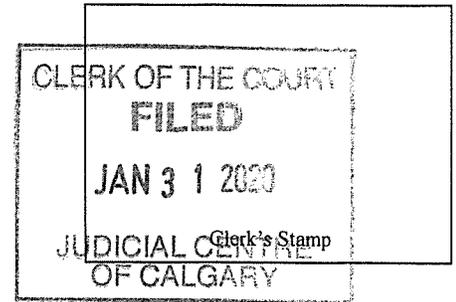


COURT FILE NUMBER	2001-00425
COURT	QUEEN'S BENCH ALBERTA
JUDICIAL CENTRE	CALGARY
PLAINTIFF	ROYAL BANK OF CANADA
DEFENDANTS	MCARTHUR FURNITURE (ALBERTA) LTD., MTK PROPERTIES LTD., THERESA POUND and EDWIN POUND
DOCUMENT	AFFIDAVIT
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	Carscallen LLP 900, 332 - 6 Avenue SW Calgary AB T2P 0B2 Telephone: (403) 262-3775 Facsimile: (403) 262-2952 Attention: Michael J. Whiting File No.: 22312.014



AFFIDAVIT OF RYAN MURPHY
Sworn on January 31, 2020

I, RYAN MURPHY, of the City of Calgary, in the Province of Alberta, SWEAR THAT:

1. I am a Real Estate Associate with Jones Lang Lasalle Real Estate Services, Inc. ("JLL"), being the listing agent for the Defendant, MTK Properties Ltd. ("MTK"), and as such have personal knowledge of the facts and matters hereinafter deposed to, save and except where stated to be based upon information and belief, in which case I do verily believe the same to be true.
2. JLL is the listing agent for MTK for its property located at 67 Glenbrook Place, SW, Calgary, Alberta (the "Calgary Property"). Attached hereto and marked as Exhibit "A" is an executed copy of the current listing agreement for the Calgary Property.
3. The Calgary Property is a 46,567 square foot property, which occupies a 1.67 acre site within the established commercial district of Glenbrook.
4. Based on my experience of the Calgary commercial real estate market, and more particularly, the sales and marketing process related to the previous and current prospective purchasers of the Calgary Property (who had or have each entered into conditional offers to purchase the Calgary Property from MTK), I believe that an attractive feature of the Calgary Property is the prospect of MTK remaining as a tenant of the property, and specifically, an anchor tenant.
5. The prior prospective purchaser of the Calgary Property, a doctor (the "Doctor"), had conditionally purchased the Calgary Property from MTK in or about March, 2019. I was advised by the Doctor's realtor and do verily believe that the Doctor's intention was to

redevelop the Calgary Property into a medical/office development, with a lease-back to MTK, for approximately 9,400 square feet of the main floor retail space.

6. A condition of the Doctor's conditional offer to purchase the Calgary Property from MTK was a successful application to the City of Calgary for a change of use for the Calgary Property to permit medical clinic use. As shown in the attached Development Permits Status report from the City of Calgary, which is now shown to me and marked as **Exhibit "B"** to this my Affidavit, pursuant to permit #2019-2299, the Doctor successfully obtained the said change of use, as the City of Calgary approved a change of use for the Calgary Property to: "Medical Clinic, Retail and Consumer Service - 108 parking stall relaxation" (the "**Development Permit**").
7. I am aware that the City of Calgary has exceptionally high parking ratio requirements for medical use. As such, I believe that the Doctor obtained approval for the requested change in use, in part, as a result of keeping 9,400 square feet of the Calgary Property, as retail. If, for example, the entire Calgary Property had been proposed to be used by the Doctor as medical use, then likely, there would have been insufficient parking to satisfy the City of Calgary's medical use parking requirements and the Development Permit would not have been approved by the City of Calgary. Therefore, I believe that the Doctor's intention to keep MTK in the Calgary Property as a tenant, to occupy 9,400 square feet as a retailer, was a critical component of the approval of the Doctor's desired change in use designation for the Calgary Property. Unfortunately, the Doctor was ultimately unable to close the transaction, which necessitated JLL going back to market to find a new buyer for the Calgary Property in approximately September 2019.
8. Nevertheless, armed with the knowledge that the Calgary Property now had the ground work laid to easily permit medical use, with an immediate tenant to provide income to a prospective owner, this became a critical focus and highlight of JLL's marketing efforts.
9. As a result, within a short period after going back to market, JLL was able to generate approximately three offers, which ultimately culminated in a conditional offer from Reddy Innovative Health Care Inc. (the "**Purchaser**") to purchase the Calgary Property. Like the Doctor, the principle behind the Purchaser, is also a doctor. Based on my discussions with the Purchaser's realtor, I believe that, through his agent, the Purchaser reviewed in detail the change of use designation achieved by the Doctor and, to the best of my knowledge, also wanted to benefit from this for its use by redeveloping the Calgary Property into a medical clinic. In addition, I understand that the Purchaser, similarly to the Doctor, also wants to benefit from the income of a lease-back to MTK.
10. The Purchaser appears to have recognized the importance of keeping MTK as a tenant, both for purposes of maintaining land-use approval for medical use and for income reasons. As a result, one of the Purchaser's conditions in its offer to purchase the Calgary Property (refer to Addendum Page No. 9 of Commercial Purchase Contract # 3846525) included MTK remaining as a tenant in the Calgary Property.
11. As is well known, the commercial real estate market in Calgary has been, and continues to be, difficult over the past few years given the ongoing economic downturn in Calgary. As a result, prospective buyers of commercial space are seeking to take advantage of every avenue by which to reduce risk in real estate acquisitions. One such component is the importance to prospective purchasers of having a tenant in place immediately post-closing versus a property being vacant. Vacancy represents a risk and cost to any landlord, including among others, a vacant space having downtime (i.e. the amount of

THIS IS EXHIBIT "A" referred to in the Affidavit of Ryan Murphy Sworn before me this 31 day of January A.D. 2020
 Hema Ahuja
 A Commissioner in and for the Province of Alberta

EXCLUSIVE SALE LISTING AGREEMENT

TO: JONES LANG LASALLE REAL ESTATE SERVICES, INC.
 Suite 500, 301 – 8th Avenue SW
 Calgary, Alberta T2P 1C5

Attention: Marshall Toner

Hema Ahuja
Barrister & Solicitor

Dear Sir:

Re: Exclusive Sale Listing Agreement (the "Agreement") for the property located at 67 Glenbrook Place SW, Calgary Alberta (the "Property" as legally described in Schedule "A")

- In consideration of Jones Lang LaSalle Real Estate Services, Inc. ("JLL") agreeing to market the Property for sale, **MTK PROPERTIES LTD.** (the "Vendor") hereby authorizes and appoints JLL as its Exclusive Agent to sell the Property for the sum of **nine million five hundred thousand dollars (\$9,500,000.00)** cash or such other terms as may be agreed upon between JLL and the Vendor and the Vendor agrees to pay to JLL the commission as defined herein. All deposits shall be forwarded to JLL to be held in trust.
- The commission payable to JLL (the "Commission") shall be calculated on the following basis:

	Purchaser Represented By JLL Only	Purchaser Represented By Outside Broker
Commission Payable (JLL)	3%	1.5%
Commission Payable (Outside Broker)	0%	1.5%

The Commission shall be paid by the Vendor to JLL upon the completion of the sale. Any Commission payable shall be deducted from any deposit held by JLL in trust with any balance payable by the Vendor forthwith.

Notwithstanding the foregoing table, Commission paid to the co-operating broker shall be in the sole discretion of JLL but the total amount of the Commission owed by the Vendor outlined in the table above shall remain as outlined herein.

- In the event of a Sale not being completed and the deposit being forfeited by the Purchaser, the Vendor agrees to pay to JLL forthwith one-half of the deposit, up to a sum equivalent to a full Commission.
- If the Vendor fails, for any reason whatsoever, to complete a Sale upon JLL procuring a purchaser ready, willing and able to complete the Sale unconditionally, or upon all conditions having being satisfied or waived for the said sum of **nine million five hundred thousand**

dollars (\$9,500,000.00), or at such other price and upon such other terms as may be agreed upon, the Vendor shall pay JLL the Commission, such Commission becoming due and payable to JLL upon the Vendor's failure to complete the sale, including the delivery of all documents, reports, leases and agreements contemplated by the Sale transaction.

5. This is an Exclusive Listing and should a Sale be made by whomsoever during the currency hereof, or as a result of negotiations or inquiries originating during such currency, the Commission shall be payable to JLL.
6. For the purposes of showing the Property, the Vendor agrees to give JLL quick and convenient access at reasonable times.
7. JLL, at its cost, shall be allowed to erect "For Sale" and "Sold By" signs on the Property. In addition, JLL shall be permitted to announce the completion of the transaction following the Sale of the Property by way of printed matter, facsimile communication or electronic mail.
8. The Vendor agrees to forward, and shall direct its property manager to forward, to JLL all inquiries and any offers or letters of intent received by it directly with regard to the Sale of the Property.
9. This Exclusive Listing shall remain in full force and effect for a **period of nine (9) months** (the "Listing Period") from the date hereof. Notwithstanding anything contained herein to the contrary, if an offer to purchase or sell (the "Offer") has been accepted by the Vendor and purchaser, and the Offer is subject to any conditions, and if the date for removal of the condition or conditions (the "Condition Removal Date") extends beyond the Listing Period, then the Vendor shall continue to be obligated to pay JLL the Commission pursuant to this Exclusive Listing Agreement upon the successful removal of all conditions contained within such Offer, regardless of the expiry of the Listing Period as outlined herein.
10. Upon the expiration of the Listing Period outlined herein, this Agreement shall continue on a month-to-month basis. This month-to-month extension, if applicable, shall be subject to **THIRTY (30)** days written notice of termination by either party.
11. It is understood that JLL shall have a period of **THIRTY (30)** days from the date of completion of listing particulars to market the Property exclusively. Thereafter, JLL agrees to accept registrations and cooperate with other brokers on a Commission sharing basis. Commission paid to the co-operating broker shall be in the sole discretion of JLL.
12. Upon termination of this Agreement, JLL may, by delivery in writing to the Vendor within **FIVE (5) business days** of termination, register a list of those prospective Purchasers that are under active negotiation at the time of termination. Should an acceptable offer to purchase from any of the registered prospective Purchasers be delivered then JLL shall be paid a commission in accordance with this Agreement.
13. The Vendor agrees that all of the information, rent rolls, lease terms and other documentation provided to JLL are true and correct and, to the best of the knowledge of the Vendor, no environmental issues or hazardous substances have been stored or remain on the Property and JLL shall be indemnified and saved harmless from any claims, actions, proceedings, liability, costs, including solicitor and its own client costs, which result from or relate to the actions, negligence or misconduct of the Vendor or the Vendor withholding any information.



14. JLL recommends that the Vendor obtain independent legal, tax or other professional advice relating to this Agreement and the Sale of the Property, as well as the condition and/or legality of the Property, including, but not limited to, the Property's improvements, equipment, soil, tenancies, title, environmental aspects and compliance. JLL will have no obligation to investigate any such matters unless expressly otherwise agreed to in writing by the Vendor and JLL. JLL is not responsible or liable in any matter whatsoever related to any legal documentation or income tax consequences related to or resulting from the sale of the Property. The Vendor further agrees that, in determining the financial soundness of any prospective purchaser, the Vendor will rely solely upon the Vendor's own investigation and evaluation, notwithstanding the assistance of JLL in gathering any financial information.
15. This Agreement shall be governed by and construed in accordance with the laws of the Province of Alberta. If any provision is invalid or unenforceable in any jurisdiction where this Agreement is to be performed, such provision shall be deemed deleted and the remaining portions of this Agreement shall remain valid and binding.
16. For the purposes of this Exclusive Listing Agreement, the following terms shall have the following meanings:

"Gross Sale Price" means the full, true aggregate consideration, exclusive of GST, without duplication, received or receivable by the Vendor, or paid or payable to or at the direction of the Vendor, in consideration of the Sale of the Property, denominated in Canadian dollars.

"Sale" means any sale, exchange or trade of the Property or any interest therein, directly or indirectly, by the Vendor and includes, without limitation, any trade of Property or any issue or transfer of shares or other securities which results in any direct or indirect change of legal or beneficial ownership of any of the shares of the Vendor, whether by sale, exchange or trade of such shares or by way of merger, amalgamation, or reorganization of the Vendor.

Any notice, document or communication required or permitted to be given hereunder shall be in writing and shall be deemed to have been duly given if delivered by hand to the party to which it is to be given as follows:

If to JLL:

Jones Lang LaSalle Real Estate Services, Inc.
Suite 500, 301 – 8th Avenue SW
Calgary, Alberta T2P 1C5
Attention: Marshall Toner

If to the Vendor:

MTK PROPERTIES LTD.
PH: 403.246.6266
EM: robertpound@mcarthurfurniture.com
Attention: Robert Pound

Notices may also be given by email. Either party may change its address by written notice to the other party.

17. This Agreement constitutes the entire agreement between the Vendor and JLL and supersedes all prior discussions. No modification of this Agreement will be effective unless made in writing and signed by both the Vendor and JLL. This Agreement shall be binding upon and ensure to the benefit of the successors and assigns of the parties hereto.

DATED at Calgary, Alberta, this 3 day of February, 2018.

MTK PROPERTIES LTD.

Per: [Signature]
I have the authority to bind the Company

ACCEPTED at Calgary, Alberta this 4 day of February, 2018.

JONES LANG LASALLE REAL ESTATE SERVICES, INC.

Per: [Signature]
I have the authority to bind the Company

[Signature]



Development Permits Status

Query Information

Request Number: 28120632 Charged: Yes Response Date: 2019-08-19
CompanyID: JLL1 UserID: JLL1 Folio #: Cal Inv
Search Key: 67 GLENBROOK PL SW

Title Information

Parcel Address: 67 GLENBROOK PL SW

Application Information: Permit # 2019-2299

Building Address: 67 GLENBROOK PL SW Permit Status: Released
Applicant: SAEED, ARSLAN Application Date: 2019/05/09
Description: Change of Use: Medical Clinic, Retail and Consumer Service - 108 parking stall relaxation
Land Use Description at Time of Application:
• C-COR3 f0.97h19 Commercial - Corridor 3
Proposed Land Use Description:
• C1990 MEDICAL CLINIC
• C2515 RETAIL AND CONSUMER SERVICE
Decision: Approval Decision Date: 2019/06/27
Decision By: Development Authority Release Date: 2019/07/30
DCP #: Security: NO
Expiry of Temporary Approval: Revised Plan: NO
Must Commence By: 2020/06/27 Cancellation Date:

Appeal Information

Appeal #:
Appeal Decision:

Hearing Date: THIS IS EXHIBIT " B
referred to in the Affidavit of
Ryan Murphy
Sworn before me this 31
day of January A.D. 2020

Application Information: Permit # 2007-0322

Building Address: 67 GLENBROOK PL SW Permit Status: Released
Applicant: NEON CONTRACTORS Application Date: 2007/02/05
Description: Freestanding Identification Sign (Revision to Facilitate an Electronic Message Centre) (McArthur's Furniture)
Land Use Description at Time of Application:
• DC DIRECT CONTROL DISTRICT
Proposed Land Use Description:
• B8165 SIGNS - CLASS 2
Decision: Approval Decision Date: 2007/08/23
Decision By: Development Authority Release Date: 2007/09/27
DCP #: 2007-1372 Security: NO
Expiry of Temporary Approval: Revised Plan: NO

Hema Ahuja
A Commissioner in and for the Province of Alberta

Hema Ahuja
Barrister & Solicitor

Must Commence By: 2008/08/23

Cancellation Date:

Appeal Information

Appeal #:

Hearing Date:

Appeal Decision:

Application Information: Permit # 1995-1622

Building Address: 67 GLENBROOK PL SW

Permit Status: Released

Applicant: N/A

Application Date: 1995/04/26

Description: Converted Job - FREESTANDING SIGN

Land Use Description at Time of Application:

- DC DIRECT CONTROL DISTRICT

Proposed Land Use Description:

- B8170 SIGN

Decision: Approval

Decision Date: 1995/06/21

Decision By: Development Authority

Release Date: 1995/06/21

DCP #: 1995-1763

Securities: NO

Expiry of Temporary Approval:

Revised Plan: NO

Must Commence By: 1996/06/21

Cancellation Date:

Appeal Information

Appeal #:

Hearing Date:

Appeal Decision:

Application Information: Permit # 1981-1868

Building Address: 67 GLENBROOK PL SW

Permit Status: Released

Applicant: N/A

Application Date: 1981/09/10

Description: Converted Job - SIX TEMPORARY BILLBOARD SIGNS FOR PERIOD OF ONE YEAR

Land Use Description at Time of Application:

- N/A N/A

Proposed Land Use Description:

-

Decision: Approval

Decision Date: 1981/10/08

Decision By: Development Authority

Release Date: 1981/10/08

DCP #:

Securities: NO

Expiry of Temporary Approval:

Revised Plan: NO

Must Commence By:

Cancellation Date:

Appeal Information

Appeal #:

Hearing Date:

Appeal Decision:

Application Information: Permit # 1981-1834

Building Address: 67 GLENBROOK PL SW

Permit Status: Released

Applicant: N/A

Application Date: 1981/09/04

Description: Converted Job - FURNITURE STORE

Land Use Description at Time of Application:

- N/A N/A

Proposed Land Use Description:

-

Decision: Approval
Decision By: Development Authority
DCP #:
Expiry of Temporary Approval:
Must Commence By:

Decision Date: 1981/10/08
Release Date: 1981/10/08
Securities: NO
Revised Plan: NO
Cancellation Date:

Appeal Information

Appeal #:
Appeal Decision:

Hearing Date:

Application Information: Permit # 1981-0740

Building Address: 67 GLENBROOK PL SW
Applicant: N/A
Description: Converted Job - TWO BUILDINGS FOR RETAIL AND OFFICE USE
Land Use Description at Time of Application:
• N/A N/A
Proposed Land Use Description:
•

Permit Status: Released
Application Date: 1981/04/21

Decision: Approval
Decision By: Calgary Planning Commission
DCP #: 1985-5283
Expiry of Temporary Approval:
Must Commence By:

Decision Date: 1981/07/22
Release Date: 1981/07/22
Securities: NO
Revised Plan: NO
Cancellation Date:

Appeal Information

Appeal #:
Appeal Decision:

Hearing Date:

Application Information: Permit # 1980-2018

Building Address: 67 GLENBROOK PL SW
Applicant: N/A
Description: Converted Job - REVISION TO BUILDING & TWO RESTAURANTS
Land Use Description at Time of Application:
• N/A N/A
Proposed Land Use Description:
•

Permit Status: Released
Application Date: 1980/11/12

Decision: Approval
Decision By: Development Authority
DCP #:
Expiry of Temporary Approval:
Must Commence By:

Decision Date: 1980/12/19
Release Date: 1980/12/19
Securities: NO
Revised Plan: NO
Cancellation Date:

Appeal Information

Appeal #:
Appeal Decision:

Hearing Date:

Application Information: Permit # 1980-1629

Building Address: 67 GLENBROOK PL SW
Applicant: N/A
Description: Converted Job - OFFICES

Permit Status: Lapsed
Application Date: 1980/09/12

Land Use Description at Time of Application:

- N/A N/A

Proposed Land Use Description:

-

Decision: Approval

Decision By: Development Authority

DCP #:

Expiry of Temporary Approval:

Must Commence By:

Decision Date: 1981/07/23

Release Date: 1981/07/23

Securities: NO

Revised Plan: NO

Cancellation Date:

Appeal Information

Appeal #:

Appeal Decision:

Hearing Date:

Application Information: Permit # 1980-1154

Building Address: 67 GLENBROOK PL SW

Applicant: N/A

Description: Converted Job - FREESTANDING PYLON SIGN

Land Use Description at Time of Application:

- N/A N/A

Proposed Land Use Description:

-

Decision: Approval

Decision By: Development Authority

DCP #:

Expiry of Temporary Approval:

Must Commence By:

Permit Status: Released

Application Date: 1980/07/03

Decision Date: 1980/11/20

Release Date: 1980/11/20

Securities: NO

Revised Plan: NO

Cancellation Date:

Appeal Information

Appeal #:

Appeal Decision:

Hearing Date:

Application Information: Permit # 1980-0170

Building Address: 67 GLENBROOK PL SW

Applicant: N/A

Description: Converted Job - OFFICE AND COMMERCIAL BUILDING.

Land Use Description at Time of Application:

- N/A N/A

Proposed Land Use Description:

-

Decision: Approval

Decision By: Calgary Planning Commission

DCP #:

Expiry of Temporary Approval:

Must Commence By:

Permit Status: Released

Application Date: 1980/02/08

Decision Date: 1980/03/26

Release Date: 1980/03/26

Securities: NO

Revised Plan: NO

Cancellation Date:

Appeal Information

Appeal #:

Appeal Decision:

Hearing Date:



Disclaimer: Any image or other information contained herein is the property of The City of Calgary or the respective owners of said image or information. All rights are reserved. No images or information contained herein may be reproduced in any form or by any means without the prior written consent of The City of Calgary. While The City of Calgary makes reasonable efforts to ensure the accuracy and reliability of the images and information contained herein, The City of Calgary disclaims all warranties, conditions, or guarantees, expressed or implied, including without limitation warranties and conditions of merchantability and fitness for any particular purpose or non-infringement. The City of Calgary is not responsible for any liability for any direct, indirect, incidental, consequential or other damages resulting from the use, reliance, misuse, or misrepresentation of the images or information contained herein.

[Up](#)