

**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N

DALE PAUS and GLEN WOO

Plaintiffs

and

CONCORD ADEX DEVELOPMENTS CORP.,
TODDGLEN CONSTRUCTION LIMITED, and
TORONTO STANDARD CONDOMINIUM CORPORATION NO. 1438

Defendants

Proceedings under the *Class Proceedings Act, 1992*

SETTLEMENT AGREEMENT

This Settlement Agreement is entered into by and among the Plaintiffs and the Defendants, by and through their respective counsel.

BACKGROUND

Whereas:

- A. On or about March 1, 2011, a balcony guardrail assembly installed on a unit on the eleventh (11th) floor failed and dislodged from the building and fell down to the third (3rd) floor terrace area.
- B. As a result of that incident, all the balconies of all Matrix Towers were sealed until the balcony guardrails could be replaced, which was finished in September 2014.
- C. On September 19, 2012, the class action was commenced in Toronto.
- D. On August 12, 2015, Justice Perell issued the Certification Order, defined below.

AGREED TERMS

IT IS HEREBY AGREED, by and among the Parties that, subject to approval of the Court, the Released Claims shall be fully and finally compromised, settled and released and the Action and all crossclaims will be dismissed with prejudice upon the terms and conditions described below.

I. DEFINITIONS

1.1 In addition to words and terms defined elsewhere in this Settlement Agreement, the following words and terms shall have the definitions stated in this Section:

- (a) “Abatement” means an amount of money that an Owner of a Balcony Unit paid to a Tenant or credited to the Tenant during the Class Period;
- (b) “Action” means Action CV-12-463822 00CP;
- (c) “Administrative Expenses” means all of the expenses incurred in the administration of this settlement. For greater certainty, Administration Expenses do not include Legal Fees;
- (d) “Administrator” means a person appointed by the Court at the Approval Hearing to administer the Agreement;
- (e) “Agreement” means this Settlement Agreement;
- (f) “Approval Hearing” means the date scheduled to decide whether to approve the Agreement, fixing Legal Fees, approving the method of distribution to the Class Members and any other matters as the Court deems appropriate;
- (g) “Approval Order” means the order of the Court as a result of the Approval Hearing;

- (h) “Balcony” means an outdoor common element exclusively used by person(s) in a Balcony Unit;
- (i) “Balcony guardrail” means balcony guardrail assembly that failed and dislodged from the building and fell down;
- (j) “Balcony Unit” means each of the approximately 578 condominium residential units of the Condominium which were affected by the closure of the balconies.
- (k) “Certification Order” means Justice Perell’s certification order dated August 12, 2015;
- (l) “Charney” means Charney Lawyers PC;
- (m) “Claims Commencement Date” means the date the Approval Order becomes final or on a date fixed by the Court;
- (n) “Claim Form” means the form available on the Settlement Website authorized by the Court;
- (o) “Claims Period” means the period of time that Class Members may submit claims to the Administrator commencing on the date the Approval Order becomes final and ends four (4) months thereafter or on a date fixed by the Court;
- (p) “Class” and “Class Members” means: those persons, excluding persons who signed a Capital Release and the Defendants and their senior officers and directors, who owned, rented, and/or ordinarily resided in a residential condominium unit at the premises municipally known as 361 Front Street West (East Tower) and 373 Front Street West (West Tower) in the City of Toronto, during the Class Period when access to or use of the balcony associated with the residential condominium unit was restricted;

- (q) “Class Counsel” means SWS and Charney;
- (r) “Class Period” means the period from March 1, 2011 to and including September 15, 2014;
- (s) “Condominium” means Toronto Standard Condominium Corporation Plan No. 1438;
- (t) “Current Websites” means SWS’ website at <https://class-action.swslitigation.com/class-actions/matrixtowers/> and Charney’s website at <https://www.charneylawyers.com/matrix-towers-class-action/home>;
- (u) “Defendants” mean Concord Adex Developments Corp. and Toddglen Construction Limited and Condominium;
- (v) “Entity” means any corporation, partnership, limited liability company, association, trust, or other organization of any type;
- (w) “Trust Account” means the balance from Charney’s trust account transferred to the control of the Administrator within ten (10) days after the Approval Order becomes final;
- (x) “Legal Fees” means Class Counsel fees, disbursements, and any applicable taxes thereon, as approved by the Court;
- (y) “Matrix Towers” means the residential condominium buildings located at 361 Front Street West (East Tower) and 373 Front Street West (West Tower) in the City of Toronto;
- (z) “Net Settlement Amount” means the balance of the \$1,750,000.00 remaining after the Court approves Legal Fees and any other expenses authorized by the Court;

- (aa) “Notice” means notice of the Approval Order authorized by the Court;
- (bb) “Notice of the Approval Hearing” means the notice to the Class of the Approval Hearing date approved by the Court;
- (cc) “Notice Plan” means the settlement notice program in accordance with the terms of section 6 herein and as approved by the Court;
- (dd) “Owner” means each registered owner of a Unit during the Class Period;
- (ee) “Parties” means the Plaintiffs and the Defendants;
- (ff) “Plaintiffs” mean Dale Paus and Glen Woo;
- (gg) “Released Claims” means any and all claims, demands, actions, causes of action, and suits made or which could have been made in the Action;
- (hh) “Released Parties” means the Defendants and their current and former affiliates, parents, related entities, successors and subsidiaries, insurers, directors, officers, agents, and employees;
- (ii) “Release” means any Owner(s) of Units and any Tenant(s) who signed a release releasing any Defendant(s) and/or any other person from damages because of falling glass panels;
- (jj) “Settlement Amount” means \$1,750,000.00;
- (kk) “Settlement Website” means the website to be created by the Administrator for purposes of communicating with Class Members and for otherwise facilitating the administration of this Agreement, including allowing Class Members to register and/or submit a Claim Form;

(ll) “SWS” means Strosberg Wingfield Sutts LLP;

(mm) “Tenant” means a person that rented a Balcony Unit during the Class Period; and

II. SETTLEMENT CONSIDERATION

- 2.1 The Defendants shall pay the Settlement Amount into Charney’s trust account within thirty (30) days of the signing of this Agreement.
- 2.2 All funds held in Charney’s trust account shall be deemed to be in the custody of the Court until such time as the funds are distributed pursuant to the Approval Order or further order of the Court.
- 2.3 The Settlement Amount shall not be released from Charney’s trust account until the Approval Order becomes final.
- 2.4 The Defendants will not be required to pay more than the Settlement Amount, all in, under this Agreement and the Settlement Amount is the sole monetary payment that the Defendants will make under this Agreement.
- 2.5 Within ten (10) days after the Approval Order becomes final, Charney shall transfer to the Administrator the Net Settlement Fund.
- 2.6 The Settlement Amount shall be the sole source of monetary funds under this Agreement.
- 2.7 The Administrator, subject to the supervision and direction of the Court, shall establish a trust account to receive the Net Settlement Amount and shall administer and/or oversee the Net Settlement Amount pursuant to this Agreement and the Approval Order.
- 2.8 The Administrator is responsible for communicating with the Class Members regarding the distribution of the Net Settlement Amount.

- 2.9 Each Class Member shall be solely responsible for the tax consequences, if any, to him, her, or it of the receipt of funds from the Approval Order.
- 2.10 Defendants and their counsel shall not have any responsibility for or liability whatsoever with respect to: (i) any act, omission, or determination of Class Counsel, the Administrator, or any of their respective designees or agents, in connection with the administration of the Agreement or otherwise; (ii) the management, investment, or distribution of the Settlement Amount; (iii) the formulation, design, or terms of the disbursement of the Settlement Amount; (iv) the determination, administration, calculation, or payment of any claims asserted against the Settlement Amount; (v) any losses suffered by, or fluctuations in the value of the Settlement Amount; or (vi) the payment or withholding of any taxes and tax-related expenses incurred in connection with the taxation of the Settlement Amount or the filing of any returns. Defendants also shall have no obligation to communicate with Class Members other than set out in this Agreement.
- 2.11 The Plaintiffs and Class Counsel shall not have any liability whatsoever with respect to: (i) any act, omission or determination of the Administrator, or any of their respective designees or agents, in connection with the administration of the Agreement or otherwise; (ii) the determination, administration, calculation, or payment of any claims asserted against the Settlement Amount; (iii) the management, investment, or distribution of the Settlement Amount; (iv) the formulation, design, or terms of the disbursement of the Settlement Amount; (v) the determination, administration, calculation, or payment of any claims asserted against the Settlement Amount; (vi) any losses suffered by, or fluctuations in the value of the Settlement Amount; or (vii) the payment or withholding of any taxes and tax-related expenses incurred in connection with the taxation of the Settlement Amount or the filing of any returns.

- 2.12 No action shall lie against the Administrator, the Plaintiffs or Class Counsel for any decision made in the administration of this Agreement and/or the Approval Order without an order from the Court authorizing such an action.

III. INFORMATION SUPPLIED OR TO BE SUPPLIED BY THE DEFENDANTS

- 3.1 The defendants, Toronto Standard Condominium Corporation No. 1438 and/or Concord Adex Developments Corp. will confirm that the Matrix Towers contains about 578 Balcony Units.

- 3.2 The Condominium will make reasonable efforts to prepare a list from its records of:

- (i) each unit number and the names of the owner(s) and/or tenant(s) during the Class Period for any Balcony Units; and
- (ii) their last known residence address and/or email address

which will be produced to Class Counsel and the Administrator for the purpose of giving of notice to the Class Members of the date of the Approval Hearing.

IV. APPOINTMENT OF THE ADMINISTRATOR

- 4.1 Subject to Court approval, the Plaintiffs and the Defendants agree that Verita is the Claims Administrator for the purpose of this Agreement.

V. SETTLEMENT TERMS – OWNER(S) AND TENANTS OF A UNIT DURING THE CLASS PERIOD

- 5.1 The Agreement is based upon:
- (a) payment per Balcony Unit over the Class Period without consideration of the number of persons living in each Unit or the size of a Balcony or any Balcony; and

- (b) a damage award of about \$1,300 per Balcony Unit assuming the Net Settlement Fund and the take up rate of 100% by the Class Members.
- 5.2 Only one Class Member associated with the Balcony Unit need apply for payment. If more than one Class Member applies for payment for the same Unit, each Class Member will share equally in the payment per Unit.
- 5.3 If an Owner(s) and/or a Tenant(s) was in possession of the Balcony Unit for all or part of the Class Period, the Owner(s) and/or the Tenant(s) will share the payment based upon the month(s) each occupied the Balcony Unit during the Class Period.
- 5.4 If during the Class Period, the Owner(s) of the Balcony Unit gave the Tenant(s) an Abatement, the Owner(s) will be reimbursed for the Abatement in priority to the Tenant(s) claim.
- 5.5 The Owner(s) and/or Tenant(s) may request a payment by submitting a Claim Form obtained from the Settlement Website during the Claim Period. Class Members who are making a claim or the Tenant must prove they were the Owner or occupier of the Balcony Unit during the Class Period and/or claimed an Abatement. This Claim must be to the satisfaction of the Administrator. She or he must provide a copy of a current driver's licence or other similar federal or provincial government issued documentation which includes a photo identifying her or him.
- 5.6 The Administrator shall, within fifteen (15) days of receipt of each Claim Form, verify that each person who submits a Claim Form is a Class Member.
- 5.7 If the Administrator determines a Claim Form is defective, the Administrator shall, within fifteen (15) days of receipt, notify the person of the defect and give the person thirty (30) days to cure the defect. The

Administrator shall have the sole discretion and authority to determine whether the person has cured the defect.

- 5.8 The Administrator's decision is final and there is no appeal from the Administrator's decision.

VI. NOTICE OF APPROVAL HEARING AND OBJECTIONS

- 6.1 Notice of the Approval Hearing will be conveyed by:
- (a) Class Counsel posting this notice on their websites;
 - (b) Class Counsel sending this notice to each person who registered with Class Counsel and provided a valid e-mail address;
 - (c) The Administrator shall distribute this notice to each Balcony Unit;
 - (d) Class Counsel sending this notice to the Condominium and request that it post this notice on its website and in the Condominium;
 - (e) The Administrator will conduct a social media campaign; and
 - (f) Class Counsel will issue a press release.
- 6.2 Any Class Member who objects to the Agreement must send the written objection by a date fixed by the Hearing Order to Verita Global at an email address to be determined.
- 6.3 Verita will report to the Court by affidavit five (5) business days before the date of the Approval Hearing about its best efforts to comply with this Agreement, the Notice of the Approval Hearing and the particulars of any objection(s).

VII. ADMINISTRATION OF SETTLEMENT – CLAIMS PROGRAM

- 7.1 The Court will appoint the Administrator, approve the Administrator's estimated fees, disbursements and HST and approve any other payment(s) out of the Net Settlement Amount.
- 7.2 After the Approval Order becomes final, the Administrator is responsible for distributing the Notice of the Approval Order to the Class Members.
- 7.3 The Claims Program shall be administered through the Settlement Website which the Administrator will establish. The Administrator may pay Class Members in a manner approved by the Court.
- 7.4 Class Counsel shall provide the Administrator with Class Counsel's registration data including names and last known email addresses of Class Members within ten (10) business days after the Approval Order becomes final.
- 7.5 The Administrator shall perform the functions specified in the Agreement and by the Approval Order including, but not limited to:
- (a) establishing a trust account and receiving the Net Settlement Fund;
 - (b) establishing and maintaining the Settlement Website that, among other things, allows the putative Class Members to submit a Claim Form(s) electronically;
 - (c) responding to all valid inquiries;
 - (d) reviewing, processing and deciding the validity of all Claim Forms submitted to the Administrator;
 - (e) reporting its decision to the person who submitted the Claim Form;
- and

- (f) report to and receive directions from the Court on the amount and paying Class Members.

7.6 As part of the Administrator's final report to the Court, in the event that there are unclaimed payments by any Class Member(s), the Administrator shall seek an order from the Court that the unclaimed payment(s) be delivered *cy pres* to the Law Foundation for the Class Proceedings Fund.

7.7 After the Court receives the Administrator's final report, the Court may discharge the Administrator from this administration.

VIII. LEGAL FEES

8.1 Class Counsel will seek approval of Legal Fees in the amount of 30% of the Settlement Amount, plus disbursements plus HST.

8.2 The Defendants acknowledge that they take no position on the motion for approval of the Legal Fees. They will have no involvement in the approval process to determine the amount of Legal Fees. They will not make any submissions to the Court concerning Legal Fees.

8.3 The amounts owing to Class Counsel will be paid from the Settlement Amount after the Approval Order becomes final.

IX. SETTLEMENT APPROVAL PROCESS

Approval Hearing

9.1 One or both Plaintiffs will seek an Approval Order from the Court. The Defendants will consent to the Approval Order.

Class Members' Claims

9.2 Because of the Approval Order, the Plaintiffs and each Class Member shall be deemed to have, and by operation of the Approval Order shall

have, released, waived, and discharged the Released Parties from his, her, or its Released Claims.

Total Satisfaction of Released Claims

- 9.3 All benefits offered or obtained pursuant to the Agreement are in full, complete, and total satisfaction of all of the Released Claims against the Released Parties, the benefits are sufficient and adequate consideration for each and every term of this Release, and this Release shall be irrevocably binding upon Class Members and any Class Member who did not opt-out of the Action.
- 9.4 The Release shall be effective with respect to all Class Members regardless of whether those Class Members ultimately filed a Claim Form or receive compensation under this Agreement or under the Approval Order.

Class Counsel Acted Independently

- 9.5 Class Counsel acknowledge that they have conducted sufficient independent investigation and discovery to enter into this Agreement and that they execute this Agreement freely, voluntarily, and without being pressured or influenced by, or relying on any statements, representations, promises, or inducements made by the Released Parties or any person or entity representing the Released Parties, other than as set forth in this Agreement.

X. EFFECTIVE DATE AND TERMINATION

- 10.1 In the event that the Court refuses to approve the Agreement or refuses to issue the Approval Order, any party may, at their sole discretion, terminate this Agreement on five (5) Business Days written notice.
- 10.2 In the event this Agreement is terminated, the Settlement Amount, together with any interest or other income earned thereon, if any, less any

advertising fees paid or due and/or less any fees owing to Verita, the Administrator, and/or less disbursements incurred by Class Counsel notifying the Class and/or other amounts authorized by the Court shall be returned to counsel for the Defendants.

10.3 Except as otherwise provided herein, in the event the Agreement is terminated or the Approval Order does not become final, the Parties to this Agreement, including all Class Members, shall be deemed to have reverted to their respective status in the Action immediately prior to the execution of this Agreement and the execution of any term sheet between the Parties and, except as otherwise expressly provided, the Parties shall proceed in all respects as if this Agreement, any term sheet, and any related orders had not been entered into. In addition, the Parties agree that in the event the Settlement is terminated:

- (a) Any orders entered pursuant to this Agreement shall be deemed null and void and vacated and shall not be used in or cited by any person or entity in support of claims or defenses or in support or in opposition; and
- (b) this Agreement shall become null and void, and the fact of this Agreement shall not be used or cited by any person or entity, including in any contested proceeding.

XI. MODIFICATION OF THE AGREEMENT

11.1 The terms and provisions of this Agreement may be amended, modified, or expanded by written agreement of the Parties and approval of the Court.

XII. MISCELLANEOUS PROVISIONS

NO ADMISSION

12.1 This Agreement is for settlement purposes only. If the Agreement is terminated, neither the fact of, nor any provision contained in this Agreement, nor any action taken hereunder, shall constitute, or be construed as, any admission of the validity of any claim or any fact alleged in the Action or of any wrongdoing, fault, violation of law, or liability of any kind on the part of the Defendants or any admissions by the Defendants of any claim or allegation made in any action or proceeding against the Defendants. If this Agreement is terminated and becomes null and void, any portion of this settlement shall have no further force and effect and shall not be offered in evidence or used in the Action or any other proceeding. This Agreement shall not be offered or be admissible in evidence against the Defendants or cited or referred to in any action or proceeding, except in an action or proceeding brought to enforce the terms of the Agreement. Information provided by the Defendants to the Plaintiffs and Class Counsel in connection with settlement negotiations is for settlement purposes only and shall not be used or disclosed for any other purpose whatsoever.

GOVERNING LAW

12.2 This Agreement shall be governed by and construed and interpreted in accordance with the laws of the Province of Ontario.

12.3 This Agreement represents the entire agreement and understanding among the Parties and supersedes all prior proposals, negotiations, agreements, and understandings relating to the subject matter of this Agreement. The Parties acknowledge, stipulate, and agree that no covenant, obligation, condition, representation, warranty, inducement, negotiation, or understanding concerning any part or all of the subject

matter of this Agreement has been made or relied on except as expressly set forth in this Agreement. No modification or waiver of any provisions of this Agreement shall in any event be effective unless the same shall be in writing and signed by the person against whom enforcement of the Agreement is sought.

COUNTERPARTS

- 12.4 This Agreement may be executed in one or more counterparts, each of which shall be deemed an original as against any party who has signed it, and all of which shall be deemed a single agreement.

ARM'S-LENGTH NEGOTIATIONS

- 12.5 The Parties have negotiated all of the terms and conditions of this Agreement at arm's length. All terms and conditions in their exact form are material and necessary to this Agreement and have been relied upon by the Parties in entering into this Agreement. All Parties have participated in the drafting of this Agreement and it is not to be construed in favor of or against any of the Parties.

CONTINUING JURISDICTION

- 12.6 The Court shall retain continuing and exclusive jurisdiction over the Parties to this Agreement, including all Class Members and the Administrator, for the purpose of the administration, interpretation and enforcement of this Agreement and the Approval Order.
- 12.7 This Agreement and anything contained herein, and any and all negotiations, documents, discussions and proceedings associated with this Agreement are to be kept confidential and not disclosed until the Agreement is filed with the Court.

BINDING EFFECT OF SETTLEMENT AGREEMENT

- 12.8 This Agreement shall be binding upon and inure to the benefit of the Parties and their representatives, heirs, successors, and assigns.

NULLIFICATION

- 12.9 In the event any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect other provisions if the Defendants and Class Counsel, on behalf of the Parties, mutually elect to proceed as if such invalid, illegal, or unenforceable provision had never been included in this Agreement.

EXTENSION OF TIME

- 12.10 The Parties may agree upon a reasonable extension of time for deadlines and dates reflected in this Agreement, without further notice (subject to Court approval as to Court dates).

SERVICE OF NOTICE


- 12.11 Whenever, under the terms of this Agreement, a person is required to provide service or written notice to the Defendants or Class Counsel, such service or notice shall be directed to the individuals and addresses specified below, unless those individuals or their successors give notice to the other Parties in writing.

AUTHORITY TO EXECUTE SETTLEMENT AGREEMENT

- 12.12 Each counsel or other person executing this Agreement on behalf of any party hereto warrants that such person has the authority to do so.


IN WITNESS HEREOF, the Parties have caused this Settlement Agreement to be executed, by their duly authorized lawyers, as of 10 April, 2025.

ON BEHALF OF PLAINTIFFS DALE PAUS and
GLEN WOO




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ON BEHALF OF CONCORD ADEX
DEVELOPMENTS CORPORATION




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ON BEHALF OF TODDGLEN
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ON BEHALF OF TORONTO STANDARD
CONDOMINIUM CORPORATION NO. 1438



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