achieved through courier or personal delivery of a letter to the address for service on the Certificate of Title of the relevant properties affected by the caveat at issue. This letter includes a link to electronic copies of the materials and provides a contact person for those who cannot access the materials electronically. Details of courier and personal delivery are included in the following Affidavits, which are submitted with this Desk Application:
  - (a) Affidavit of Hugoline Morton, filed July 5, 2021;
  - (b) Affidavit of Penny McConnell, filed July 5, 2021;
  - (c) Affidavit of Hugoline Morton, filed July 5, 2021;
  - (d) Two Affidavits of Penny McConnell, sworn July 8, 2021 and to be filed; and
  - (e) Affidavit of Guan Jianqi, sworn July 9, 2021.

**Material or evidence to be relied on:**

9. The Consent Order submitted with this Application.
10. Affidavit of Penny McConnell, filed July 5, 2021.
11. Affidavit of Hugoline Morton, filed July 5, 2021.
12. Affidavits of Penny McConnell, sworn July 8, 2021.
13. Affidavit of Guan Jianqi, sworn July 9, 2021.

**Applicable rules:**

14. Rule 1.4 of the *Alberta Rules of Court*, AR 124/2010.

**Applicable Acts and Regulations:**

15. None.

**Any irregularity complained or objection relied on:**

16. None.

**How the application is proposed to be heard or considered:**

17. Without notice and with consent, by way of Desk Application.

**WARNING**

If you do not come to Court either in person or by your lawyer, the Court may give the applicant(s) what they want in your absence. You will be bound by any order that the Court makes.

If you want to take part in this application, you or your lawyer must attend in Court on the date and at the time shown at the beginning of the form. If you intend to rely on an affidavit or other evidence when the application is heard or considered, you must reply by giving reasonable notice of the material to the applicant.