



This is the 1<sup>st</sup> Affidavit of Derek Wong  
in this case and was made on October 28, 2019

NO. S1912223  
VANCOUVER REGISTRY

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

**BETWEEN:**

AUSTIN WONG and DEREK WONG in their capacities as  
joint executors of the ESTATE OF WAI HUNG WONG

**PETITIONERS**

**AND:**

SIU MUI WONG  
THE TORONTO-DOMINION BANK  
0801660 B.C. LTD.  
0795671 B.C. LTD.  
0805652 B.C. LTD.  
0805658 B.C. LTD.  
0805663 B.C. LTD.  
SHUN CHI COMPANY LTD.  
SUPER TILE & CONSTRUCTION LTD.  
CHANG WEI TILE LTD.  
BILL FONG INVESTMENT LTD.  
FARM CREDIT CANADA  
BRITISH COLUMBIA SECURITIES COMMISSION

**RESPONDENTS**

**AFFIDAVIT**

I, Derek Wong, bus driver, of 18 – 17555 57a Avenue, in the City of Surrey,  
in the Province of British Columbia, SWEAR THAT:

1. I am the son of Wai Hung Wong (who was also known as Gilbert Wong)  
and an executor of his estate as such have personal knowledge of the facts and matters

hereinafter deposed to, save and except where the same are stated to be made upon information and belief, and, as to such facts, I verily believe the same to be true.

2. My father and my mother, Siu Mui Wong (who is also known as Debbie Wong), were married in 1979 in Vancouver, BC and remained married until my father's death. My brother, Austin Wong was born on January 31, 1982 and I was born on June 17, 1985.

3. In late December 1994, my parents purchased the property located at 16863 – 58A Avenue, Surrey, BC and legally described as:

PID: 018-997-554  
LOT 4 SECTION 7 TOWNSHIP 8 NEW WESTMINSTER DISTRICT PLAN  
LMP19441

(the "**Property**")

A true copy of a title search of the Property conducted September 17, 2019 is attached and marked as **Exhibit "A"** to this my Affidavit.

4. Our family moved into the Property in 1996 and we all lived there until 2003, when my brother Austin moved out. Austin moved back at the Property in 2006 and then moved out again in 2010. I continuously lived at the Property until October 2018. My mother continues to reside at the Property.

5. My father was diagnosed with cancer in March 2014 and passed away on June 28, 2018. A true copy of the Certificate of Death issued by the BC Vital Statistics Agency is attached and marked as **Exhibit "B"** to this my Affidavit.

6. My father left a Will made June 14, 2016 (the "**Will**"), in which he appointed my brother and I as his trustees and left the residue of his estate to his surviving children. The Will was granted probate on February 5, 2019. True copies of the Will and grant of probate are attached and marked as **Exhibit "C"** to this my Affidavit.

7. I swear this Affidavit in support of the Petition filed herein. I have read the facts set out in Part 2 of the Petition and to the best of my knowledge, those facts are true.

SWORN BEFORE ME at the Township  
of Langley, in the Province of British  
Columbia, this 28<sup>th</sup> day of October, 2019.

\_\_\_\_\_  
A Commissioner for taking Affidavits for  
British Columbia.

  
\_\_\_\_\_  
DEREK WONG

**Sukhinder S. Virk**  
Barrister & Solicitor  
Lindsay Kenney LLP  
400, 8621-201 Street  
Langley, BC V2Y 0G9  
T 604.888.5811

**TITLE SEARCH PRINT**

2019-09-17, 11:26:08  
Requestor: Reilly Pollard

File Reference: 20182739  
Declared Value \$120,000

**\*\*CURRENT INFORMATION ONLY - NO CANCELLED INFORMATION SHOWN\*\***

**Land Title District** NEW WESTMINSTER  
Land Title Office NEW WESTMINSTER

**Title Number** BH458115  
From Title Number BH362675

**Application Received** 1994-12-30

**Application Entered** 1995-01-09

**Registered Owner in Fee Simple**  
Registered Owner/Mailing Address:

WAI HUNG WONG, LABOURER  
SIU MUI WONG, SELF-EMPLOYED  
5831-170A STREET  
SURREY, BC  
V3S 5V1  
AS JOINT TENANTS

**Taxation Authority** Surrey, City of

**Description of Land**

Parcel Identifier: 018-997-554  
Legal Description:  
LOT 4 SECTION 7 TOWNSHIP 8 NEW WESTMINSTER DISTRICT PLAN LMP19441

**Legal Notations**

HERETO IS ANNEXED EASEMENT BL295423 OVER PART (PLAN LMP34615)  
LOT 8 PLAN LMP34613

HERETO IS ANNEXED EASEMENT BH362680 OVER (PLAN LMP19442) LOT 3  
PLAN LMP19441

**Charges, Liens and Interests**

Nature: STATUTORY RIGHT OF WAY  
Registration Number: BH334438  
Registration Date and Time: 1994-09-13 11:36  
Registered Owner: CITY OF SURREY  
Remarks: INTER ALIA  
967M2 PLAN LMP18425

This is Exhibit " A " referred to in  
the affidavit of DEREK WONG  
sworn before me at LANGLEY, BC  
this 20<sup>th</sup> day of OCTOBER 20 19  
\_\_\_\_\_  
A Commissioner for taking Affidavits  
within British Columbia

**TITLE SEARCH PRINT**

File Reference: 20182739

Declared Value \$120,000

2019-09-17, 11:26:08

Requestor: Reilly Pollard

Nature: EASEMENT  
 Registration Number: BH362681  
 Registration Date and Time: 1994-10-06 14:51  
 Remarks: PLAN LMP19442 APPURTENANT TO LOTS 5 TO 7  
 PLAN LMP19441 SEE BH362680

Nature: COVENANT  
 Registration Number: BH362684  
 Registration Date and Time: 1994-10-06 14:51  
 Registered Owner: CITY OF SURREY  
 Remarks: INTER ALIA  
 SECTION 215 L.T.A.  
 SEE BH362680

Nature: COVENANT  
 Registration Number: BH362685  
 Registration Date and Time: 1994-10-06 14:51  
 Registered Owner: CITY OF SURREY  
 Remarks: INTER ALIA  
 SECTION 215 L.T.A.

Nature: COVENANT  
 Registration Number: BH362688  
 Registration Date and Time: 1994-10-06 14:51  
 Registered Owner: CITY OF SURREY  
 Remarks: INTER ALIA  
 SECTION 215 L.T.A.

Nature: STATUTORY BUILDING SCHEME  
 Registration Number: BH362689  
 Registration Date and Time: 1994-10-06 14:51  
 Remarks: INTER ALIA  
 SECTION 216 L.T.A.

Nature: MORTGAGE  
 Registration Number: BB1082043  
 Registration Date and Time: 2009-06-26 13:28  
 Registered Owner: THE TORONTO-DOMINION BANK

Nature: INJUNCTION  
 Registration Number: CA4125017  
 Registration Date and Time: 2014-12-08 11:46  
 Remarks: LAND TITLE ACT, SECTION 284  
 RESTRICTS DEALINGS

**TITLE SEARCH PRINT**

File Reference: 20182739

Declared Value \$120,000

2019-09-17, 11:26:08

Requestor: Reilly Pollard

Nature: JUDGMENT  
 Registration Number: CA6365587  
 Registration Date and Time: 2017-10-12 11:40  
 Registered Owner: FARM CREDIT CANADA  
 Remarks: INTER ALIA  
 AS TO THE INTEREST OF SIU MUI WONG  
 RENEWED BY CA7639427

Nature: JUDGMENT  
 Registration Number: CA6591432  
 Registration Date and Time: 2018-01-26 14:00  
 Registered Owner: BRITISH COLUMBIA SECURITIES COMMISSION  
 Remarks: INTER ALIA  
 AS TO THE INTEREST OF DEBBIE SIU MUI WONG AKA  
 SIU MUI WONG

Nature: JUDGMENT  
 Registration Number: CA6946847  
 Registration Date and Time: 2018-07-20 16:47  
 Registered Owner: FARM CREDIT CANADA  
 Remarks: AS TO THE INTEREST OF SIU MUI WONG

Nature: CERTIFICATE OF PENDING LITIGATION  
 Registration Number: CA7478804  
 Registration Date and Time: 2019-05-02 09:04  
 Registered Owner: THE TORONTO-DOMINION BANK

Nature: JUDGMENT  
 Registration Number: CA7639427  
 Registration Date and Time: 2019-07-24 08:34  
 Registered Owner: FARM CREDIT CANADA  
 Remarks: INTER ALIA  
 RENEWAL OF CA6365587  
 AS TO THE INTEREST OF SIU MUI WONG

**Duplicate Infeasible Title** NONE OUTSTANDING

**Transfers** NONE

**Pending Applications** NONE

CANADA  
**BRITISH COLUMBIA**

**CERTIFICATE OF DEATH**

PROVINCE OF BRITISH COLUMBIA  
Vital Statistics Agency

29379564

This is to certify that the following is an extract from the registration on file with the Vital Statistics Agency, Victoria, British Columbia, concerning the death of

Name WAI HUNG WONG

Date of Death JUN 28, 2018

Sex MALE

Place of Death SURREY

Age 66 YEAR(S)


Registration No. 2018-59-019435

Birthplace CHINA

Residence SURREY, BRITISH COLUMBIA

Given under my hand at Victoria, British Columbia

this 05 day of JUL 2018



Jack Shewchuk  
Registrar General  
Vital Statistics Agency

VSA 435L (14/08)

This is Exhibit " B " referred to in  
the affidavit of DEREK WONG  
sworn before me at LANGLEY, BC  
this 20<sup>th</sup> day of OCTOBER 20 19

A Commissioner for taking Affidavits  
within British Columbia

I hereby certify this document to be a true copy  
of that of which it purports to be a true copy.  
Given under my hand and seal of office this 3rd  
day October 20 18

A Notary Public in and for the Province  
of British Columbia  
**MINDER S. VIRK**  
LINDSAY KENNEY LLP  
BARRISTER & SOLICITOR  
SUITE 400, 8621 - 201 STREET  
LANGLEY, BC V2Y 0G9  
TEL. 604-888-5811



This is Exhibit "C" referred to in the affidavit of DEREK WONG sworn before me at LANGLEY, BC this 20<sup>th</sup> day of OCTOBER 2019

P190019 VANCOUVER REGISTRY

A Commissioner for taking Affidavits within British Columbia

IN THE SUPREME COURT OF BRITISH COLUMBIA

In the Matter of the Estate of GILBERT WONG, deceased



IN PROBATE

WHEREAS GILBERT WONG, also known as WAI HUNG WONG and GILBERT WAI HUNG WONG, (the "deceased") whose last known address was Surrey, British Columbia died on June 28, 2018 and left a will dated June 14, 2016 a copy of which is attached.

Administration of the estate of the deceased is granted to DEREK WONG and AUSTIN WONG.

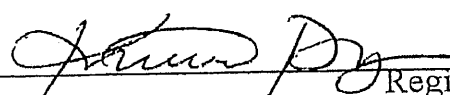
Certified a true copy according to the records of the Supreme Court at Vancouver, B.C. DATED: FEB 05 2019

  
Authorized Signing Officer

CHRISTIAN RICHTER

Sealed by the Supreme Court of British Columbia on February 5, 2019.

By the Court

  
K. DAY  
DEPUTY DISTRICT REGISTRAR



**LAST WILL**

1. This is the last Will of me, Gilbert Wong (also known as Wai Hung Wong), of 16863 58A Avenue, Surrey, British Columbia, V3S 8P1.

**PERSONAL INFORMATION**

2. I declare that:

- (a) I was born in Hong Kong, on September 27, 1951; and
- (b) on the date of execution of this Will I am married to Debbie Wong and have 2 children, namely Derek Wong, and Austin Wong.

**REVOCAION OF PRIOR WILLS**

3. I revoke all my prior wills and codicils.

**DEFINITIONS AND INTERPRETATION**

4. In this Will:

- (a) "Act" means the *Income Tax Act* (Canada);
- (b) "Decide" or "Decides" means, when referring to a decision of my Trustee, a decision made in my Trustee's Discretion;
- (c) "Discretion" means sole and uncontrolled discretion to the extent permitted by law; and
- (d) "Trustee" or "Trustees" means both the executor of my Will and the trustee of my estate, including any additional or substituted trustee appointed under this Will by declaration in writing, and any reference to my Trustee or my Trustees includes all genders and the singular or the plural as the context requires.

5. Unless a contrary intention appears in this Will, if any person dies prior to the time that, but for his or her death, he or she would have been entitled to a share of my estate under this Will, the devise or bequest to that deceased person will lapse and no spouse or Issue of that deceased person will be entitled to such share of my estate in substitution for the deceased person. For greater certainty, the application of section 29 of the *Wills Act* (British Columbia) is hereby expressly excluded.

EW MM  
Ket

- 6. No benefit devolving to any beneficiary under this Will will form or constitute a portion of any communal or joint estate of that beneficiary; rather the benefit will be and remain the sole, separate and exclusive property of the beneficiary. Without limiting the generality of the foregoing, if any beneficiary is or becomes a resident of the province of Ontario or any other province or state which utilizes a communal property regime, then:
  - (a) any property devolving on that beneficiary under this Will;
  - (b) any income and capital gains derived from that property; and
  - (c) any property into which that property, income or capital gains can be traced,

will not be included in any calculation of the beneficiary's net family property for all purposes of the *Family Law Act* (Ontario), any successor legislation thereto, or any equivalent legislation of any other province or state.

**APPOINTMENT OF TRUSTEE**


- 7. I appoint my children Derek Wong and Austin Wong to be my Trustees.

**TRUSTEE TO ADMINISTER MY ESTATE**

- 8. I give my Trustees all my property of every kind and wherever located, including property over which I have a general power of appointment, to administer as I direct in this Will. In administering my estate, my Trustees may convert or retain my estate as set out under the heading "Convert or Keep" of this Will.
- 9. I direct my Trustees:

**Debts to be Paid from my Estate**

- (a) to pay out of my estate:
  - (i) my debts, including income taxes payable up to and including the date of my death;
  - (ii) my funeral and other expenses related to this Will and my death; and
  - (iii) all estate, gift, inheritance, succession, and other death taxes or duties payable in respect of all property passing upon my death, that property to include:
    - A. insurance proceeds on my life payable as a consequence of my death (but excluding the proceeds of insurance upon my life owned by any corporation or owned by any partnership of which I am a partner);

 MM  
 [TESTATOR] Krt

- B. any registered retirement savings plan, registered retirement income fund, annuity, pension, or superannuation benefits payable to any person as a result of my death;
- C. any gift made by me in my lifetime; and
- D. any benefit arising by survivorship.

My Trustees may pay these taxes and duties whether they are imposed by the law of this jurisdiction or any other, and my Trustees may prepay or delay payment of any taxes or duties;

**Residue of Estate**

I divide the residue of my estate in equal shares among those of my children who survive me.

**CONVERT OR KEEP**

- 10. When my Trustees administer my estate:
  - (a) my Trustees may convert my estate or any part of my estate into money, and decide how, when, and on what terms; and
  - (b) my Trustees may keep my estate, or any part of it, in the form it is in at my death and for as long as my Trustees Decide, even for the duration of the trusts in this Will. This power applies even if:
    - (i) the property is not an investment authorized under this Will;
    - (ii) a debt is owing on the property; or
    - (iii) the property does not produce income.

**ALLOCATE ASSETS OF MY ESTATE**

- 11. When my Trustees divide or distributes my estate, my Trustees may Decide which assets of my estate to allocate to any share or interest in my estate and the value of each of those assets. Whatever value my Trustees place on those assets will be final and binding on everyone interested in my estate.

**VALUATION**

- 12. When my Trustees value any asset of my estate, my Trustees must take into account its fair market value and adjusted cost base.

*Jan MM*  
*Kit*

**PROPERTY TRANSFER TAX**

- 13. Any tax payable under the *Property Transfer Tax Act* (British Columbia) as a result of a transfer from my estate to any person is to be borne by that person.

**INCOME TAX ELECTIONS**

- 14. (a) My Trustees may make any allocations, elections, and distributions my Trustees Decide are in the best interests of my estate as a whole, including any allocations and elections under the Act.
- (b) My Trustees may make those allocations or elections, in whatever manner and proportions my Trustees Decide, among the beneficiaries of my estate and any one or more of them to the exclusion of any others.
- (c) Any election that allocates any portion of the income of my estate to any person for the purposes of the Act will not be regarded as a decision by my Trustees to allocate, in fact, that income to that person nor will that decision give that person any right to that income.
- (d) As a result of any of those allocations, elections, or distributions made in good faith, my Trustees will not be considered to have breached any duty to maintain an even hand among the beneficiaries and my Trustees will not be liable for any loss to my estate or any beneficiary of my estate.

**INVESTMENTS**

- 15. My Trustees may invest my estate as my Trustees Decide and is not limited to investments authorized by law for trustees. My Trustees may also invest in mutual or pooled investment funds. My Trustees will not be liable for any loss that arises from any investment made in good faith.

**DEAL WITH BUSINESS**

- 16. If my estate holds any interest in any business, incorporated or otherwise, my Trustees may deal with that interest and may exercise any rights, powers, and privileges in connection with that interest to the same extent as I could if I were alive and the only owner of that interest.
- 17. For example, my Trustees may carry on that business for as long as my Trustees Decide is in the best interests of my estate. My Trustees will not be liable for any loss suffered or expenses incurred in carrying on that business. My Trustees' powers include:

  
 mm  
 KH  
 [TESTATOR]

**Use, Add, or Withdraw Capital**

- (a) using any of the capital of my estate that is invested in that business at my death to carry on that business;
- (b) adding capital from my estate, with or without taking security, to carry on that business;
- (c) withdrawing capital of my estate from that business;

**Partnerships**

- (d) when the term of any partnership expires, renewing it for any determined period or otherwise;
- (e) varying all or any of the terms contained in any partnership agreement;
- (f) introducing any person or persons as partner or partners in that business;
- (g) dividing the profits or paying any sum in lieu of profits to any partner;

**Employees**

- (h) hiring or employing in that business any persons in that business;

**Change Business**

- (i) extending or curtailing any activities of that business;
- (j) adopting any new line of activity for that business;

**Take Over or Sale of Business**

- (k) forming, or join in forming, a company to take over or purchase the whole, or any part, of that business;
- (l) selling that business to a company at whatever price and on whatever terms my Trustees Decide;

**Reorganize Business**

- (m) reorganizing or reconstructing any company;
- (n) winding up any company;
- (o) incorporating any company;

*[Handwritten signature]*  
 [TESTATOR] *Kit*

- (p) surrendering or exchanging an interest in any company or other shares in that company or any other company;
- (q) in general, dealing with all shares and securities of that business in any way; and

**Loan Money**

- (r) lending, with or without security, any money or other asset from my estate to any company in which my Trustees (as my Trustee) may own the majority of the voting shares.

**FURTHER POWERS DEALING WITH PROPERTY**

18. My Trustees, with respect to any property (personal or real) forming part of my estate, may exercise any rights, powers, and privileges in connection with that property to the same extent as I could if I were alive and the only owner of that property. Those powers include, without limitation:

- (a) managing any of that property;
- (b) spending money out of capital and income, or either, to repair, convert, improve, or rebuild any of that property;
- (c) insuring any of that property against whatever risks and in whatever amounts my Trustees Decide;
- (d) renting or leasing any of that property for any period of time and on whatever terms that my Trustees Decide;
- (e) terminating or accepting the surrender of any lease or rental arrangement concerning that property;
- (f) granting any option or right of first refusal to any person to purchase or lease that property for any period of time and on whatever terms my Trustees Decide;
- (g) paying off or renewing any mortgages on that property;
- (h) paying any person in any profession, trade, or business to transact any business or trade, or to do any act in relation to that property;
- (i) transferring that property in exchange for other property on whatever terms and conditions my Trustees Decide;
- (j) appointing any nominee, including, if more than one trustee is acting under this Will, any one or more of such multiple trustees, to hold any property which from time to time constitutes any part of my estate, and registering the property in the name of such nominee;

- (k) making and repairing roads, fences, and drains on that property; and
- (l) subdividing that property, signing subdivision plans, and if any part of the property is required for public roads or access, dedicating or conveying that part of it to the Crown or any municipality or similar competent authority.

**POWER TO COMPROMISE OR RENEW**

19. My Trustees may, at any time:

- (a) litigate, compromise, commute, settle, or waive any claim due to or due by my estate for whatever consideration and on whatever terms my Trustees Decide; or
- (b) extend, continue, or renew any evidence of any liability I may have as endorser, guarantor, surety, or otherwise for any liability of any person.

**LOANS TO BENEFICIARIES**

20. My Trustees may lend any money or other asset from my estate to any beneficiary, on whatever terms and taking whatever security, if any, my Trustees Decide.

**BORROWING POWERS**

21. My Trustees may, on behalf of my estate, borrow any amount my Trustees Decide and on whatever terms and giving whatever security my Trustees Decide.

**TRUSTEE LIABILITY**

22. My Trustees will not be responsible for any act or omission or any error of judgment not amounting to actual fraud in the management and administration of my estate or the ongoing trusts provided for herein. My Trustees will not be personally liable for any debts or liabilities relating to my estate or relating to any ongoing trusts provided for herein, and my Trustees will have a right of indemnity against the assets of my estate or the assets of any ongoing trust provided herein with respect to such debts and liabilities. My Trustees have the power to bind my estate without rendering my Trustees personally liable.

**EXPERTS**

23. My Trustees may engage accountants, lawyers, financial advisors or other professional advisors whose advice may be of assistance to my Trustees in the administration of my estate and the trusts established by this Will, and the fees and disbursements of such

*Sw mm*  
*Kid*

accountants, lawyers, financial advisors or other professional advisors will be a charge on my estate and my Trustees will be reimbursed therefor from the assets of my estate.

**TRUSTEE'S FEES**

24. My Trustees may claim remuneration for acting as Trustees unless my Trustees are a beneficiary under this Will or any Codicil to it, in which case my Trustees will receive the gifts or benefits I give to my Trustees in this Will or any Codicil to it in lieu of remuneration for acting as Trustee.

**DIRECTOR'S FEES IN ADDITION TO TRUSTEE'S FEES**

25. Any of my Trustees may become directors or officers of any company in which I may have an interest and may receive any fees or other benefits for being a director or officer without being liable to account for them to my estate. These fees and benefits are in addition to any remuneration the Trustees may be entitled to for acting as a Trustee.

**PAYMENT OF PROFESSIONAL FEES**

26. If any of my Trustees are a lawyer, accountant, stockbroker, or other person engaged in any profession or business, that Trustee, or that Trustee's firm, may be paid all usual professional fees and other charges for all work done by that Trustee or that Trustee's firm and any partner of that Trustee in connection with the proving of this Will and the administration of my estate. That Trustee or that Trustee's firm may be paid for matters that might or should have been done personally but for which my Trustees might reasonably have hired a professional person.



**DECLARATION**

27. I have signed this Will on June 14, 2016.

We were both present, at the request of )  
Gilbert Wong, when he signed this Will. )  
We then signed as witnesses in his presence )  
and in the presence of each other. )

[Signature] )  
Signature of Witness )

Printed Name )  
**KIM M. HO** )  
BARRISTER & SOLICITOR )  
27th FL 595 BURNARD ST. )  
Address (Street) )  
VANCOUVER, B.C. )  
V7X 1J2 )

City )

Occupation )

[Signature] )  
Signature of Witness )

Melissa molvik )  
Printed Name )

302-6366 Cassie Ave )  
Address (Street) )

Burnaby BC )  
City )

Legal Assistant. )  
Occupation )

[Signature]  
Gilbert Wong

NO.  
VANCOUVER REGISTRY  
  
**IN THE SUPREME COURT OF BRITISH COLUMBIA**

**BETWEEN:**

**AUSTIN WONG and DEREK WONG in their  
capacities as joint executors of the ESTATE  
OF WAI HUNG WONG**

**PETITIONERS**

**AND:**

**SIU MUI WONG ET. AL.**

**RESPONDENTS**

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**AFFIDAVIT OF  
DEREK WONG**



Lindsay Kenney LLP  
Barristers & Solicitors  
Founded in 1980

Barristers & Solicitors  
1800 – 401 West Georgia Street  
Vancouver, British Columbia  
V6B 5A1

Phone: (604) 687-1323  
Attention: J. Reilly Pollard