



**ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)**

THE HONOURABLE) **WEDNESDAY, THE 6th DAY**
)
JUSTICE MCEWEN) **OF DECEMBER, 2017**

BETWEEN:

VOLKAN BASEGMEZ, CEM BLEDA BASEGMEZ, ANIL RUKAN BASEGMEZ,
BA&B CAPITAL INC., SERDAR KOCTURK
and KAAH HOLDINGS INC.

Applicants

– and –

ALI AKMAN, SAMM CAPITAL HOLDINGS INC.
and TARN FINANCIAL CORPORATION

Respondents

APPLICATION UNDER Sections 207 and 248 of the *Business Corporations Act*, R.S.O. 1990,
c. B.16.

**ORDER
(Re: Authorizing Liquidator to file OMB Appeals)**

THIS MOTION, made by KPMG Inc., in its capacity as court appointed liquidator (the “**Liquidator**”) pursuant to section 207 of the Ontario *Business Corporations Act* of the effects and estate of Tarn Financial Corporation (“**Tarn**”) and appointed pursuant to the Winding Up Order of Justice Lederman dated September 15, 2017 (the “**Winding Up Order**”) effective on September 25, 2017, for an order authorizing the Liquidator to file Notice of Appeals with the Ontario Municipal Board (“**OMB**”) in respect of the real property owned by Tarn and municipally known as 2035 Kennedy Road, Toronto, Ontario (the

“Property”), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Notice of Motion dated December 3, 2017 (the “**Notice of Motion**”), the draft Zoning Amendment Appeal (as defined in the Notice of Motion), the draft Site Plan Appeal (as defined in the Notice of Motion), and the First Report of the Liquidator dated November 13, 2017, and on hearing the submissions of counsel for the Liquidator, and such other counsel as were present as indicated on the Counsel Slip, no one appearing for any other person on the Service List, although properly served as appears from the Affidavit of Service sworn December 4, 2017, filed:

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion is hereby abridged and validated such that this Motion is properly returnable today, and further service of the Notice of Motion is hereby dispensed with.

2. **THIS COURT ORDERS** that the Liquidator is hereby empowered and authorized, but not obligated, to file a Notice of Appeal with the OMB pursuant to subsection 34(11) of the *Planning Act* (Ontario) from the Application to Amend the Zoning By-law submitted to the City of Toronto bearing Application No.: 15 167709 ESC 40 OZ in respect of the Property substantially in the form attached as Schedule “A” to the Notice of Motion.

3. **THIS COURT ORDERS** that the Liquidator is hereby empowered and authorized, but not obligated, to file a Notice of Appeal with the OMB pursuant to subsection 114(15) of the *City of Toronto Act, 2006* from the Application for Site Plan Approval submitted to the City of Toronto bearing Application No.: 16 132832 ESC 40 SA in respect of the Property substantially in the form attached as Schedule “B” to the Notice of Motion.



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

DEC 06 2017



PER / PAR:

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at Toronto

ORDER DATED DECEMBER 6, 2017
(Re: Authorizing Liquidator to file OMB Appeals)

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Liquidator of Tarn Financial Corporation