

ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)

THE HONOURABLE	)	TUESDAY, THE 1 <sup>ST</sup> DAY
	)	
JUSTICE W.D. BLACK	)	OF OCTOBER, 2024

B E T W E E N:

**MARSHALLZEHR GROUP INC.**

Applicant

- and -

**2557386 ONTARIO INC. and 2363823 ONTARIO INC. o/a MARIMAN HOMES**

Respondents

**IN THE MATTER OF AN APPLICATION UNDER SUBSECTION 243(1) OF THE  
BANKRUPTCY AND INSOLVENCY ACT, RSC 1985, c B-3, AS AMENDED AND SECTION  
101 OF THE COURTS OF JUSTICE ACT, RSO 1990 c C. 43, AS AMENDED**

**APPROVAL AND VESTING ORDER**

**THIS MOTION**, made by KSV Restructuring Inc. in its capacity as the Court-appointed receiver (the "**Receiver**") of the undertaking, property and assets of 2557386 Ontario Inc. and 2363823 Ontario Inc. o/a Mariman Homes (collectively, the "**Debtors**") for an order approving the sale transaction (the "**Transaction**") contemplated by an agreement of purchase and sale (the "**Sale Agreement**") between the Receiver and 1000961999 Ontario Inc. (the "**Purchaser**") and Sunray Estates Limited Partnership, by its general partner, Sunray Estates GP Inc. dated August 6, 2024 and appended to the Third Report of the Receiver dated September 23, 2024 (the "**Third Report**"), and vesting in the Purchaser the Debtors' right, title and interest in and to the real property as described in the Sale Agreement, including the real property described in **Schedule A** hereto (the "**Purchased Lands**"), was heard this day at 330 University Avenue, Toronto, Ontario.

**ON READING** the Third Report and on hearing the submissions of independent counsel for the Receiver, counsel for MarshallZehr Group Inc., and those other parties appearing on the counsel slip, no one appearing for any other person on the service list, although properly served as appears from the affidavit of Christel Paul, sworn September 24, 2024 filed:

## **SERVICE**

1. **THIS COURT ORDERS** that the time for service and filing of the Notice of Motion and Motion Record herein is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.

## **APPROVAL AND VESTING**

2. **THIS COURT ORDERS AND DECLARES** that the Transaction is hereby approved, and the execution of the Sale Agreement by the Receiver is hereby authorized and approved, with such minor amendments as the Receiver may deem necessary. The Receiver is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Lands to the Purchaser.

3. **THIS COURT ORDERS AND DECLARES** that upon the delivery of a Receiver's certificate to the Purchaser substantially in the form attached as **Schedule B** hereto (the "**Receiver's Certificate**"), all of the Debtor's rights, title and interests in and to the Purchased Lands described in the Sale Agreement and as listed in **Schedule A** hereto shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, conditional sale contracts or other title retention agreements or similar instruments, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "**Claims**") including, without limiting the generality of the foregoing:

- (a) any encumbrances or charges created by the Order of the Honourable Justice Osborne dated January 16, 2024;
- (b) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system;

- (c) those Claims listed on **Schedule C** hereto (all of which are collectively referred to as the "**Encumbrances**", which term shall not include the permitted encumbrances, easements and restrictive covenants listed on **Schedule D**) and, for greater certainty, this Court orders that all Encumbrances affecting or relating to the Purchased Lands are hereby expunged and discharged as against the Purchased Lands; and,
- (d) all rights and claims of any purchasers arising pursuant to Pre-construction Agreements (as defined below) of purchase and sale between such purchasers and any of the Debtors in respect of the Purchased Lands.

4. **THIS COURT ORDERS** that upon the registration in the Land Registry Office for the Land Titles Division of Haldimand County (No. 18) of an Application for Vesting Order in the form prescribed by the *Land Titles Act* and/or the *Land Registration Reform Act*, the Land Registrar is hereby directed to:

- (a) enter the Purchaser as the owner of the subject real property identified in **Schedule A** hereto (the "**Real Property**") in fee simple;
- (b) delete and expunge from title to the Real Property all of the Claims listed in **Schedule C** hereto; and
- (c) register this Order on title to the Real Property.

5. **THIS COURT ORDERS** that all of the agreements of purchase and sale between a purchaser and the Debtors in respect of the Purchased Lands (the "**Pre-construction Agreements**") shall be and are hereby deemed to be terminated, repudiated, and/or rejected by the Receiver effective on the Closing (as defined in the Receiver's Certificate in **Schedule B**), and such Pre-construction Agreements and any rights or claims thereunder or relating thereto are not continuing obligations effective against the Purchased Lands or binding on the Purchaser.

6. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Lands shall stand in the place and stead of the Purchased Lands, and that from and after the delivery of the Receiver's Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Lands with the same priority as they had with respect to the Purchased Lands immediately prior to the

sale, as if the Purchased Lands had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

7. **THIS COURT ORDERS AND DIRECTS** the Receiver to file with the Court a copy of the Receiver's Certificate, forthwith after delivery.

8. **THIS COURT ORDERS** that, notwithstanding:

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the Debtor and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of the Debtor;

the vesting of the Purchased Lands in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtors and shall not be void or voidable by creditors of the Debtors, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

9. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.



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### **Schedule A – Purchased Lands Description**

**PIN 38148-0128 (LT)** PART WARNER NELLES TRACT DESIGNATED AS PART 1, 18R-7058;  
SAVE & EXCEPT PART 1, 18R-7281; T/W EASEMENT OVER PART 2, 18R-7058 AS IN  
HC252899; TOWNSHIP OF SENECA; HALDIMAND COUNTY

**Schedule B – Form of Receiver’s Certificate**

Court File No. CV-23-00699432-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

B E T W E E N:

**MARSHALLZEHR GROUP INC.**

Applicant

- and -

**2557386 ONTARIO INC. and 2363823 ONTARIO INC. o/a MARIMAN HOMES**

Respondents

**IN THE MATTER OF AN APPLICATION UNDER SUBSECTION 243(1) OF THE  
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**RECEIVER’S CERTIFICATE**

**RECITALS**

A. Pursuant to an Order of the Honourable Justice Osborne of the Ontario Superior Court of Justice dated January 16, 2024, KSV Restructuring Inc. was appointed as the receiver (the "**Receiver**") of the undertaking, property and assets of 2557386 Ontario Inc. and 2363823 Ontario Inc. o/a Mariman Homes (the "**Debtors**").

B. Pursuant to an Order of the Court dated October 1, 2024 the Court approved the agreement of purchase and sale made as of August 6, 2024 (the "Sale Agreement") between the Receiver and 1000961999 Ontario Inc. (the "**Purchaser**") and Sunray Estates Limited Partnership, by its general partner, Sunray Estates GP Inc. and provided for the vesting in the Purchaser of the Debtors’ rights, title and interests in and to the Purchased Lands, which vesting is to be effective with respect to the Purchased Lands upon the delivery by the Receiver to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Purchased Lands; (ii) that the conditions to Closing as set out in sections 21 and 22 of the

Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Receiver.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.

**THE RECEIVER CERTIFIES** the following:

1. The Purchaser has paid and the Receiver has received the Purchase Price for the Purchased Lands payable on the Closing Date pursuant to the Sale Agreement;
2. The conditions to Closing as set out in sections 21 and 22 of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and
3. The Transaction has been completed to the satisfaction of the Receiver.
4. This Certificate was delivered by the Receiver at \_\_\_\_\_ [TIME] on \_\_\_\_\_ [DATE].

**KSV RESTRUCTURING INC., in its capacity  
as Receiver of the undertaking, property and  
assets of 2557386 Ontario Inc. and 2363823  
Ontario Inc. o/a Mariman Homes, and not in  
its personal capacity**

Per: \_\_\_\_\_

Name:

Title:

**Schedule C – Claims to be deleted and expunged from title to Real Property**

<b>Registration Number</b>	<b>Date</b>	<b>Description</b>
CH105714	2021/02/19	TRANSFER
CH118769	2022/06/30	CHARGE
CH118770	2022/06/30	NO ASSGN RENT GEN
CH118771	2022/06/30	RESTRICTION-LAND
CH128011	2023/08/17	CONSTRUCTION LIEN
CH129550	2023/10/31	CERTIFICATE
CH131051	2024/01/18	APL COURT ORDER



**Schedule D – Permitted Encumbrances, Easements and Restrictive Covenants  
related to the Real Property**

**(unaffected by the Vesting Order)**

<b>Registration Number</b>	<b>Date</b>	<b>Description</b>
HC252899	2000/07/28	TRANSFER – T/W EASEMENT
18R7058	2013/06/06	PLAN REFERENCE
CH46464	2013/06/06	APL ABSOLUTE TITLE
CH87614	2018/11/21	LR'S ORDER

**MARSHALLZEHR GROUP INC.**

**and**

**2557386 ONTARIO INC. and 2363823 ONTARIO  
INC. O/A MARIMAN HOMES**

Applicant

Respondents

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

Proceedings commenced at Toronto

**APPROVAL AND VESTING ORDER**

**RECONSTRUCT LLP**

Richmond-Adelaide Centre  
120 Adelaide Street West, Suite 2500  
Toronto, ON M5H 1T1

**R. Brendan Bissell** LSO No. 40354V  
bbissell@reconllp.com  
Tel: 416.613.0066

**Jasmine Landau** LSO No. 74316K  
jlandau@reconllp.com  
Tel: 416.613.4880

Fax: 416.613.8290

**Independent counsel for KSV  
Restructuring Inc.**