

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

**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**

**SUPPLEMENTARY MOTION RECORD OF THE RECEIVER, KSV RESTRUCTURING INC.**  
(returnable October 1, 2024)

September 27, 2024

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

**R. Brendan Bissell** LSO No. 40354V  
Tel: 416.613.0066  
Email: [bbissell@reconllp.com](mailto:bbissell@reconllp.com)

**Jasmine Landau** LSO No. 74316K  
Tel: 416.613.4880  
Email: [jlandau@reconllp.com](mailto:jlandau@reconllp.com)

Fax: 416.613.8290

**Independent Counsel for the Receiver,  
KSV Restructuring Inc.**

**TO: THE SERVICE LIST**

**SERVICE LIST**  
**(as at September 20, 2024)**

<p><b>CHAITONS LLP</b> 5000 Yonge Street, 10<sup>th</sup> Floor Toronto, ON M2N 7E9</p> <p>Maya Poliak (54100A) Tel: 416-218-1161 Email: <a href="mailto:maya@chaitons.com">maya@chaitons.com</a></p> <p>Lawyers for the KSV Restructuring Inc, in its capacity as Court-appointed Receiver and MarshallZehr Group Inc.</p>	<p><b>KSV RESTRUCTURING INC.</b> 150 King Street West, Suite 2308 Toronto, ON M5H 1J9</p> <p>Mitch Vininsky Email: <a href="mailto:mvininsky@ksvadvisory.com">mvininsky@ksvadvisory.com</a></p> <p>Nisan Thurairatnam Email: <a href="mailto:NThurairatnam@ksvadvisory.com">NThurairatnam@ksvadvisory.com</a></p> <p>Court-Appointed Receiver</p>
<p><b>RECONSTRUCT LLP</b> 120 Adelaide St. W. Suite 2500 Toronto, Ontario M5H 1T1</p> <p>Brendan Bissell Tel: 416-613-0066 Email: <a href="mailto:bbissell@reconllp.com">bbissell@reconllp.com</a></p> <p>Caitlin Fell Tel: 416-613-8282 Email: <a href="mailto:cfell@reconllp.com">cfell@reconllp.com</a></p> <p>Independent legal counsel for KSV Restructuring Inc, in its capacity as Court-appointed Receiver</p>	<p><b>DEPARTMENT OF JUSTICE</b> The Exchange Tower 130 King Street West, Suite 3400 Toronto, ON M5X 1K6</p> <p><a href="mailto:AGC-PGC.Toronto-Tax-Fiscal@justice.gc.ca">AGC-PGC.Toronto-Tax-Fiscal@justice.gc.ca</a></p> <p>Lawyers for Canada Revenue Agency</p>
<p><b>RORY McGOVERN P.C.</b> 25 Adelaide Street East, Suite 1910 Toronto, ON M5C 3A1</p> <p>Rory McGovern Tel: (416) 938-7679 Email: <a href="mailto:rory@rorymcgovernpc.com">rory@rorymcgovernpc.com</a></p> <p>Lawyers for the Respondents</p>	<p><b>ONTARIO MINISTRY OF FINANCE - INSOLVENCY UNIT</b></p> <p>33 King Street West, 6th Floor P.O. Box 627, Station A Oshawa, ON L1H 8H5</p> <p>Leslie Crawford Tel: (905) 433-5657</p> <p>Email: <a href="mailto:insolvency.unit@ontario.ca">insolvency.unit@ontario.ca</a></p>

<p><b>SISKINDS</b>  275 Dundas Street, Unit 1  London, ON N6B 3L1</p> <p>Stephanie Adams  Tel: 519.660.7852  Email: <a href="mailto:stephanie.adams@siskinds.com">stephanie.adams@siskinds.com</a></p> <p>Daniel MacKeigan  Email: <a href="mailto:dan.mackeigan@siskinds.com">dan.mackeigan@siskinds.com</a></p> <p>Lawyers for VanRooyen Earthmoving Ltd.</p>	<p><b>SCOTLAND REAL ESTATE VENTURE LIMITED</b>  55 Hyde Park Drive  Richmond Hill, ON L4B 1X1</p> <p>Courtesy Copy To:  <b>BISCEGLIA &amp; ASSOCIATES</b>  9100 Jane Street, Building A, Suite 200  Toronto, ON L4K 0A4</p> <p>Emilio Bisceglia  Tel: (905) 695-5200  Email: <a href="mailto:ebisceglia@lawtoronto.com">ebisceglia@lawtoronto.com</a></p>
<p><b>GATESTONE LAW</b>  25 Main Street West, Suite 1702  Hamilton, ON L8P 1H1</p> <p>Philip A. Kuca  Tel: (905) 526-0736  Email: <a href="mailto:pkuca@gatestonelaw.com">pkuca@gatestonelaw.com</a></p> <p>Lawyers for Morris Wright Mortgage Company and Olympia Trust</p>	<p><b>HALDIMAND COUNTY</b>  53 Thornburn Street South  Cayuga, ON N0A 1E0</p> <p>Municipal Clerk  Tel: (905) 318-5932  Email: <a href="mailto:clerk@haldimandcounty.on.ca">clerk@haldimandcounty.on.ca</a></p>
<p><b>SUMIT TANGRI LAW GROUP</b>  20 Hughson Street South, Suite 500  Hamilton, ON L8N 2A1</p> <p>Sumit Tangri  Tel: (905) 577-8294  Email: <a href="mailto:sumit.tangri@stlaw.ca">sumit.tangri@stlaw.ca</a></p> <p>Lawyers for Ajay Uppal, Mehang Shah and Ronak Shah</p>	<p><b>INCH HAMMOND P.C.</b>  1 King Street West, Suite 500  Hamilton, ON L8P 4X8</p> <p>Andrew Pelletier  Tel: (905) 525-4481, Ext. 313  Email: <a href="mailto:pelletier@inchlaw.com">pelletier@inchlaw.com</a></p> <p>John Hammand  Email: <a href="mailto:hammond@inchlaw.com">hammond@inchlaw.com</a></p> <p>Lawyers for Charlene Gulka, Christopher Gulka, Patrick Gulka, Michele Lynn Gulka, Guy MacMillan, Kathy MacMillan, Ryszard Tatar and Monika Tomczyk-Tatar</p>

<p><b>LUIGI DE LISIO</b> Barrister and Solicitor 16-261 Martindale Road St. Catharines, ON L2W 1A2</p> <p>Tel: (905)687-4885 Fax: (905) 687-3311 Email: <a href="mailto:ld@delisiolaw.ca">ld@delisiolaw.ca</a></p> <p>Lawyer for Jonathan Adams and Nicole Adams</p>	<p>Sam Varghese Kalathiparambil, Email: <a href="mailto:sampadinjarekara@gmail.com">sampadinjarekara@gmail.com</a></p> <p>Jerald Thomas Jacob and Darly Jacob Email: <a href="mailto:gerald.jacob@gmail.com">gerald.jacob@gmail.com</a></p> <p>Ratheesh Raju and Jincy John Email: <a href="mailto:ratheshraju@gmail.com">ratheshraju@gmail.com</a></p>
<p><b>LOOPSTRA NIXON</b> 130 Adelaide Street West, Suite 2800 Toronto, ON M5H 3P5</p> <p>Julian Papes Tel: (416) 366-3632 Email: <a href="mailto:jpapes@LN.Law">jpapes@LN.Law</a></p> <p>Lawyers for Saif Ur Rahman and Rukhsana Rahman</p>	<p><b>RONALD FLOM P.C.</b> The Edison Centre 2345 Yonge Street, Suite 712 Toronto, ON M4P 2E3</p> <p>Robert Trifts Tel: (416) 482-2777 Email: <a href="mailto:ronaldflom@gmail.com">ronaldflom@gmail.com</a></p> <p>Lawyers for Omer Arshed Bhatti</p>
<p><b>BALDWIN SENNECKE HALMAN LLP</b> 25 Adelaide Street East, Suite 1320 Toronto, Ontario M5C 3A1</p> <p>Evan L. Tingley Tel: (416) 601-1852 Email: <a href="mailto:ETingley@bashllp.com">ETingley@bashllp.com</a></p> <p>Lawyers for 2245625 Ontario Ltd., Vibin Joseph, Albin Joseph and Philipose Thomas</p>	<p><b>NOLAN CIARLO LLP</b> 1 King Street West, Suite 700 Hamilton, ON L8P 1A4</p> <p>Franco Ciarlo Tel: (905) 522-9261 x228 Email: <a href="mailto:fc@nolanlaw.ca">fc@nolanlaw.ca</a></p> <p>Lawyers for John Bukovac and Sylvia Schenkin</p>
<p><b>DAN SHEPPARD, P.ENG</b> Email: <a href="mailto:mepguy99@gmail.com">mepguy99@gmail.com</a></p> <p>Purchaser for Lot 46</p>	<p><b>TORYS LLP</b> 79 Wellington St. W., Suite 3000 Box 270, TD Centre Toronto, ON M5K 1N2</p> <p>Adam Slavens Tel: (416) 865-7333 Email: <a href="mailto:aslavens@torys.com">aslavens@torys.com</a></p> <p>Lawyers for Tarion Warranty Corporation</p>



<p><b>HIMELFARB PROSZANKSI LLP</b>  480 University Avenue, Suite 1401  Toronto, ON M5G 1V2</p> <p>Edilmer Solijon  Tel: (416) 599-8080  Email: <a href="mailto:esolijon@himprolaw.com">esolijon@himprolaw.com</a></p> <p>Lawyers for Tghambipillai  (purchaser of Lot 28, Street A)</p>	<p><b>COLAUTTI LANDRY PARTNERS</b>  400 Erie Street East, Unit 1  Windsor, ON N9A 3X4</p> <p>Andrew Colautti  Tel: (519) 966-1300 x 498  Email: <a href="mailto:andrew@clplaw.net">andrew@clplaw.net</a></p> <p>Lawyers Ana Pereira and Tiago Pereira</p>
<p><b>NICOLAS YANG and VIVIAN GAI</b></p> <p>Email: <a href="mailto:quangwei85@gmail.com">quangwei85@gmail.com</a>  Email: <a href="mailto:jingwei.gai@gmail.com">jingwei.gai@gmail.com</a></p>	<p><b>HOME &amp; CASTLE LAW FIRM</b>  940 The East Mall, Suite 202  Etobicoke, ON M9B 6J7</p> <p>Arlindo Aragao  Tel: (416) 247-6000 x 105  Email: <a href="mailto:arlindo@homeandcastlelawfirm.com">arlindo@homeandcastlelawfirm.com</a></p>
<p><b>STEBBING BUTCHER P.C.</b>  442 Grey Street, Suite D  Brantford, ON N3S 7N3</p> <p>Alan Butcher  Tel: (519) 751-7518  Email: <a href="mailto:alan@stebbingbutcher.com">alan@stebbingbutcher.com</a></p> <p>Litigation Counsel for the Respondents</p>	<p><b>RYANNE STUART and TYLER STUART</b></p> <p>Email: <a href="mailto:ryannestuart@gmail.com">ryannestuart@gmail.com</a>  Email: <a href="mailto:tstuart@mckeil.com">tstuart@mckeil.com</a></p>
<p><b>UNIFOR LEGAL SERVICES PLAN</b>  700 Dorval Drive, Suite 406  Oakville, ON L6K 3V3</p> <p>Peter Kazman  Tel: (905) 842-3101  Email: <a href="mailto:pkazman@uniforlsp.com">pkazman@uniforlsp.com</a></p> <p>Lawyers for Jan Srutwa and Helen Srutwa</p>	<p><b>WEEDON LAW</b>  124 Merton Street, Suite 204  Toronto, ON M4S 2Z2</p> <p>Greg Weedon  Tel: (416) 593-6723  Email: <a href="mailto:greg@weedonlaw.ca">greg@weedonlaw.ca</a></p> <p>Counsel for a purchaser on Mariman Estates</p>
<p><b>LEON EFRIAM</b>  50 Richmond Street Easts, Suite 110  Oshawa, ON L1G 7C7</p> <p>Leon Efriam  Tel: (905) 576-5666  Email: <a href="mailto:Leon@thomasefraimllp.com">Leon@thomasefraimllp.com</a></p> <p>Lawyers for 2441026 Ontario Inc.</p>	<p><b>WELLENREITER LLP</b>  280 Plains Road West  Burlington, ON L7T 1G4</p> <p>Richard Wellenreiter  Tel: (905) 529-4520  Email: <a href="mailto:rwellenreiter@wellenreiterllp.ca">rwellenreiter@wellenreiterllp.ca</a></p> <p>Lawyers for 2689918 Ontario Inc.</p>

<b>VITULLI LAW GROUP</b> 69 Hughson Street North Hamilton, ON L8R 1G5  John Vitulli Tel: (905) 528-8773 Email: <a href="mailto:jvitulli@vitullilawgroup.com">jvitulli@vitullilawgroup.com</a>  Lawyer for 2496582 Ontario Inc.	<b>KEYSER MASON BALL</b> 3 Robert Speck Parkway, Suite 900 Mississauga, ON L4Z 2G5  Brian M. Jenkins Tel: (9905) 276-9111 Email: <a href="mailto:bjenkins@kmblaw.com">bjenkins@kmblaw.com</a>  Lawyers for Anil Besoon et. al.
<b>Bill Sinclair</b> Tel: (905) 844-6664 Email: <a href="mailto:billsinclair@sympatico.ca">billsinclair@sympatico.ca</a>  Michael Luppino Email: <a href="mailto:mluppino@qclaw.ca">mluppino@qclaw.ca</a>  Lawyers for Anna Montemurro et al.	<b>JIM PAULS REAL ESTATE</b>  Jim Pauls Email: <a href="mailto:jim@jimpaulsrealestate.com">jim@jimpaulsrealestate.com</a>  Sarah Pauls Email: <a href="mailto:sarah@jimpaulsrealestate.com">sarah@jimpaulsrealestate.com</a>
<b>HOME CONSTRUCTION REGULATORY AUTHORITY</b>  Alex Alton Tel: (647) 217-7279 Email: <a href="mailto:alex.alton@hcraontario.ca">alex.alton@hcraontario.ca</a>	<b>SIMPSON WEIGLE</b> 1 Hunter Street East, Suite 200 Hamilton, ON L8N 3W1  Derek Schmuck Tel: (905) 528-8411 Email: <a href="mailto:schmuckd@simpsonwigle.com">schmuckd@simpsonwigle.com</a>  Lawyers for Pollard Windows
<b>DUDZIC, Barristers and Solicitors</b> 105 Main Street East, Suite 1014 Hamilton, ON L8N 1G6  Mark Dudzic Tel: (905) 528-4251 Email: <a href="mailto:mark@dudziclaw.com">mark@dudziclaw.com</a>  Lawyers for Sabatine	<b>JOSEPH SHAJI</b> Email: <a href="mailto:shajimjoseph@live.com">shajimjoseph@live.com</a>

<b>NENOS ISAK</b> Email: <a href="mailto:Nenos.isak@gmail.com">Nenos.isak@gmail.com</a>	<b>MILLS &amp; MILLS</b> 2 St. Clair Avenue West, Suite 1700 Toronto, ON M4V 1L5  Zachary Silverberg Email: <a href="mailto:zachary.silverberg@millsandmills.ca">zachary.silverberg@millsandmills.ca</a>  Adnan Subzwari Email: <a href="mailto:adnan.subzwari@millsandmills.ca">adnan.subzwari@millsandmills.ca</a> Tel: (416) 863-0125  Lawyers for the Plaintiffs, Jerald Thomas Jacob and Darly Jacob
--	---

**EMAIL:**

mvininsky@ksvadvisory.com; bluder@ksvadvisory.com; bbissell@reconllp.com;  
cfell@reconllp.com; jlandau@reconllp.com; insolvency.unit@ontario.ca; AGC-PGC.Toronto-  
Tax-Fiscal@justice.gc.ca; ebisceglia@lawtoronto.com; maya@chaitons.com;  
laurac@chaitons.com; stephanie.adams@siskinds.com; dan.mackeigan@siskinds.com;  
clerk@haldimandcounty.on.ca; pkuca@gatestonelaw.com; pelletier@inchlaw.com;  
hammond@inchlaw.com; sumit.tangri@stlaw.ca; sampadinjarekara@gmail.com;  
jerald.jacob@gmail.com; ratheshraju@gmail.com; ld@delisiolaw.ca;  
rory@rorymcgovernpc.com; jpapes@LN.Law; ronaldflom@gmail.com; ETingley@bashllp.com;  
fc@nolanlaw.ca; mepguy99@gmail.com; aslavens@torys.com; esolijon@himprolaw.com;  
andrew@clplaw.net; guangwei85@gmail.com; jingwei.gai@gmail.com;  
arlindo@homeandcastlelawfirm.com; alan@stebbingbutcher.com; ryannestuart@gmail.com;  
tstuart@mckeil.com; pkazman@uniforlsp.com; greg@weedonlaw.ca;  
Leon@thomasefraimllp.com; rwellenreiter@wellenreiterllp.ca; jvitulli@vitullilawgroup.com;  
bjenkins@kmbllaw.com; jim@jimpaulsrealestate.com; sarah@jimpaulsrealestate.com;  
schmuckd@simpsonwiggles.com; alex.alton@hcraontario.ca; billsinclair@sympatico.ca;  
mluppino@gclaw.ca; mark@dudzielaw.com; shajimjoseph@live.com; Nenos.isak@gmail.com;  
zachary.silverberg@millsandmills.ca; adnan.subzwari@millsandmills.ca

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

**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**

**INDEX**

<b>TAB</b>	<b>DOCUMENT</b>	<b>PG. NO.</b>
1.	Supplement to the Third Report of the Receiver dated September 27, 2024	010
A	Samples of correspondence received from York Purchasers	016
B	HCRA Minutes of Settlement dated December 3, 2023	027
C	HCRA Notice of Administrative Penalty and Notice to Revoke a Licence, dated July 31, 2024	046
D	Receiver's correspondence with counsel to Mike Bettiol dated March 26 to May 31, 2024	055
2.	Updated Draft Approval and Vesting Order	063
3.	Updated Blackline of Approval and Vesting Order	075
4.	Updated Draft Distribution and Discharge Order	087
5.	Updated Blackline of Distribution and Discharge Order	093

**TAB 1**



**Supplement to Third Report of  
KSV Restructuring Inc.  
as Receiver of 2557386 Ontario Inc. and  
2363823 Ontario Inc. o/a Mariman Homes**

September 27, 2024

<b>Contents</b>		<b>Page</b>
1.0	Introduction.....	1
1.1	Purposes of this Supplemental Report .....	1
1.2	Restrictions .....	2
2.0	York Purchasers .....	2

**Appendices**

York Purchasers letters (samples) .....	A
HCRA Minutes .....	B
HCRA notice .....	C
Receiver’s correspondence with Mr. Bettiol .....	D

COURT FILE NO.: CV-23-00699432-00CL

ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)

BETWEEN:

MARSHALLZEHR GROUP INC.

APPLICANT

- AND -

2557386 ONTARIO INC. AND 2363823 ONTARIO INC.  
O/A MARIMAN HOMES

RESPONDENT

SUPPLEMENT TO THIRD REPORT OF  
KSV RESTRUCTURING INC.  
AS RECEIVER

SEPTEMBER 27, 2024

## 1.0 Introduction

1. This report (the “**Supplemental Report**”) supplements the Third Report to Court of KSV Restructuring Inc. dated September 23, 2024 (the “**Third Report**”) and should be read in conjunction with the Third Report.
2. Unless otherwise stated, capitalized terms used in this Supplemental Report and not otherwise defined herein have the meanings given to them in the Third Report.

### 1.1 Purposes of this Supplemental Report

1. The purposes of this Supplemental Report are to:
  - a) update the Court on the communications received by the Receiver from certain York Purchasers;
  - b) respond to a Responding Motion Record dated September 25, 2024 (the “**Responding Record**”) filed by one of the York Purchasers, and substantially similar correspondence from certain York Purchasers; and
  - c) continue to recommend that the Court approve the Transaction.



## 1.2 Restrictions

1. This Supplemental Report is subject to the restrictions set out in Section 1.3 of the Third Report.

## 2.0 York Purchasers

1. As described in the Third Report, on September 23, 2024, the Receiver advised the York Purchasers that it entered into the APS and that the Purchaser will not be assuming the existing Pre-construction APSs.
2. On September 24, 2024, the Receiver was served with the Responding Record. The Receiver also began receiving letters from several other York Purchasers, a sample of which is provided as Appendix "A". All of the letters received are substantially similar.
3. In their letters, the York Purchasers, among other things, advise the Receiver that: (i) they have an unsecured claim against the Companies for the amount of their deposit; (ii) deposits they paid to Mariman exceed the \$100,000 coverage limit provided by Tarion; (iii) they will incur substantial losses if the Transaction is completed and their Pre-construction APSs are terminated, and they therefore oppose approval of the Transaction; and (iv) they understand that the former principal of Mariman has raised financing sufficient to complete the York Project and intends to do so.
4. The Receiver is sympathetic to the York Purchasers and considered their interests, as well as all other stakeholders of the Companies, in its review of the APS and approval of the Transaction. As it relates to the York Purchasers, the Receiver considers the following to be relevant:
  - a) This receivership proceeding was commenced shortly after HCRA entered into Minutes of Settlement with Mariman (the "Minutes") which, among other things, suspended Mariman's builders license and required proof that Mariman holds approximately \$16.9 million in the trust account of a lawyer in good standing with the Law Society of Ontario. A copy of the Minutes is provided as Appendix "B". Mariman did not comply with its obligations pursuant to the Minutes and on July 31, 2024, HCRA revoked Mariman's license. A copy of the notice from HCRA in this regard is provided as Appendix "C". Accordingly, Mariman has no authority to build the York Project or any other project;
  - b) As the Receiver has consistently reported in its previous reports, Mariman advised the Receiver that the deposits advanced by the York Purchasers were spent;
  - c) The York Project has been marketed for sale by Colliers since April 2024. The Receiver received no offers for the York Project by the bid deadline or at all other than the APS;
  - d) The Receiver has not been provided with any offers or proposals from Mr. Bettiol, nor has he or his legal counsel responded to numerous information requests by the Receiver. Certain correspondence between the Receiver and Mr. Bettiol's counsel is provided as Appendix "D";

- e) The York Purchasers appear to be suggesting that an adjournment is appropriate to allow them to seek legal advice. No solution has been proposed for the York Project other than the Transaction and the York Purchasers appear to have the benefit of legal advice based on the content of their letters;
  - f) MarshallZehr has been funding this Receivership proceeding to date and has advised the Receiver that it is not prepared to continue to do so; and
  - g) The Purchaser has advised the Receiver that it will only complete the Transaction with the Pre-construction APSs vested out.
5. The Receiver has accepted an APS, subject to Court approval, that does not provide for an assumption of the Pre-construction APSs. Completion of the Transaction will result in material losses by the York Purchasers; however, that Transaction provides for the best recovery in the circumstances, particularly when no other offer has been submitted. Accordingly, the Receiver continues to recommend that the Transaction be approved.

\* \* \*

All of which is respectfully submitted,

*KSV Restructuring Inc.*

**KSV RESTRUCTURING INC.,  
SOLELY IN ITS CAPACITY AS RECEIVER OF  
2557386 ONTARIO INC. AND 2363823 ONTARIO INC.  
O/A MARIMAN HOMES  
AND NOT IN ITS PERSONAL OR IN ANY OTHER CAPACITY**

## Appendix “A”

---

Ben Luder  
Manager of KSV  
KSV Restructuring Inc  
220 Bay Street, Suite 1300  
Toronto, Ontario  
L5J 2W4

September 24, 2024

To Mr. Luder,

**Re: Letter to Buyers dated September 23, 2024**  
**MarshallZehr Group Inc. ats 2557386 Ontario Inc et al**  
**Court File No. CV-23-00699432-00CL**

As previously advised to KSV Restructuring Inc (“KSV”), I have an Agreement of Purchase and Sale (“APS”) for property (“Grand York Estates”) that is part of the receivership proceeding administered by KSV as appointed by MarshallZehr Group Inc. (“MarshallZehr”).

I confirm receipt of your letter dated September 23, 2024 where you first advise that KSV is now seeking court approval of the proposed sale of Grand York Estates to “an affiliate” of MarshallZehr. You further advise that “the affiliate” will not assume the Agreements of Purchase and Sale that apply to Grand York Estates. You rationalize incorrectly that the Buyers (a contractual party to the APS) are protected by the Tarion Warranty Corporation (“Tarion”).

**Tarion – No Equitable Protection for Buyers (loss of substantial money)**

It appears that KSV has no knowledge of the amount of the deposits paid by the Buyers who have APS. This is a key component to appreciating how Tarion does not protect the deposit money paid by the Buyers, including myself.

Tarion’s coverage for the loss of deposit paid by Buyers whose APS are repudiated is 10 percent of the purchase price, up to the maximum of \$100,000.00.

With respect to Grand York Estates, there are 54 lots, as correctly noted in your First Report dated March 20, 2024. Each of these lots had an APS with a Buyer that had provided a deposit. You further correctly noted that over \$10 million was provided by these Buyers, paid as deposits due under their APS. Certainly, the deposits paid by each Buyer were substantial.

Specifically, I signed my APS on September 13, 2021. As required, I paid my deposit of \$222,000.00. The purchase price was \$1,480,000.00. I am enclosing a copy of my APS and receipt for the deposit paid.

Based on the purchase price and maximum payable by Tarion, I will have a shortfall of more than a 50% loss from my deposit paid. This equates to a loss of \$122,000.00. This is far from an equitable remedy that you allege is available through Tarion. Accordingly, it is incorrect that Tarion offers a remedy to Buyers that is sufficient to protect their interests if the proposed sale is granted court approval.

Please note that the Buyers are organizing to respond to your letter. Many have advised that they have not received a copy of your letter. They were not aware of the proposed sale. They were not aware that their APS would not be protected by KSV in this receivership proceeding. They were basically given one week to respond as your letter is dated one week prior to the court date you arranged for the court approval of the sale. This is not sufficient time and proper notice to the Buyers. For instance, they may seek intervenor status to be included in the receivership proceeding, including being able to make submissions directly to the court. The letter you provided is being informally circulated between Buyers. However, not all Buyers are included in the communications as their identity is not known to other Buyers. There has been insufficient notice on Buyers of this proceeding by KSV. Due diligence by KSV would have included contacting all Buyers and providing them sufficient notice of their rights and potential actions to be included in this proceeding.

Many Buyers have the same loss as I have outlined above due to their purchase price. If you combine the deposits paid (\$10 million as noted in your First Report), it is likely that each Buyer will all lose about 50% of their deposits.

In talking with some of the Buyers, their loss if the proposed sale is approved (a substantial portion not covered by Tarion) will have profound impacts on their families and futures. Some had sold their homes to pay for their deposits. Their ability for home ownership would be severely compromised. Many will not recover financially from this loss, including myself.

Based on the foregoing, it is respectfully requested that you do not misrepresent to the court that Tarion will provide a remedy to Buyers in support of your proposal to have the sale approved that would not protect the APS of the Buyers and deposits paid.

Please note that the Buyers, who have been contacted by other Buyers and not yourself, are organizing to submit their APS and receipts of deposits paid as evidence to KSV of the losses they will incur if this proposed sale is approved.

Further, it is respectfully requested that you advise the court in good faith that Tarion only provides a 10% coverage for deposits to the maximum of \$100,000.00. As you know, KSV has the duty to Buyers (subject to APS) to act fairly and in accordance with the law, including not engaging in bad faith conduct, i.e. misrepresentation to the court.

### **Conflict of Interest – MarshallZehrs & “the affiliate”**

The proposed sale by “the affiliate” appears to not involve an arms length relationship. Resultingly, the proposed transaction may not be conducted fairly and without undue influence and prejudice.

Certainly, the exact corporate identity of “the affiliate” should be properly informed of, to the Buyers, including myself, and the court. This ensures that “the affiliate” is not a shell for MarshallZehrs to benefit from commencing the receivership to purchase the land, repudiating the APS simultaneously, in order to acquire the land for a greater profit in the future. Any proposed sale to an entity that is not arms length should be cautiously assessed to avoid any prejudicial preference and/or treatment, which could cause great unfairness and loss to the Buyers.

Accordingly, it is respectfully requested that the full particulars, including the exact identity of “the affiliate,” be shared with the Buyers and the Court. Again, this would ensure that KSV is acting fairly and in accordance with the law. Further, it would demonstrate that KSV is not favouring MarshallZehrs directly in his proposals to the court.

### **Alternative Proposal – Not Disclosed to Court by KSV**

Your letter fails to mention that KSV is receiving proposals from 2557 (the corporations who currently own Grand York Estates) to pay more than \$20 million toward their debt with MarshallZehrs.

It is my understanding that 2557 is seeking alternate financing to pay MarshallZehrs and continue with its intended development of Grand York Estates. 2557 has indicated that it will uphold the APS, which would protect the substantial deposits paid by the Buyers, including myself.

If the above is an accurate description of the proposal by 2557 to KSV, certainly this remedy for MarshallZehrs is superior to the proposed sale to “the affiliate”. This proposal by 2557 would obtain a higher financial outcome, more than a few million difference, for MarshallZehrs. Certainly, KSV has a duty to obtain the best financial outcome for creditors. Also, the proposal protects Buyers from losing a substantial amount of their life savings.

This proposal by 2557 should be brought to the court’s attention in its decision concerning the proposed sale to “the affiliate”.

### **Conclusion**

Buyers, including myself, have an invested interest in this receivership proceeding. I request that you please advise the court of the concerns outlined above. Specifically, as follows:

- Tarion only reimburses 10% of the purchase price up to a maximum of \$100,000
- Most of the Buyers (APS) have paid more than \$200,000.00 per lot for their deposit paid
- Most of the Buyers (APS) will lose more than 50% of their deposit funds, equating to a loss of more than \$100,000.00 each
- Tarion is not an effective remedy in this case for the Buyers due to losses to be incurred by each individual Buyer
- The exact identity of “the affiliate” and all details of any relationship with MarshallZehrs
- The due diligence KSV has performed in ensuring that “the affiliate” and MarshallZehrs have an arms length relationship to protect against prejudicial treatment
- The due diligence KSV has performed in considering alternative proposals, including the proposal by 2557, which would be superior for MarshallZehrs and the Buyers
- The proper notice provided by KSV to all Buyers involved
- The due diligence KSV has performed in obtaining and reviewing all APS applying to Grand York Estates

Lastly, I request that all future letters be provided to me and all buyers involved.

Sincerely,  
Gurminder Kandola

gkandola@euroleaf.com  
416-704-4516

attached: APS dated September 13, 2021 & Receipt of Deposit

**Ben Luder**

---

**From:** Aimee Yao <lakeshore08@hotmail.com>  
**Sent:** September 25, 2024 11:09 AM  
**To:** Ben Luder; alex.alton@hcraontario.ca  
**Cc:** bbissell@reconllp.com; maya@chaitons.com; Ben Luder; rory@rorymcgovernpc.com; insolvency.unit@ontario.ca; aslavens@torys.com; alan@stebbingbutcher.com; alex.alton@hcraontario.ca; Wes Crawford; premier@ontario.ca  
**Subject:** Mariman Homes - York Estates Lot 60 ( URGENT )  
**Attachments:** Mariman - Update to Home Buyers dated Sept 23, 2024.pdf; Letter to KSV and HCRA Sept 25 2024.pdf; York Estate LOT 60 PURCHASE AGREEMENT Sept25 2024.pdf; deposit receipt lot 60.jpg

Ben Luder, Manager  
 KSV Restructuring Inc.  
 220 Bay Street, Suite 1300  
 Toronto, ON L5J 2W4

**Sent via email:** [bluder@ksvadvisory.com](mailto:bluder@ksvadvisory.com)

September 25, 2024

**RE: Buyer: Wesley Crawford**

**Lot: 60**

**Property: Grand York Estates, known as "York Property"**

**MarshallZehr Group Inc. v. 2557386 Ontario Inc. et al.**

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

Please be advised that I am a buyer pursuant to an Agreement of Purchase and Sale that was entered into with respect to the Property described above. **This is my formal request to have my claim recognized by the receiver, KSV Restructuring Inc. ("KSV").**

I am a creditor with respect to this matter. I have an unsecured claim in the amount of \$209,250.00\_\_\_\_, consisting of the deposit I paid to 2363823 Ontario Inc. O/A Mariman Homes ("debtor") pursuant to the Agreement of Purchase and Sale. I attach a copy of (a) the Agreement of Purchase and Sale, and (b) Deposit Receipt for your file. The Agreement of Purchase and Sale and the deposit paid pre-dates this receivership matter.



In respect of this debt of \$209,250.00\_\_\_\_\_, I do not hold any assets of the debtor as security. I am not related to the debtor.

I request that all notices or correspondence regarding this matter be forwarded to the following address:\_\_\_\_20 Scanlon Place, Ancaster L9k0h5\_ .

I further request that I am provided proper and sufficient notice for all court appearances related to this matter. Likewise, I request that I am provided the remote links for all virtual court appearances, including motions. Further, I request that I am sent an invite to join the remote software (i.e. CaseLines) to make submissions before the court and upload documents to the court, if applicable, in advance of any scheduled matter before the court.

Lastly, with respect to the motion returnable October 1, 2024, **I request your consent to an adjournment in order to seek legal advise and provide proper responding materials with respect to the proposed sale outlined in the motion record.** I have not been provided proper notice of the motion. I was not properly advised of the proposed sale. A court's approval of the proposed sale will entirely negate my claim against the debtor. I have insufficient recourse to the Tarion Warranty Program as it only covers a maximum of \$100,000.00 of the loss of deposit. This would be less than 50 percent of the debt owed by the debtor. It is my understanding that all buyers (54 lots) have deposits that would be limited to the maximum recovery of \$100,000.00 from Tarion, representing less than 50 percent of each deposit paid by each buyer.

As the receiver, KSV has the duty to act pursuant to section 247 of the BIA, including to (a) **act honestly and in good faith**; and (b) deal with the property of the insolvent person or the bankrupt in a commercially reasonable manner. I respectfully submit that the duty to act in good faith includes supporting an adjournment so that buyers pursuant to an Agreement of Purchase and Sale can file submissions to the court with respect to the proposed sale. An adjournment would assist buyers, including myself, with obtaining legal advise and filing submissions with the court within the prescribed timelines.

As such, I request that you please request an adjournment from the court for a reasonable period of time so that buyers, including myself, may obtain legal advice and file responding motion materials with the court.

Yours truly,

Wesley Crawford

Wesley Crawford Cell: 647-206-5770 Email: [cadwes@outlook.com](mailto:cadwes@outlook.com)

encl.

Agreement of Purchase and Sale  
Receipt of Deposit

cc. Reconstruct LLP

Brendan Bissell, Email [bbissell@reconllp.com](mailto:bbissell@reconllp.com)  
Independent Counsel for KSV Restructuring Inc.

Chaitons LLP

Maya Poliak, Email [maya@chaitons.com](mailto:maya@chaitons.com)  
Lawyers for the KSV Restructuring Inc.

Rory McGovern PC

Rory McGovern, Email [rory@rorymcgovernpc.com](mailto:rory@rorymcgovernpc.com)  
Lawyers for the Respondents

Ontario Ministry of Finance – Insolvency Unit

Leslie Crawford, Email: [insolvency.unit@ontario.ca](mailto:insolvency.unit@ontario.ca)

Torys LLP

Adam Slavens, Email: [aslavens@torys.com](mailto:aslavens@torys.com)  
Lawyers for Tarion Warranty Corporation

Stebbing Butcher P.C.

Alan Butcher, Email: [alan@stebbingbutcher.com](mailto:alan@stebbingbutcher.com)

Litigation Counsel for the Respondents

Alex Alton

HCRA

Email: [alex.alton@hcraontario.ca](mailto:alex.alton@hcraontario.ca)

----- Original -----

**From:** Ben Luder <[bluder@ksvadvisory.com](mailto:bluder@ksvadvisory.com)>

**Date:** Mon, Sep 23, 2024 9:42 PM

**Subject:** Fw: Mariman Homes - York Estates

Please refer to the attached correspondence on behalf of KSV Restructuring Inc., the Court-appointed Receiver of 2557386 Ontario Inc. and 2363823 Ontario Inc. o/a Mariman Homes.



**Ben Luder**

Manager

**T**

437.889.9995

**M**

416.953.9421

**E**

[bluder@ksvadvisory.com](mailto:bluder@ksvadvisory.com)

**KSV Advisory Inc.**

220 Bay Street

Suite 1300, Box 20

Toronto, Ontario, M5J 2W4

**T** 416.932.6262 | **F** 416.932.6266 | [www.ksvadvisory.com](http://www.ksvadvisory.com)

Ben Luder, Manager  
KSV Restructuring Inc.  
220 Bay Street, Suite 1300  
Toronto, ON L5J 2W4

September 24, 2024

**RE: Buyer: Wenli Fang**  
**Lot: 27**  
**Property: Grand York Estates, known as "York Property"**  
**MarshallZehr Group Inc. v. 2557386 Ontario Inc. et al.**  
**Court File No. CV-23-00699432-00CL**

Please be advised that I am a buyer pursuant to an Agreement of Purchase and Sale that was entered into with respect to the Property described above. **This is my formal request to have my claim recognized by the receiver, KSV Restructuring Inc. ("KSV").**

I am a creditor with respect to this matter. I have an unsecured claim in the amount of **\$\_1,435,000.00\_**, consisting of the deposit I paid to 2363823 Ontario Inc. O/A Mariman Homes ("debtor") pursuant to the Agreement of Purchase and Sale. I attach a copy of (a) the Agreement of Purchase and Sale, and (b) Deposit Receipt for your file. The Agreement of Purchase and Sale and the deposit paid pre-dates this receivership matter.

In respect of this debt of **\$\_215,250.00\_**, I do not hold any assets of the debtor as security. I am not related to the debtor.

I request that all notices or correspondence regarding this matter be forwarded to the following address: 57 Rolston Dr., Hamilton, ON., l9c 3x6.

I further request that I am provided proper and sufficient notice for all court appearances related to this matter. Likewise, I request that I am provided the remote links for all virtual court appearances, including motions. Further, I request that I am sent an invite to join the remote software (i.e. CaseLines) to make submissions before the court and upload documents to the court, if applicable, in advance of any scheduled matter before the court.

Lastly, with respect to the motion returnable October 1, 2024, **I request your consent to an adjournment in order to seek legal advise and provide proper responding materials with respect to the proposed sale outlined in the motion record.** I have not been provided proper notice of the motion. I was not properly advised of the proposed sale. A court's approval of the proposed sale will entirely negate my claim against the debtor. I have insufficient recourse to the Tarion Warranty Program as it only covers a maximum of \$100,000.00 of the loss of deposit. This would be less than 50 percent of the debt owed by the debtor. It is my understanding that all buyers (54 lots) have deposits that would be limited to the maximum recovery of \$100,000.00 from Tarion, representing less than 50 percent of each deposit paid by each buyer.

As the receiver, KSV has the duty to act pursuant to section 247 of the BIA, including to (a) **act honestly and in good faith**; and (b) deal with the property of the insolvent person or the bankrupt in a commercially reasonable manner. I respectfully submit that the duty to act in good faith includes supporting an adjournment so that buyers pursuant to an Agreement of Purchase and Sale can file submissions to the court with respect to the proposed sale. An adjournment would assist buyers, including myself, with obtaining legal advise and filing submissions with the court within the prescribed timelines.

As such, I request that you please request an adjournment from the court for a reasonable period of time so that buyers, including myself, may obtain legal advise and file responding motion materials with the court.

Yours truly,

Wenli Fang

wendyfang68@gmail.com  
905-979-8000

attached: APS dated September 24, 2024 & Receipt of Deposit

## Appendix “B”

**BETWEEN:**

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

**("Mariman")**

**- and -**

**REGISTRAR, HOME CONSTRUCTION REGULATORY AUTHORITY**

**("HCRA")**

### **MINUTES OF SETTLEMENT**

**WHEREAS** Mariman and the HCRA (collectively, the "**Parties**") acknowledge that Mariman has entered contracts with purchasers to construct 108 new homes located at the addresses set out in Schedule "A" (the "**Unfinished Homes**").

**AND WHEREAS** Mariman would be unable to complete construction of the Unfinished Homes without an HCRA licence.

**AND WHEREAS** the HCRA issued a Notice of Proposal to Refuse to Renew Mariman's licence dated May 10, 2023 ("**NOP to Refuse to Renew**").

**AND WHEREAS** Mariman filed a Notice of Appeal dated May 22, 2023 (the "**Notice of Appeal**") with the Licence Appeal Tribunal ("**LAT**").

**AND WHEREAS** the Parties wish to resolve the NOP to Refuse to Renew, the Notice of Appeal, and the proceeding before the LAT.

**NOW THEREFORE** the Parties agree as follows:

1. Mariman will withdraw its Notice of Appeal on a without costs basis.
2. The HCRA will withdraw its NOP to Refuse to Renew on a without costs basis.
3. The HCRA will grant Mariman's pending licence renewal.
4. The HCRA will immediately issue a Notice of Proposal to Suspend Mariman's licence (the "**NOP to Suspend**") in a form substantially similar to the version attached hereto as Schedule "B". The HCRA will issue an Immediate Suspension Order (the "**Immediate Suspension Order**") so that the suspension (the "**Suspension**") comes into effect without a 15-day appeal period. Mariman agrees that it will not appeal the NOP to Suspend or the Immediate Suspension Order.
5. During the Suspension, Mariman will do the following:
  - a. Obtain financing to ensure the deposit funds for all Unfinished Homes are held in a lawyer's trust account, satisfy Tarion Warranty Corporation's ("**Tarion**") Qualification for Enrolment ("**QFE**") and Enrolment procedures, and complete the Unfinished Homes.



- b. Apply to Tarion for QFE Confirmation and Enrolment Confirmation for all homes which it has agreed to sell and intends to build. Mariman shall provide Tarion with all documents and information reasonably required to assess the application.
- 6. Mariman understands that Tarion will not issue a Notice of Proposal of Conditions of QFE and/or Enrolment unless and until Mariman's licence is restored to an active status, however, after assessing the complete application while Mariman's licence remains suspended, Tarion may communicate to Mariman anticipated conditions of QFE and/or Enrolment which Mariman may irrevocably consent in writing to later accept if and when Mariman's licence is later restored. It is further understood that Tarion, after assessing the application, may not anticipate granting the application whatsoever.
- 7. The Suspension will remain in effect until:
  - a. Mariman provides proof, to the Registrar's satisfaction, that:
    - i. \$16,881,271 is held in trust in the trust account of a lawyer or law firm in good standing with the Law Society of Ontario. These funds will only be distributed as follows:
      - 1. \$8,806,074 is being held in trust pursuant to the agreements of purchase and sale for the addresses outlined in Schedule "C" and will only be distributed in accordance with the agreements of purchase and sale or as otherwise set out in these Minutes of Settlement;
      - 2. \$8,075,197 is being held in trust in relation to the addresses set out in Schedule "D" and will not be released from trust until the satisfaction of Clause 11.b. as set out below. For greater clarity, these funds can be used for no other purpose other than to return deposit funds pursuant to the notice period in Clause 11.b. until that notice period expires. Following the notice period these trust funds can be used in a manner consistent with the agreements of purchase and sale;
    - ii. Tarion is prepared to grant QFE Confirmation or Enrolment Confirmation for the Unfinished Homes if the HCRA restores Mariman's licence and Tarion is satisfied that Mariman has irrevocably consented to Tarion's proposed conditions for granting QFE Confirmation and/or Enrolment Confirmation in the event that the suspension is lifted;
    - iii. Mariman has obtained sufficient financing to complete construction and sale of the Unfinished Homes in accordance with the terms set out in these Minutes of Settlement;
    - iv. Mariman has a construction plan, with supporting documents, to complete construction and sale of the Unfinished Homes in accordance with these Minutes of Settlement; and
    - v. There are no pending or active power of sale listings or actions on any Mariman properties including, but not limited to, the twelve lots that are



currently listed for power of sale by Olympia Trust in the Hunter Estates (Scotland, ON) Project.

OR

- b. The date that the licence is revoked by the HCRA pursuant to these Minutes of Settlement or otherwise.
8. The \$16,791,271 required to be held in trust pursuant to clause 7(a)(i) may be reduced by an amount equal to the deposits paid by any purchasers of homes listed in 7(a)(i)(2) who confirm they do not intend to exercise their rights under the cancellation opportunity provided to them by these Minutes of Settlement (see paragraph 11(b)). To obtain this confirmation, Mariman shall send only one copy of a notice in the form attached as Schedule "E" to the purchasers of homes outlined in 7(a)(i)(2) via email copying [legal@hcraontario.ca](mailto:legal@hcraontario.ca). Purchasers who wish to confirm their intention shall reply to the email copying [legal@hcraontario.ca](mailto:legal@hcraontario.ca) indicating their intention. Mariman acknowledges and agrees that the HCRA may contact any purchaser to inquire about Mariman's conduct relating to the notice and confirmation process described in this paragraph. If the HCRA, in its sole discretion, has reason to believe that Mariman induced, deceived, or manipulated any purchaser to signing the confirmation form, the HCRA may immediately issue a Notice of Proposal to Revoke Mariman's licence. Mariman agrees that these Minutes of Settlement will serve as its consent to the revocation and will not appeal this NOP to Revoke.
  9. The HCRA will issue a Notice of Proposal to Revoke Mariman's licence on June 28, 2024, if it has not satisfied the conditions set out in 7(a) (the "**NOP to Revoke**"). Mariman agrees that these Minutes of Settlement will serve as its consent to consent to the revocation and will not appeal this NOP to Revoke.
  10. During the period of Suspension, Mariman remains responsible for fulfilling all duties applicable to a Licensee, including but not limited to abiding by the *Code of Ethics*, satisfying the HCRA's licensing requirements in place at the time, and renewing the licence in accordance with its annual renewal cycle.
  11. If the Suspension is lifted and Mariman returns to active licence status (the "**Post Suspension Period**"), Mariman consents to the following conditions being added to its licence:
    - a. [Licensee] cannot act as a vendor or builder for any new homes in Ontario EXCEPT in relation to the addresses listed here: [Link to Schedule "A"]
    - b. Within 30 days of [Licensee]'s licence being reinstated, [Licensee] must offer the purchasers of the homes outlined in condition [A or 1 depending on OBD] 60 days to cancel their agreements with immediate return of their full deposits in accordance with their agreement of purchase and sale. This offer is to be sent via email to the last known email address of the purchaser copying [legal@hcraontario.ca](mailto:legal@hcraontario.ca). For greater clarity, this offer must be made to every purchaser even if there is an ongoing dispute about whether the agreement has been breached by either party.

- c. [Licensee] cannot increase the purchase price for any agreements of purchase and sale unless explicitly permitted in the purchaser's agreement.
  - d. [Licensee] cannot unilaterally propose to vary any terms of any agreements of purchase and sale unless explicitly permitted in the purchaser's agreement.
  - e. [Licensee] cannot permit any third parties to seek increased purchase prices from any purchasers unless explicitly permitted in the purchaser's agreement.
  - f. [Licensee] cannot permit any third parties to seek payment of Mariman's debts or other obligations from any purchasers unless explicitly permitted in the purchaser's agreement.
  - g. [Licensee] shall send an update to the HCRA on the last day of each quarter outlining the number of homes completed during the previous quarter, the status of the remaining homes to be completed, and the status of any outstanding loans in a format and at a level of detail satisfactory to the HCRA. Without limiting the generality of this statement, the quarterly updates shall include statements from lenders showing the loans are not in default.
  - h. [Licensee] shall complete all transactions relating to all homes in the Mariman Estates Project as defined in Schedule "A" by the Outside Closing Date in each purchaser's agreement OR March 30, 2027 whichever is earlier.
  - i. [Licensee] shall complete all transactions relating to all homes in the York Estates Project as defined in Schedule "A" by the Outside Closing Date in each purchaser's agreement OR September 26, 2028 whichever is earlier.
  - j. [Licensee] shall complete all transactions relating to all homes in the Abingdon Court Project as defined in Schedule "A" by the Outside Closing in each purchaser's agreement OR October 27, 2025 whichever is earlier.
  - k. [Licensee] shall complete all transactions relating to all homes in the Hunter Estates Project as defined in Schedule "A" by the Outside Closing Date in each purchaser's agreement OR October 28, 2025 whichever is earlier.
  - l. Conditions [h-k] may be extended by the HCRA, in its sole discretion, if it receives a request from [Licensee] for an extension that is supported by documentary evidence and is consistent with the *New Home Construction Licensing Act, 2017* (the "**Act**") and the *Ontario New Home Warranties Plan Act* (the "**ONHWPA**").
12. On June 28, 2024, the HCRA will issue an Administrative Penalty Order in the amount of \$400,000 ("**APO**"). The contraventions in the APO will relate to Mariman allowing its lenders to seek increased purchase prices from the purchasers of 50 Augustus St., 51 Augustus St., 54 Augustus St., and 56 Augustus St. The APO will include a monetary benefit amount of \$367,000. The monetary benefit represents the loss that Mariman avoided by having the purchasers pay the increased price to discharge the lenders' mortgages instead of Mariman being responsible for paying those costs.



13. Mariman agrees that these Minutes of Settlement will act as Mariman's written consent to the immediate issue of the APO without the usual required Notice and Response periods contemplated in the Act.
14. Mariman will pay the full amount of the APO in four quarterly installments of \$100,000. The payments are due by the following dates: September 30, 2024, December 31<sup>st</sup>, 2024, March 31<sup>st</sup>, 2025, June 30, 2025.
15. During the Post Suspension Period, Mariman remains responsible for fulfilling all duties applicable to a Licensee, including but not limited to abiding by the *Code of Ethics*, satisfying the HCRA's licensing requirements in place at the time, and renewing the licence in accordance with its annual renewal cycle.
16. Any breach of any term of these Minutes of Settlement, shall be considered a fundamental breach of this agreement and shall constitute valid, reasonable, and sufficient grounds for revocation of a licence, refusal and/or denial of an application for licence or renewal of a licence, including, amongst other things, constituting reasonable grounds for belief that Mariman and/or its officers and directors will not carry on business under the Act, or any successor legislation to the Act, in accordance with law and with integrity and honesty. If the HCRA issues a Notice of Proposal to Revoke, Refuse, or Suspend Mariman's licence as a result of a breach of these Minutes of Settlement, Mariman agrees that these Minutes of Settlement will serve as its consent to the revocation/refusal/suspension and will not appeal the Notice of Proposal. Mariman further agrees these Minutes of Settlement shall operate conclusively as an estoppel in the event of an appeal or other proceeding. These Minutes of Settlement may be relied upon to dismiss the appeal on a summary basis and Mariman will not raise any objection to the HCRA relying on these Minutes of Settlement at any point in any appeal proceeding.
17. In any event, the HCRA will issue a Notice of Proposal to Revoke Mariman's Licence no later than September 26, 2028, the outside date to complete the projects in Schedule A. Mariman agrees that these Minutes of Settlement will serve as its consent to the revocation and it will not appeal this Notice of Proposal.
18. The revocation date in paragraph 17 may be extended by the HCRA, in its sole discretion, if it receives a request from Mariman for an extension that is supported by documentary evidence and is consistent with the Act and the ONHWPA.
19. Mariman acknowledges and agrees that nothing in this agreement restricts the HCRA and/or the Registrar from taking any action against it with respect to any new information or matters that come to the Registrar's attention.
20. The failure of the HCRA to exercise any rights or remedies to which it is entitled upon the happening of any of the events referred to in these Minutes of Settlement, shall not be deemed to be a waiver of or otherwise affect, impair or prevent the HCRA from exercising any rights or remedies to which it may be entitled, arising either from the happening of any such event. No waiver of the happening of any event, shall be deemed to be a waiver by the HCRA of such happening unless such waiver shall be in writing.
21. The Parties agree that they have reviewed and had the opportunity to obtain independent legal advice and fully understand the terms and binding effect of these Minutes of

Settlement and declare that they fully understand the strict terms and conditions of these Minutes of Settlement and voluntarily agree with all its terms and conditions.

22. These Minutes of Settlement may be signed by the Parties in separate counterparts, which shall together constitute one and the same agreement. The Parties agree that PDF and electronic signatures shall be sufficient.

By their respective signatures below, the Parties indicate agreement to the terms of this agreement.

\_\_\_\_\_  
Witness

\_\_\_\_\_  
**2363823 ONTARIO INC. O/A MARIMAN HOMES**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

I have authority to bind the corporation

\_\_\_\_\_  
Witness

  
Wendy Moir (Dec 3, 2023 13:30 EST)

**For the REGISTRAR,  
HOME CONSTRUCTION  
REGULATORY AUTHORITY**

By: \_\_\_\_\_

Name: Wendy Moir

Title: Registrar

Date: December 3, 2023



**Schedule "A"**  
**Unfinished Homes**

**Hunter Estates Project – Scotland, ON**

- |                       |                       |                        |
|-----------------------|-----------------------|------------------------|
| 1. 38 Augustus Street | 5. 42 Augustus Street | 9. 46 Augustus Street  |
| 2. 39 Augustus Street | 6. 43 Augustus Street | 10. 48 Augustus Street |
| 3. 40 Augustus Street | 7. 44 Augustus Street | 11. 53 Augustus Street |
| 4. 41 Augustus Street | 8. 45 Augustus Street | 12. 55 Augustus Street |

**Abingdon Court Project – West Lincoln, ON**

- |                    |                    |
|--------------------|--------------------|
| 13. Lot 1 Street A | 15. Lot 5 Street A |
| 14. Lot 4 Street A | 16. Lot 6 Street A |

**Mariman Estates Project – Pelham, ON**

- |                        |                        |                        |
|------------------------|------------------------|------------------------|
| 17. Lot 1, pt 21 Road  | 30. Lot 15, pt 45 Road | 43. Lot 30, pt 48 Road |
| 18. Lot 2, pt 21 Road  | 31. Lot 16, pt 45 Road | 44. Lot 31, pt 48 Road |
| 19. Lot 3, pt 21 Road  | 32. Lot 17, pt 45 Road | 45. Lot 32, pt 48 Road |
| 20. Lot 4, pt 21 Road  | 33. Lot 18, pt 45 Road | 46. Lot 33, pt 44 Road |
| 21. Lot 5, pt 21 Road  | 34. Lot 19, pt 48 Road | 47. Lot 34, pt 48 Road |
| 22. Lot 6, pt 21 Road  | 35. Lot 20, pt 45 Road | 48. Lot 35, pt 48 Road |
| 23. Lot 7, pt 48 Road  | 36. Lot 22, pt 48 Road | 49. Lot 36, pt 48 Road |
| 24. Lot 8, pt 48 Road  | 37. Lot 23, pt 44 Road | 50. Lot 37, pt 45 Road |
| 25. Lot 9, pt 48 Road  | 38. Lot 24, pt 48 Road | 51. Lot 38, pt 48 Road |
| 26. Lot 10, pt 48 Road | 39. Lot 25, pt 44 Road | 52. Lot 40, pt 48 Road |
| 27. Lot 11, pt 48 Road | 40. Lot 26, pt 44 Road | 53. Lot 42, pt 45 Road |
| 28. Lot 12, pt 48 Road | 41. Lot 27, pt 45 Road |                        |
| 29. Lot 13, pt 48 Road | 42. Lot 29, pt 48 Road |                        |

**York Estates Project – Seneca, ON**

- |                      |                      |                      |
|----------------------|----------------------|----------------------|
| 54. Lot 9, Street B  | 64. Lot 20, Street B | 74. Lot 32, Street C |
| 55. Lot 10, Street B | 65. Lot 21, Street B | 75. Lot 33, Street B |
| 56. Lot 11, Street B | 66. Lot 22, Street B | 76. Lot 34, Street C |
| 57. Lot 13, Street B | 67. Lot 23 Street B  | 77. Lot 35, Street C |
| 58. Lot 14, Street B | 68. Lot 24, Street A | 78. Lot 36, Street C |
| 59. Lot 15, Street B | 69. Lot 25, Street A | 79. Lot 37, Street C |
| 60. Lot 16, Street B | 70. Lot 26, Street A | 80. Lot 38, Street C |
| 61. Lot 17, Street B | 71. Lot 27, Street A | 81. Lot 39, Street C |
| 62. Lot 18, Street B | 72. Lot 28, Street A | 82. Lot 40, Street C |
| 63. Lot 19, Street B | 73. Lot 30, Street A | 83. Lot 41, Street C |

84. Lot 42, Street C	92. Lot 50, Street A	100. Lot 58, Shannon Street
85. Lot 43, Street C	93. Lot 51, Street C	101. Lot 59, Shannon Street
86. Lot 44, Street C	94. Lot 52, Shannon Street	102. Lot 60, Shannon Street
87. Lot 45, Street C	95. Lot 53, Shannon Street	103. Lot 61, Shannon Street
88. Lot 46, Street C	96. Lot 54, Shannon Street	104. Lot 62, Shannon Street
89. Lot 47, Street C	97. Lot 55, Shannon Street	105. Lot 63, Shannon Street
90. Lot 48, Street C	98. Lot 56, Shannon Street	106. Lot 64, Shannon Street
91. Lot 49, Street A	99. Lot 57, Shannon Street	107. Lot 65, Shannon Street

**Other Projects**

108. 2051 Vickery Drive, Oakville ON

**SCHEDULE "B"****Notice of Proposal to Suspend and Immediate Suspension Order**

Home Construction Regulatory Authority  
40 Sheppard Avenue West, Fourth Floor, Suite 400  
Toronto, ON M2N 6K9  
Tel: 416-487-HCRA (4272) Fax: 416-352-7724

December 1, 2023

Delivered by email to: [michael@burokaslaw.ca](mailto:michael@burokaslaw.ca)

To: 2363823 Ontario Inc.  
c/o Michael Burokas  
197 Spadina Ave. 4th Floor,  
Toronto, ON M5T 2C8

Attention: 2363823 Ontario Inc.

**Re: NOTICE OF PROPOSAL TO SUSPEND A LICENCE**

The Home Construction Regulatory Authority ("HCRA") proposes to suspend the licence of 2363823 ONTARIO INC. pursuant to section 40(2) of the New Home Construction Licensing Act, 2017 ("NHCLA").<sup>1</sup> Pursuant to section 45(1) of the NHCLA, the HCRA orders that this suspension takes effect immediately.

**A. REASONS****Summary**

1. The HCRA has received multiple complaints regarding 2363823 Ontario Inc. o/a Mariman Homes' ("236") conduct. Following a lengthy inspection, the HCRA discovered, among other things, that 236 had entered into agreements of purchase and sale for 108 homes without proper authorization.
2. In order to minimize harm to the purchasers of these 108 homes, the HCRA is suspending 236's licence until such time as it demonstrates to the HCRA that it has obtained proper authorization to build and sell these homes. Further, 236 must demonstrate to the HCRA that it can construct these homes in the time period and at the price promised to these consumers.
3. Given the scope of these infractions and the possible harm to consumers, the HCRA believes it is in the public interest to immediately suspend 236's licence.

---

<sup>1</sup> *New Home Construction Licensing Act, 2017*, SO 2017, c 33, Sched 1, available online here: [www.ontario.ca/laws/statute/17n33#BK44](http://www.ontario.ca/laws/statute/17n33#BK44).





Home Construction Regulatory Authority  
 40 Sheppard Avenue West, Fourth Floor, Suite 400  
 Toronto, ON M2N 6K9  
 Tel: 416-487-HCRA (4272) Fax: 416-352-7724

### **The Parties**

4. The HCRA regulates new home vendors and builders in accordance with the NHCLA and with the principle of promoting the protection of the public interest.
5. Part of the HCRA's oversight function includes considering concerns raised about applicants and licensees and taking appropriate action to protect the public as authorized by the NHCLA.
6. 236 has been a licensed vendor/builder since December 5, 2013. Michael Bettiol and Angela Bettiol are listed as Directors of the corporation. 236 operates using the name Mariman Homes. 236 is licensed under the Marimat Homes group of related companies.

### **Particulars**

#### *Failure to Enrol*

7. Between December 2016 and April 2022, 236 has entered into agreements to sell 108 new homes in Ontario. Pursuant to the terms and conditions of 236's Tarion Registration, which subsequently became conditions of its HCRA licence, 236 was only permitted to build or sell 7 homes.
8. Further, most of these new homes have not been enrolled in the warranty program with Tarion. 64 of these homes were sold after February 1, 2021. As a result, 236 was required to complete the qualification for enrolment process as required by the Ontario New Home Warranties Plan Act.
9. 236 admits that it failed to complete the qualification for enrolment process on the homes sold after February 1, 2021.
10. One purpose of the Qualification for Enrollment and Terms and Conditions processes are to ensure that a licensee has the qualifications, capacity, and financing to be able to complete the number of homes they are authorized to build and/or sell. Since 236 has not complied with these requirements, the HCRA cannot assume at this time that 236 is capable of delivering on its promises to consumers.
11. As a result of the above, 236's licence ought to be suspended until it can demonstrate to the HCRA that it has complied with all of its legal obligations and that it has the capability of fulfilling its obligations to consumers.





Home Construction Regulatory Authority  
40 Sheppard Avenue West, Fourth Floor, Suite 400  
Toronto, ON M2N 6K9  
Tel: 416-487-HCRA (4272) Fax: 416-352-7724

### **Grounds for the Proposal**

12. Under section 38(1)(b)(iii) of the NHCLA, in the Registrar's opinion, it has not been demonstrated at this time that the past and present conduct of 236's officers and directors affords reasonable grounds for belief that its business will be carried on in accordance with the law and with integrity and honesty.
13. Under section 38(1)(g) of the NHCLA, granting a licence to 236 is contrary to the public interest at this time.

### **Conclusion**

14. For the reasons stated above, and further to the mandate of the HCRA under section 3(3) of the NHCLA to maintain a fair, safe and informed marketplace and promote the protection of the public interest, the Registrar maintains that it is in the public interest to immediately suspend 236's licence until it is satisfied of the forgoing issues.

### **Amended or Additional Reasons or Particulars**

15. The Registrar may serve amended or additional reasons or particulars of conduct or financial position.

**[Intentionally Left Blank]**



Home Construction Regulatory Authority  
 40 Sheppard Avenue West, Fourth Floor, Suite 400  
 Toronto, ON M2N 6K9  
 Tel: 416-487-HCRA (4272) Fax: 416-352-7724

## **B. RIGHT TO A HEARING**

**If you dispute this decision, you have the right to request a hearing before the Licence Appeal Tribunal ("Tribunal") about this proposal.**

**To request a hearing, you must deliver a Notice of Appeal form within 15 calendar days after this Notice of Proposal is delivered to you, addressed to the following:**

Licence Appeal Tribunal  
 PO Box 250  
 Toronto, ON M7A 1N3  
 LATregistrar@ontario.ca  
 Phone: 416-326-1356  
 Toll free: 1-888-444-0240  
 TTY: Call the Bell Relay Service at 1-800-855-0511

**AND**

The Registrar  
 Home Construction Regulatory Authority  
 40 Sheppard Ave West, 4th Floor, Suite 400  
 Toronto, Ontario M2N 6K9  
 Legal@hcraontario.ca

### **IMPORTANT NOTE:**

**This is an immediate suspension order. Your Licence has been suspended. You are prohibited from acting or holding yourself out as a vendor or builder, offering to sell or transfer a new home, selling or transferring a new home, offering to construct a new home, or constructing a new home until the suspension is lifted.**

**Failure to abide by this suspension order could result in further regulatory action including but not limited to charges, administrative penalties, and/or restraining orders.**

The Notice of Appeal form and other information about hearings may be found on the Tribunal's website at <https://slasto-tsapno.gov.on.ca/lat-tamp/en/>.

When an applicant or licensee delivers a Notice of Appeal form within the timeline set out above, a legal proceeding before the Tribunal will commence. The Tribunal may direct



Home Construction Regulatory Authority  
 40 Sheppard Avenue West, Fourth Floor, Suite 400  
 Toronto, ON M2N 6K9  
 Tel: 416-487-HCRA (4272) Fax: 416-352-7724

the Registrar to carry out the proposal or may substitute its opinion. The Tribunal may also attach conditions to its order or to a licence.

The HCRA cannot advise you about the appeal process. If you dispute this decision, you have the right to retain a lawyer or paralegal to represent you.

Information about this proposal will be reported publicly on the HCRA website <https://www.hcraontario.ca/> and the Ontario Builder Directory <https://obd.hcraontario.ca/>.

### **Contact Information**

If you have any questions about the reasons for the Proposal or wish to discuss this matter with the HCRA, please contact [Legal@hcraontario.ca](mailto:Legal@hcraontario.ca). If you have any questions about the appeal process or timelines, please contact the Tribunal at:

Licence Appeal Tribunal  
 PO Box 250  
 Toronto, ON M7A 1N3  
[LATregistrar@ontario.ca](mailto:LATregistrar@ontario.ca)

Phone:

416-326-1356

Toll

free:

1-888-444-0240

TTY: Call the Bell Relay Service at 1-800-855-0511

Dated at Toronto this 1<sup>st</sup> day of December, 2023.

Wendy Moir  
 Registrar, HCRA

### Schedule “C”

#### Addresses for Clause 7(a)(i)(1)

##### **Hunter Estates Project – Scotland, ON**

- |                      |                      |                      |
|----------------------|----------------------|----------------------|
| • 38 Augustus Street | • 44 Augustus Street | • 48 Augustus Street |
| • 42 Augustus Street | • 45 Augustus Street | • 53 Augustus Street |
| • 43 Augustus Street | • 46 Augustus Street | • 55 Augustus Street |

##### **Abingdon Court Project – West Lincoln, ON**

- |                  |                  |
|------------------|------------------|
| • Lot 1 Street A | • Lot 5 Street A |
|------------------|------------------|

##### **Mariman Estates Project – Pelham, ON**

- |                      |                      |                      |
|----------------------|----------------------|----------------------|
| • Lot 3, pt 21 Road  | • Lot 15, pt 45 Road | • Lot 34, pt 48 Road |
| • Lot 5, pt 21 Road  | • Lot 17, pt 45 Road | • Lot 35, pt 48 Road |
| • Lot 7, pt 48 Road  | • Lot 23, pt 44 Road | • Lot 36, pt 48 Road |
| • Lot 8, pt 48 Road  | • Lot 26, pt 44 Road | • Lot 38, pt 48 Road |
| • Lot 9, pt 48 Road  | • Lot 27, pt 45 Road | • Lot 40, pt 48 Road |
| • Lot 11, pt 48 Road | • Lot 33, pt 44 Road | • Lot 42, pt 45 Road |

##### **York Estates Project – Seneca, ON**

- |                    |                    |                          |
|--------------------|--------------------|--------------------------|
| • Lot 9, Street B  | • Lot 40, Street C | • Lot 53, Shannon Street |
| • Lot 11, Street B | • Lot 41, Street C | • Lot 54, Shannon Street |
| • Lot 16, Street B | • Lot 42, Street C | • Lot 55, Shannon Street |
| • Lot 19, Street B | • Lot 43, Street C | • Lot 56, Shannon Street |
| • Lot 23, Street B | • Lot 45, Street C | • Lot 58, Shannon Street |
| • Lot 24, Street A | • Lot 46, Street C | • Lot 60, Shannon Street |
| • Lot 27, Street A | • Lot 48, Street C | • Lot 64, Shannon Street |
| • Lot 33, Street B | • Lot 51, Street C | • Lot 65, Shannon Street |



## Schedule “D”

### Addresses for Clause 7(a)(i)(2)

#### Hunter Estates Project – Scotland, ON

- 39 Augustus Street
- 40 Augustus Street
- 41 Augustus Street

#### Abingdon Court Project – West Lincoln, ON

- Lot 4 Street A
- Lot 6 Street A

#### Mariman Estates Project – Pelham, ON

- Lot 1, pt 21 Road
- Lot 2, pt 21 Road
- Lot 4, pt 21 Road
- Lot 6, pt 21 Road
- Lot 10, pt 48 Road
- Lot 12, pt 48 Road
- Lot 13, pt 48 Road
- Lot 16, pt 45 Road
- Lot 18, pt 45 Road
- Lot 19, pt 48 Road
- Lot 20, pt 45 Road
- Lot 22, pt 48 Road
- Lot 24, pt 48 Road
- Lot 25, pt 44 Road
- Lot 29, pt 48 Road
- Lot 30, pt 48 Road
- Lot 31, pt 48 Road
- Lot 32, pt 48 Road
- Lot 37, pt 45 Road

#### York Estates Project – Seneca, ON

- Lot 10, Street B
- Lot 13, Street B
- Lot 14, Street B
- Lot 15, Street B
- Lot 17, Street B
- Lot 18, Street B
- Lot 20, Street B
- Lot 21, Street B
- Lot 22, Street B
- Lot 25, Street A
- Lot 26, Street A
- Lot 28, Street A
- Lot 30, Street A
- Lot 32, Street C
- Lot 34, Street C
- Lot 35, Street C
- Lot 36, Street C
- Lot 37, Street C
- Lot 38, Street C
- Lot 39, Street C
- Lot 44, Street C
- Lot 47, Street C
- Lot 49, Street A
- Lot 50, Street A
- Lot 52, Shannon Street
- Lot 57, Shannon Street
- Lot 59, Shannon Street
- Lot 61, Shannon Street
- Lot 62, Shannon Street
- Lot 63, Shannon Street

#### Other Projects

- 2051 Vickery Drive, Oakville ON

## Schedule “E”

### Notice to Purchasers to be Sent via Email

Dear [Purchaser Name],

As a result of an agreement Mariman Homes (“**Mariman**”) has entered into with the Home Construction Regulatory Authority (“**HCRA**”), Mariman will be offering you a one-time opportunity to cancel the agreement of purchase and sale for [address] (the “**APS**”) in the near future. This opportunity will be open for a period of 60 days. If you exercise your right to cancel the agreement during that time, Mariman will refund your deposit and any money you have paid for upgrades within 10 days as required by the Addendum to your APS.

To be clear, this email is not offering you this opportunity right now. The purpose of this email is to gauge interest in such an offer so that we can ensure we have sufficient funds readily available to refund deposits in an expedited manner.

At this time, we are simply asking you to indicate whether you would be likely to use the opportunity to cancel your APS when the offer is available. If you could please reply to this email, ensuring you copy the HCRA ([legal@hcraontario.ca](mailto:legal@hcraontario.ca)), indicating whether you would or would not be interested in cancelling your agreement we would greatly appreciate it.

If you have any questions or concerns about this email or the cancellation opportunity you can contact Mariman by email at [Mariman’s Email] or the HCRA by email at [legal@hcraontario.ca](mailto:legal@hcraontario.ca).

Please also ensure that Mariman has your most up to date contact information so that we can be sure to reach you when this opportunity becomes available.

Thank you for your attention to this matter.

Sincerely,

Mariman Homes







# Minutes of Settlement

Final Audit Report

2023-12-03

Created:	2023-12-03
By:	Alex Alton (alex.alton@hcraontario.ca)
Status:	Signed
Transaction ID:	CBJCHBCAABAAmOce_nepvkAGD-VgkTnZly5QAU8BJw_8

## "Minutes of Settlement" History


-  Document created by Alex Alton (alex.alton@hcraontario.ca)  
2023-12-03 - 4:43:49 PM GMT
-  Document emailed to wendy.moir@hcraontario.ca for signature  
2023-12-03 - 4:45:03 PM GMT
-  Email viewed by wendy.moir@hcraontario.ca  
2023-12-03 - 4:45:47 PM GMT
-  Signer wendy.moir@hcraontario.ca entered name at signing as Wendy Moir  
2023-12-03 - 6:30:20 PM GMT
-  Document e-signed by Wendy Moir (wendy.moir@hcraontario.ca)  
Signature Date: 2023-12-03 - 6:30:22 PM GMT - Time Source: server
-  Agreement completed.  
2023-12-03 - 6:30:22 PM GMT

Settlement and declare that they fully understand the strict terms and conditions of these Minutes of Settlement and voluntarily agree with all its terms and conditions.

22. These Minutes of Settlement may be signed by the Parties in separate counterparts, which shall together constitute one and the same agreement. The Parties agree that PDF and electronic signatures shall be sufficient.

By their respective signatures below, the Parties indicate agreement to the terms of this agreement.

  
Witness

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

By: \_\_\_\_\_

Name: Mike Bettiol

Title: President

Date: Dec 4, 2023

I have authority to bind the corporation

\_\_\_\_\_  
Witness

\_\_\_\_\_  
**For the REGISTRAR,  
HOME CONSTRUCTION  
REGULATORY AUTHORITY**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_



## Appendix “C”



Home Construction Regulatory Authority  
 40 Sheppard Avenue West, Fourth Floor, Suite 400  
 Toronto, ON M2N 6K9  
 Tel: 416-487-HCRA (4272) Fax: 416-352-7724

July 31, 2024

Delivered by email to: mvininsky@ksvadvisory.com

2363823 Ontario Inc.  
 c/o KSV Advisory  
 220 Bay Street, 13th Floor, PO Box 20,  
 Toronto, Ontario, M5J 2W4

## **RE: ADMINISTRATIVE PENALTY ORDER**

**Pursuant to section 76 of the *New Home Construction Licensing Act, 2017* ("NHCLA") the Home Construction Regulatory Authority ("HCRA") orders 2363823 Ontario Inc. to pay an administrative penalty of \$400,000 for four contraventions of section 3 of the NHCLA's Code of Ethics. This is comprised of a base penalty of \$33,000 and a monetary benefit amount of \$367,000.**

## **REASONS**

### **Overview**

1. The HCRA received multiple complaints regarding 2363823 Ontario Inc. o/a Mariman Homes' ("Mariman") conduct. Following a lengthy inspection, the HCRA discovered, among other things, that Mariman had allowed its creditors to improperly seek price increases from four purchasers. These purchasers' Agreements of Purchase and Sale ("APS") did not allow Mariman or its creditors to unilaterally change the purchase price. Mariman was unwilling or unable to honour the original purchase price of the agreements for each of these four properties resulting in four contraventions of section 3 of the Code of Ethics.
2. As a result of these improper price increases, and many other issues, the HCRA issued a Notice of Proposal to Refuse to Renew Mariman's licence.
3. The parties reached a resolution on the Notice of Proposal. One component of that resolution was that the HCRA would issue, on consent, this administrative penalty order against Mariman.
4. The base administrative penalty amount of the order is \$33,000. The monetary benefit amount of the administrative penalty is \$367,000. These amounts were agreed to by Mariman.

## **Mariman's Conduct**

### *50 Augustus Street*

1. On December 19, 2016, Mariman entered into an agreement of purchase and sale to build and sell a new home located at 50 Augustus Street, Scotland, ON. The agreed price was \$732,000.
2. The project was significantly delayed.
3. Approximately five years later, on December 24, 2021, the purchasers moved into the property pursuant to an occupancy agreement.
4. In January 2023, the purchasers were contacted by Mariman's lenders to discuss a possible resolution before they moved to sell the property under power of sale. They did so even though the purchasers had made all scheduled payments to Mariman.
5. The purchasers were forced to pay \$900,000 for this home under threat of losing the home through power of sale proceedings by Mariman's lenders.

### *51 Augustus Street*

6. On December 7, 2016, Mariman entered into an agreement of purchase and sale to build and sell a new home located at 51 Augustus Street, Scotland, ON. The agreed price was \$684,000.
7. The project was significantly delayed.
8. Approximately four-and-a-half years later, on August 18, 2021, the purchasers moved into the property pursuant to a verbal occupancy agreement.
9. Eight months later, in April 2022, Mariman contacted the purchasers and advised that, despite the signed agreement they had with Mariman and having made all scheduled payments, Mariman was having issues with its lenders and one of the lenders was going to sell the property under power of sale. Mike Bettiol (Mariman's directing mind) advised the purchasers that the reason the property could not close was because of his difficulty in working with the lenders.
10. Six months after that, in October 2022, Mariman told the purchasers that the lenders were making all of the decisions and that they should work out a deal with the lenders if they wanted to complete the transaction. This was not true. The power of sale process had not been completed for this property. Mariman was still the owner and still responsible for completing the sale it agreed to in 2016.
11. The purchasers were forced to pay \$850,000 for this home under threat of losing the home through power of sale proceedings by Mariman's lenders.



*54 Augustus Street*

12. On January 6, 2020, Mariman entered into an agreement of purchase and sale to build and sell a new home located at 54 Augustus Street, Scotland, ON. The agreed price was \$850,000.
13. Approximately two-and-a-half years later, in August, 2022, Mr. Bettiol advised the purchasers that Mariman had “an issue” with the lenders of the project and the sale could not close as planned.
14. Three months later, in November 2022, despite having entered into a purchase and sale agreement with Mariman and having made all scheduled payments, Mariman’s lenders approached the purchasers about paying more money for their home.
15. Three months after that, in February 2023, the purchasers agreed to pay more money to close the sale but Mariman was still unable or unwilling to do so.
16. After two additional extensions, the sale closed in March 2023 for a purchase price of \$1,050,000 which was \$200,000 more than the original agreement price.

*56 Augustus Street*

17. On May 23, 2020, Mariman entered into an agreement of purchase and sale to build and sell a new home located at 56 Augustus Street, Scotland ON. The agreed price was \$900,000.
18. Two-and-a-half years later, in October 2022, Mariman’s lenders approached the purchasers about paying more money for their home. The lenders advised that all of the homes in the Scotland project were under power of sale and they wanted to negotiate a new agreement.
19. Two months later, Mariman advised the purchasers that despite a binding agreement between the purchasers and Mariman, Mariman would not close until the lenders reached a new agreement with the purchasers.
20. The purchaser agreed to pay more money to close the sale but Mariman was still unable or unwilling to do so.
21. Two months after the purchaser agreed to pay more money, the sale closed in March 2023 for a purchase price of \$1,100,000 which was \$200,000 more than the original agreement price. The purchasers were clear that they only paid the additional \$200,000 because Mariman’s lenders told them they would only discharge their mortgages if the lenders received the additional amount. Mariman refused to pay this amount so the lenders sought it from the purchasers.

## **Administrative Penalty Amount**

### *Base Penalty Amount*

5. The base administrative penalty amount for these four contraventions is \$33,000.
6. In determining this amount, the HCRA has considered: the impact of the contraventions on the HCRA's ability to carry out its purpose, the impact of the contraventions on purchasers of new homes, Mariman's compliance history, Mariman's refusal to remedy the contraventions, and whether the contraventions were deliberate.

### *Monetary Benefit Amount*

7. The monetary benefit amount of the administrative penalty is \$367,000.
8. This monetary benefit amount represents a portion of the increased prices that the four purchasers had to pay as a result of Mariman's contraventions.

### *Request to Consider Additional Information*

9. As a result of the parties' resolution, Mariman waived the typical notice and response period set out in the NHCLA and consented to this Order being issued.

## **Grounds for Imposing Administrative Penalties**

10. The HCRA is satisfied that imposing administrative penalties on Mariman will accomplish the following purpose(s) under section 76(4) of the NHCLA:
  - a. To prevent a person from deriving, directly or indirectly, any economic benefit as a result of contravening the NHCLA.

## **Payment Information**

11. Pursuant to section 9 of O. Reg. 573/22, payment of the administrative penalty must be paid within 30 days. As a result of the resolution agreement, the HCRA has agreed to accept payment in four quarterly payments of \$100,000 each. These quarterly payments are due on September 30, 2024, December 31, 2024, March 31, 2025, and June 30, 2025.
12. The HCRA accepts payments through:

### **1) Online or Telephone Banking with your financial institution**

**For online banking, add the Home Construction Regulatory Authority (HCRA) as a Payee and enter your licence number (B#####) when asked for the account number to which payment is being remitted.**

**OR**

**2) Cheque by regular mail**

**Please make the cheque payable to the Home Construction  
Regulatory Authority and mail it to the following address:**

40 Sheppard Avenue West  
Fourth Floor, Suite 400  
Toronto, ON  
M2N 6K9

Please note: HCRA operates remotely and cannot accept couriered mail.

**Contact Information**

13. If you have any questions about this Order please contact [legal@hcraontario.ca](mailto:legal@hcraontario.ca).

Dated at Toronto this 31st day of July, 2024.

  
Wendy Moir (Jul 31, 2024 16:44 EDT)

Wendy Moir  
Assessor/Registrar, HCRA





**Home  
Construction  
Regulatory  
Authority**

Home Construction Regulatory Authority  
40 Sheppard Avenue West, Fourth Floor, Suite 400  
Toronto, ON M2N 6K9  
Tel: 416-487-HCRA (4272) Fax: 416-352-7724

July 31, 2024

Delivered by email to: mvininsky@ksvadvisory.com

2363823 Ontario Inc.  
c/o KSV Advisory  
220 Bay Street, 13th Floor, PO Box 20,  
Toronto, Ontario, M5J 2W4

## **Re: NOTICE OF PROPOSAL TO REVOKE A LICENCE**

**The Home Construction Regulatory Authority (“HCRA”) proposes to revoke the licence of 2363823 ONTARIO INC. pursuant to section 40(2) of the New Home Construction Licensing Act, 2017 (“NHCLA”).**

### **REASONS**

#### **Summary**

1. The HCRA received multiple complaints regarding 2363823 Ontario Inc. o/a Mariman Homes’ (“Mariman”) conduct. Following a lengthy inspection, the HCRA discovered, among other things, that Mariman had entered into agreements of purchase and sale for 108 homes without proper authorization.
2. In order to minimize harm to the purchasers of these 108 homes, the HCRA entered into a resolution agreement with Mariman to allow it an opportunity to come into compliance and complete the 108 homes. The HCRA suspended Mariman’s licence so that it could not build or sell new homes until it had satisfied the terms of the resolution agreement; namely, that Mariman could demonstrate to the HCRA that it could construct these homes in the time period and at the price promised to these consumers.
3. Mariman has been unable to satisfy the terms of the resolution agreement. As a result, pursuant to that agreement, the HCRA is revoking Mariman’s licence effective immediately.
4. Since Mariman is subject to receivership proceedings, the HCRA was required to seek the Receiver’s consent to these proceedings. On July 17, 2024, the Receiver provided this consent.



**Home  
Construction  
Regulatory  
Authority**

Home Construction Regulatory Authority  
40 Sheppard Avenue West, Fourth Floor, Suite 400  
Toronto, ON M2N 6K9  
Tel: 416-487-HCRA (4272) Fax: 416-352-7724

### **The Parties**

5. The HCRA regulates new home vendors and builders in accordance with the NHCLA and with the principle of promoting the protection of the public interest.
6. Mariman has been a licensed vendor/builder since December 5, 2013. Michael Bettiol and Angela Bettiol are listed as Directors of the corporation. Mariman operates using the name Mariman Homes. Mariman is licensed under the Marimat Homes group of related companies.

### **Particulars**

7. Between December 2016 and April 2022, Mariman entered into agreements to sell 108 new homes in Ontario. Pursuant to the terms and conditions of Mariman's Tarion Warranty Corporation Registration, which subsequently became conditions of its HCRA licence, Mariman was only permitted to build or sell 7 homes.
8. Most of these new homes have not been enrolled in the warranty program with Tarion. 64 of these homes were sold after February 1, 2021. As a result, Mariman was required to complete the qualification for enrolment process set out in the *Ontario New Home Warranties Plan Act*. Mariman acknowledged that it failed to do so.
9. In addition to failing to enrol the new homes that it sold, Mariman failed to hold the deposits it received in trust.
10. As part of its purchase agreements, the purchasers agreed to provide deposits and Mariman agreed to hold the funds in its trust account. Mariman had collected approximately \$15,152,362.50 in deposit funds.
11. On March 1, 2023, in response to an HCRA inspection, Mariman provided a redacted print out of its trust account statements. These statements showed that, as of February 6, 2023, the account only held \$1,140,814.79 leaving an unexplained shortfall of \$14,011,547.70.
12. Mariman acknowledged that it did not hold the deposits in trust but claims to have used the funds to finance construction of other homes.
13. Mariman was provided a time limited opportunity to replenish the trust funds and prove that it had the capacity, capability, and financing to build these homes. Mariman did not provide any information to the HCRA during this time period. Instead, Mariman was petitioned into receivership by one of its lenders. The HCRA obtained the Receiver's consent prior to initiating this revocation.





**Home  
Construction  
Regulatory  
Authority**

Home Construction Regulatory Authority  
40 Sheppard Avenue West, Fourth Floor, Suite 400  
Toronto, ON M2N 6K9  
Tel: 416-487-HCRA (4272) Fax: 416-352-7724

14. Since it has failed to satisfy the terms of the resolution agreement, the HCRA is immediately revoking Mariman's licence.

### **Grounds for the Proposal**

15. Under section 38(1)(b)(i) of the NHCLA, in the Registrar's opinion, it has not been demonstrated that Mariman, having regard to its past and present financial position, can reasonably be expected to be financially responsible in the conduct of its business.
16. Under section 38(1)(b)(iii) of the NHCLA, in the Registrar's opinion, it has not been demonstrated at this time that the past and present conduct of Mariman's officers and directors affords reasonable grounds for belief that its business will be carried on in accordance with the law and with integrity and honesty.
17. Under section 38(1)(g) of the NHCLA, granting a licence to Mariman is contrary to the public interest at this time.

### **Conclusion**

18. For the reasons stated above, and further to the mandate of the HCRA under section 3(3) of the NHCLA to maintain a fair, safe and informed marketplace and promote the protection of the public interest, the Registrar is immediately revoking Mariman's licence.

### **Amended or Additional Reasons or Particulars**

19. The Registrar may serve amended or additional reasons or particulars of conduct or financial position.

### **Contact Information**

If you have any questions about the reasons for the Proposal or wish to discuss this matter with the HCRA, please contact [Legal@hcraontario.ca](mailto:Legal@hcraontario.ca).

Dated at Toronto this 31<sup>st</sup> day of July, 2024.

*Wendy Moir*  
Wendy Moir (Jul 31, 2024 16:44 EDT)  
Wendy Moir  
Registrar, HCRA

## Appendix “D”

---

**From:** Mitch Vininsky  
**Sent:** May 31, 2024 2:44 PM  
**To:** Rory McGovern <[rory@rorymcgovernpc.com](mailto:rory@rorymcgovernpc.com)>  
**Cc:** Maya Poliak <[Maya@chaitons.com](mailto:Maya@chaitons.com)>; Ben Luder <[bluder@ksvadvisory.com](mailto:bluder@ksvadvisory.com)>  
**Subject:** RE: Vickery and York Model Home

I assume you will not be responding to our information requests. This chain will be included in the next report we file with the Court.



**Mitch Vininsky**  
 Managing Director

**T** 416.932.6013  
**M** 416.254.4912  
**W** [www.ksvadvisory.com](http://www.ksvadvisory.com)

---

**From:** Rory McGovern <[rory@rorymcgovernpc.com](mailto:rory@rorymcgovernpc.com)>  
**Sent:** Tuesday, May 7, 2024 9:26 AM  
**To:** Mitch Vininsky <[mvininsky@ksvadvisory.com](mailto:mvininsky@ksvadvisory.com)>  
**Cc:** Maya Poliak <[Maya@chaitons.com](mailto:Maya@chaitons.com)>; Ben Luder <[bluder@ksvadvisory.com](mailto:bluder@ksvadvisory.com)>  
**Subject:** RE: Vickery and York Model Home

My apologies for the delay. I will endeavour to respond within the next 48 hours.

**Rory McGovern**

**RORY MCGOVERN PROFESSIONAL CORPORATION**  
**25 Adelaide St. E, Suite 1910**  
**Toronto, Ontario, M5C 3A1**

**C** 416-938-7679  
**F** 647-559-9694

*This email may contain information that is privileged, confidential and/or exempt from disclosure. No waiver whatsoever is intended by sending this e-mail which is intended only for the named recipient(s). Unauthorized use, dissemination or copying is prohibited. If you receive this email in error, please notify the sender and destroy all copies of this email.*

---

**From:** Mitch Vininsky <[mvininsky@ksvadvisory.com](mailto:mvininsky@ksvadvisory.com)>  
**Sent:** Friday, May 3, 2024 9:14 AM  
**To:** Rory McGovern <[rory@rorymcgovernpc.com](mailto:rory@rorymcgovernpc.com)>  
**Cc:** Maya Poliak <[Maya@chaitons.com](mailto:Maya@chaitons.com)>; Ben Luder <[bluder@ksvadvisory.com](mailto:bluder@ksvadvisory.com)>  
**Subject:** RE: Vickery and York Model Home

Rory – still waiting for a response.



**Mitch Vininsky**  
Managing Director

T 416.932.6013  
M 416.254.4912  
W [www.ksvadvisory.com](http://www.ksvadvisory.com)

---

**From:** Rory McGovern <[rory@rorymcgovernpc.com](mailto:rory@rorymcgovernpc.com)>  
**Sent:** Tuesday, April 23, 2024 9:53 PM  
**To:** Mitch Vininsky <[mvininsky@ksvadvisory.com](mailto:mvininsky@ksvadvisory.com)>  
**Cc:** Maya Poliak <[Maya@chaitons.com](mailto:Maya@chaitons.com)>; Ben Luder <[bluder@ksvadvisory.com](mailto:bluder@ksvadvisory.com)>  
**Subject:** RE: Vickery and York Model Home

Mitch,

I have been tied up on another matter and will respond by early next week.

Yours Truly,

**Rory McGovern**

**RORY MCGOVERN PROFESSIONAL CORPORATION**  
**25 Adelaide St. E, Suite 1910**  
**Toronto, Ontario, M5C 3A1**

**C 416-938-7679**  
**F 647-559-9694**

*This email may contain information that is privileged, confidential and/or exempt from disclosure. No waiver whatsoever is intended by sending this e-mail which is intended only for the named recipient(s). Unauthorized use, dissemination or copying is prohibited. If you receive this email in error, please notify the sender and destroy all copies of this email.*

---

**From:** Mitch Vininsky <[mvininsky@ksvadvisory.com](mailto:mvininsky@ksvadvisory.com)>  
**Sent:** Tuesday, April 16, 2024 9:16 AM  
**To:** Rory McGovern <[rory@rorymcgovernpc.com](mailto:rory@rorymcgovernpc.com)>  
**Cc:** Mike Bettiol <[mikeb@marimanhomes.com](mailto:mikeb@marimanhomes.com)>; Maya Poliak <[Maya@chaitons.com](mailto:Maya@chaitons.com)>; Ben Luder <[bluder@ksvadvisory.com](mailto:bluder@ksvadvisory.com)>  
**Subject:** RE: Vickery and York Model Home

Please respond.



**Mitch Vininsky**  
Managing Director

T 416.932.6013  
M 416.254.4912  
W [www.ksvadvisory.com](http://www.ksvadvisory.com)

---

**From:** Mitch Vininsky  
**Sent:** Tuesday, April 9, 2024 9:43 AM  
**To:** Rory McGovern <[rory@rorymcgovernpc.com](mailto:rory@rorymcgovernpc.com)>  
**Cc:** Mike Bettiol <[mikeb@marimanhomes.com](mailto:mikeb@marimanhomes.com)>; Maya Poliak <[Maya@chaitons.com](mailto:Maya@chaitons.com)>; Ben Luder

<[bluder@ksvadvisory.com](mailto:bluder@ksvadvisory.com)>

**Subject:** RE: Vickery and York Model Home

Thank you Rory, we will review. In the meantime, please let us know:

1. Are any of the deposits held in trust? If so, where?
2. Is Mariman developing any of the projects listed below?
3. Is Mariman the vendor in the APS's that you summarized?



**Mitch Vininsky**

Managing Director

T 416.932.6013

M 416.254.4912

W [www.ksvadvisory.com](http://www.ksvadvisory.com)

---

**From:** Rory McGovern <[rory@rorymcgovernpc.com](mailto:rory@rorymcgovernpc.com)>

**Sent:** Tuesday, April 9, 2024 9:10 AM

**To:** Mitch Vininsky <[mvininsky@ksvadvisory.com](mailto:mvininsky@ksvadvisory.com)>

**Cc:** Mike Bettiol <[mikeb@marimanhomes.com](mailto:mikeb@marimanhomes.com)>; Maya Poliak <[Maya@chaitons.com](mailto:Maya@chaitons.com)>

**Subject:** RE: Vickery and York Model Home

Dear Mitch,

Attached please find a list of deposits for Mariman Estates in Pelham, Scotland Sales (Hunter Estates), Abingdon Estates and 178 Moores Road. For context, below is the status of the larger projects reflected in the attached:

- 1) **Mariman Estates in Pelham.** The lender for this project is 2689918 Ontario Inc. The mortgage is in good standing and the project is being developed as anticipated despite delays due to covid and the planning process. All of the lots in this project have pin numbers and are testamentary devised lots. The grading plan is being completed right now and it is expected that roads will be installed late summer/early fall, subject to township approval, which is expected sometime in the next several months. My client has been working diligently with the Township of Pelham to move this project forward over the last several years. At this time, my client expects that the first homes in the development will be move-in ready by late next summer.
- 2) **Scotland Sales (Hunter Estates):** I believe the receiver is familiar with this project and is engaged in discussions with the lender, Olympia Trust Co.
- 3) **Abingdon Estates in Smithville.** The lender for this project is also 2689918 Ontario Inc. The mortgage is in good standing and the project is being developed as anticipated despite delays due to covid and the planning process. Mariman is in the process of severing the lots right now and expects that roads will be installed early next spring, subject to approval of the grading plan by the City of Niagara. As wife Mariman Estates, my client has been working diligently with the City of Niagara to move this project forward over the last several years. At this time, my client expects that construction of the first homes in this development will commence late next summer.

My clients have been working with various lawyers to deal with the legal issues regarding planning and severance for the above noted projects. My clients are prepared to provide additional information regarding the projects if requested.

From my end, I apologize for the delay in getting you this information. I have had a lot of urgent matters arise in my practice over the last week.

Yours Truly,

**Rory McGovern**

**RORY MCGOVERN PROFESSIONAL CORPORATION**  
**25 Adelaide St. E, Suite 1910**  
**Toronto, Ontario, M5C 3A1**

**C 416-938-7679**  
**F 647-559-9694**

*This email may contain information that is privileged, confidential and/or exempt from disclosure. No waiver whatsoever is intended by sending this e-mail which is intended only for the named recipient(s). Unauthorized use, dissemination or copying is prohibited. If you receive this email in error, please notify the sender and destroy all copies of this email.*

---

**From:** Rory McGovern <[rory@rorymcgovernpc.com](mailto:rory@rorymcgovernpc.com)>  
**Sent:** Tuesday, April 9, 2024 12:18 AM  
**To:** Mitch Vininsky <[mvininsky@ksvadvisory.com](mailto:mvininsky@ksvadvisory.com)>  
**Cc:** Mike Bettiol <[mikeb@marimanhomes.com](mailto:mikeb@marimanhomes.com)>; Maya Poliak <[Maya@chaitons.com](mailto:Maya@chaitons.com)>  
**Subject:** Re: Vickery and York Model Home

Mitch,

Apologies. Mike and I are connecting in the morning and you will have the information asap.

**Rory McGovern**

**RORY MCGOVERN PROFESSIONAL CORPORATION**  
**25 Adelaide St. E, Suite 1910**  
**Toronto, Ontario, M5C 3A1**

**C 416-938-7679**  
**F 647-559-9694**

*This email may contain information that is privileged, confidential and/or exempt from disclosure. No waiver whatsoever is intended by sending this e-mail which is intended only for the named recipient(s). Unauthorized use, dissemination or copying is prohibited. If you receive this email in error, please notify the sender and destroy all copies of this email.*

---

**From:** Rory McGovern <[rory@rorymcgovernpc.com](mailto:rory@rorymcgovernpc.com)>  
**Sent:** Monday, April 8, 2024 8:42:00 AM  
**To:** Mitch Vininsky <[mvininsky@ksvadvisory.com](mailto:mvininsky@ksvadvisory.com)>  
**Cc:** Mike Bettiol <[mikeb@marimanhomes.com](mailto:mikeb@marimanhomes.com)>; Maya Poliak <[Maya@chaitons.com](mailto:Maya@chaitons.com)>  
**Subject:** Re: Vickery and York Model Home

Hi Mitch,

I will have something to you by eod. I am in court this morning.

**Rory McGovern**

**RORY MCGOVERN PROFESSIONAL CORPORATION**  
**25 Adelaide St. E, Suite 1910**  
**Toronto, Ontario, M5C 3A1**

**C 416-938-7679**  
**F 647-559-9694**

*This email may contain information that is privileged, confidential and/or exempt from disclosure. No waiver whatsoever is intended by sending this e-mail which is intended only for the named recipient(s). Unauthorized use, dissemination or copying is prohibited. If you receive this email in error, please notify the sender and destroy all copies of this email.*

---

**From:** Rory McGovern  
**Sent:** Friday, April 5, 2024 6:36:45 PM  
**To:** Mitch Vininsky <[mvininsky@ksvadvisory.com](mailto:mvininsky@ksvadvisory.com)>  
**Cc:** Mike Bettiol <[mikeb@marimanhomes.com](mailto:mikeb@marimanhomes.com)>; Maya Poliak <[Maya@chaitons.com](mailto:Maya@chaitons.com)>  
**Subject:** RE: Vickery and York Model Home

Hi Mitch,

I am just getting off a series of calls and have an engagement tonight. I will provide an update this weekend.

Yours Truly,

**Rory McGovern**

**RORY MCGOVERN PROFESSIONAL CORPORATION**  
**25 Adelaide St. E, Suite 1910**  
**Toronto, Ontario, M5C 3A1**

**C 416-938-7679**  
**F 647-559-9694**

*This email may contain information that is privileged, confidential and/or exempt from disclosure. No waiver whatsoever is intended by sending this e-mail which is intended only for the named recipient(s). Unauthorized use, dissemination or copying is prohibited. If you receive this email in error, please notify the sender and destroy all copies of this email.*

---

**From:** Rory McGovern  
**Sent:** Friday, April 5, 2024 10:55 AM  
**To:** 'Mitch Vininsky' <[mvininsky@ksvadvisory.com](mailto:mvininsky@ksvadvisory.com)>  
**Cc:** Mike Bettiol <[mikeb@marimanhomes.com](mailto:mikeb@marimanhomes.com)>; Maya Poliak <[Maya@chaitons.com](mailto:Maya@chaitons.com)>  
**Subject:** RE: Vickery and York Model Home

Hi Mitch,

I will obtain instructions but will need to review the information with my client. I have had a very urgent matter that has taken my time the last few days.

Yours Truly,

**Rory McGovern**

**RORY MCGOVERN PROFESSIONAL CORPORATION**  
**25 Adelaide St. E, Suite 1910**  
**Toronto, Ontario, M5C 3A1**

**C 416-938-7679**  
**F 647-559-9694**

*This email may contain information that is privileged, confidential and/or exempt from disclosure. No waiver whatsoever is intended by sending this e-mail which is intended only for the named recipient(s). Unauthorized use, dissemination or copying is prohibited. If you receive this email in error, please notify the sender and destroy all copies of this email.*

---

**From:** Mitch Vininsky <[mvininsky@ksvadvisory.com](mailto:mvininsky@ksvadvisory.com)>  
**Sent:** Friday, April 5, 2024 9:24 AM  
**To:** Rory McGovern <[rory@rorymcgovernnpc.com](mailto:rory@rorymcgovernnpc.com)>  
**Cc:** Mike Bettiol <[mikeb@marimanhomes.com](mailto:mikeb@marimanhomes.com)>; Maya Poliak <[Maya@chaitons.com](mailto:Maya@chaitons.com)>  
**Subject:** RE: Vickery and York Model Home

Rory, please send this information to us today.



**Mitch Vininsky**  
 Managing Director

**T** 416.932.6013  
**M** 416.254.4912  
**W** [www.ksvadvisory.com](http://www.ksvadvisory.com)

---

**From:** Rory McGovern <[rory@rorymcgovernnpc.com](mailto:rory@rorymcgovernnpc.com)>  
**Sent:** Thursday, March 28, 2024 2:53 PM  
**To:** Mitch Vininsky <[mvininsky@ksvadvisory.com](mailto:mvininsky@ksvadvisory.com)>  
**Cc:** Mike Bettiol <[mikeb@marimanhomes.com](mailto:mikeb@marimanhomes.com)>; Maya Poliak <[Maya@chaitons.com](mailto:Maya@chaitons.com)>  
**Subject:** RE: Vickery and York Model Home

I anticipate being able to provide some preliminary information to you next week.

Yours Truly,

**Rory McGovern**

**RORY MCGOVERN PROFESSIONAL CORPORATION**  
**25 Adelaide St. E, Suite 1910**  
**Toronto, Ontario, M5C 3A1**

**C 416-938-7679**  
**F 647-559-9694**

*This email may contain information that is privileged, confidential and/or exempt from disclosure. No waiver whatsoever is intended by sending this e-mail which is intended only for the named recipient(s). Unauthorized use, dissemination or copying is prohibited. If you receive this email in error, please notify the sender and destroy all copies of this email.*

---

**From:** Mitch Vininsky <[mvininsky@ksvadvisory.com](mailto:mvininsky@ksvadvisory.com)>  
**Sent:** Thursday, March 28, 2024 1:26 PM  
**To:** Rory McGovern <[rory@rorymcgovernnpc.com](mailto:rory@rorymcgovernnpc.com)>  
**Cc:** Mike Bettiol <[mikeb@marimanhomes.com](mailto:mikeb@marimanhomes.com)>; Maya Poliak <[Maya@chaitons.com](mailto:Maya@chaitons.com)>  
**Subject:** RE: Vickery and York Model Home



Rory – will this information be provided or should we raise it with the judge on our next attendance?



**Mitch Vininsky**  
Managing Director

T 416.932.6013  
M 416.254.4912  
W [www.ksvadvisory.com](http://www.ksvadvisory.com)

---

**From:** Mitch Vininsky  
**Sent:** Tuesday, March 26, 2024 4:17 PM  
**To:** Rory McGovern <[rory@rorymcgovernpc.com](mailto:rory@rorymcgovernpc.com)>  
**Cc:** Mike Bettiol <[mikeb@marimanhomes.com](mailto:mikeb@marimanhomes.com)>; Maya Poliak <[Maya@chaitons.com](mailto:Maya@chaitons.com)>  
**Subject:** RE: Vickery and York Model Home

We asked Mike for a summary, by property, of the purchaser names, contact info and deposit amounts paid. I would think that info is readily available.



**Mitch Vininsky**  
Managing Director

T 416.932.6013  
M 416.254.4912  
W [www.ksvadvisory.com](http://www.ksvadvisory.com)

---

**From:** Rory McGovern <[rory@rorymcgovernpc.com](mailto:rory@rorymcgovernpc.com)>  
**Sent:** Tuesday, March 26, 2024 12:16 PM  
**To:** Mitch Vininsky <[mvininsky@ksvadvisory.com](mailto:mvininsky@ksvadvisory.com)>  
**Cc:** Mike Bettiol <[mikeb@marimanhomes.com](mailto:mikeb@marimanhomes.com)>  
**Subject:** Vickery and York Model Home

Hi Mitch,

I understand that you have requested contracts and deposit information for purchasers in respect of Mariman properties. Could you please explain to me exactly what you are looking for? Happy to chat if you have any questions.

Yours Truly,

**Rory McGovern**

**RORY MCGOVERN PROFESSIONAL CORPORATION**  
**25 Adelaide St. E, Suite 1910**  
**Toronto, Ontario, M5C 3A1**

**C 416-938-7679**  
**F 647-559-9694**

*This email may contain information that is privileged, confidential and/or exempt from disclosure. No waiver whatsoever is intended by sending this e-mail which is intended only for the named recipient(s). Unauthorized use, dissemination or copying is prohibited. If you receive this email in error, please notify the sender and destroy all copies of this email.*

TAB 2

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

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

THE HONOURABLE MADAM	)	TUESDAY, THE 1ST
	)	
JUSTICE JESSICA KIMMEL	)	DAY 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.

---

**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  
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****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.**

TAB 3

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

Style Definition: ORBulletList,BL

Style Definition: ORGen L1,G1

Style Definition: Addenda

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

THE HONOURABLE MADAM ) TUESDAY, THE 1ST  
 )  
JUSTICE JESSICA KIMMEL ) DAY 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 "**Nominee Purchaser**") and Sunray Estates Limited Partnership, by its general partner, Sunray Estates GP Inc. ~~(the "LP", and together with the Nominee, the "Purchaser")~~ 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 ~~Debtor's~~ **Debtors'** right, title and interest in and to the real property as described in the Sale Agreement, including the real property described in

- 2 -

[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 ~~Jasmine Landau~~[Christel Paul](#), sworn September ~~23~~[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 ~~as described in [Schedule A hereto](#)~~ 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:

- 3 -

- (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; ~~and~~
- (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

- 4 -

are not continuing obligations effective against the Purchased Lands or binding on the Purchaser.

5-6. **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.

6-7. **THIS COURT ORDERS AND DIRECTS** the Receiver to file with the Court a copy of the Receiver's Certificate, forthwith after delivery.

7-8. **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.

8-9. **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



- 5 -

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.

---

**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

- 2 -

**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  
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**

**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 "**Nominee Purchaser**") and Sunray Estates Limited Partnership, by its general partner, Sunray Estates GP Inc. ~~(the "LP", and together with the Nominee, the "Purchaser") and and~~ provided for the vesting in the Purchaser of the ~~Debtor's~~ **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

- 2 -

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

Registration Number	Date	Description
<a href="#">CH105714</a>	<a href="#">2021/02/19</a>	<a href="#">TRANSFER</a>
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



- 2 -

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

**(unaffected by the Vesting Order)**

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

Formatted Table

Formatted: Left

Formatted Table

Court File No. -23-00699432-00CL

**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.**

**TAB 4**

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

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

THE HONOURABLE MADAM	)	TUESDAY, THE 1ST
	)	
JUSTICE JESSICA KIMMEL	)	DAY 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**

**DISTRIBUTION AND DISCHARGE ORDER**

**THIS MOTION**, made by KSV Restructuring Inc. ("**KSV**") 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:

1. approving the activities of the Receiver as set out in the third report of the Receiver dated September 23, 2024 (the "**Third Report**");
2. approving the fees and disbursements of the Receiver and its counsel;

3. approving a distribution to VanRooyen Earthmoving Ltd. (“**VRE**”) of \$171,909 for its holdback claim, and a distribution of the remaining proceeds available in the estate of the Debtor to MarshallZehr Group Inc. (“**MZ**”); and
4. discharging KSV as Receiver of the undertaking, property and assets of the Debtors,

was heard this day at 330 University Avenue, Toronto, Ontario.

**ON READING** the Third Report, the affidavits of Mitch Vininsky, sworn September 23, 2024, of Laura Culleton, sworn September 20, 2024 and Christel Paul, sworn September 23, 2024 (the “**Fee Affidavits**”), and

**ON HEARING** the submissions of independent counsel for the Receiver, MZ and such other parties as appear 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.

#### **DISTRIBUTION**

2. **THIS COURT ORDERS** that the Receiver be and hereby is authorized to pay:
  - a) \$171,909 of the Transaction proceeds, as defined in the Approval and Vesting Order of today’s date granted by this Court, to VRE; and

- b) a distribution in quantum and timing at the Receiver's discretion of the remaining proceeds available in the estate of the Debtor from the Transaction to MZ.

## **APPROVALS**

3. **THIS COURT ORDERS** that the Third Report, and the actions, conduct and activities of the Receiver as set out therein, be and are hereby approved provided, however, that only the Receiver in its personal capacity and only with respect to its own personal liability, shall be entitled to rely upon or utilize in any way such approval.

4. **THIS COURT ORDERS** that the fees and disbursements of the Receiver and its counsel, as set out in the Report and the Fee Affidavits, be and are hereby approved.

5. **THIS COURT ORDERS** that upon payment of the amounts set out in paragraph 2 hereof and upon the Receiver filing a certificate certifying that it has completed the other activities described in the Report, the Receiver shall be discharged as Receiver of the undertaking, property and assets of the Debtors, provided however that notwithstanding its discharge herein (a) the Receiver shall remain Receiver for the performance of such incidental duties as may be required to complete the administration of the receivership herein, and (b) the Receiver shall continue to have the benefit of the provisions of all Orders made in this proceeding, including all approvals, protections and stays of proceedings in favour of KSV in its capacity as Receiver.

6. **THIS COURT ORDERS AND DECLARES** that KSV is hereby released and discharged from any and all liability that KSV now has or may hereafter have by reason of, or in any way arising out of, the acts or omissions of KSV while acting in its capacity as Receiver herein, save and except for any gross negligence or wilful misconduct on the Receiver's part. Without limiting the generality of the foregoing, KSV is hereby forever released and discharged from any and all liability relating to matters that were raised, or which could have been raised, in the



within receivership proceedings, save and except for any gross negligence or wilful misconduct on the Receiver's part.

**GENERAL**

7. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. Eastern Time on the date of this 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

**DISTRIBUTION AND DISCHARGE 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.**

**TAB 5**

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

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

THE HONOURABLE MADAM	)	TUESDAY, THE 1ST
	)	
JUSTICE JESSICA KIMMEL	)	DAY 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**

**DISTRIBUTION AND DISCHARGE ORDER**

**THIS MOTION**, made by KSV Restructuring Inc. ("**KSV**") 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:

1. approving the activities of the Receiver as set out in the third report of the Receiver dated September 23, 2024 (the "**Third Report**");
2. approving the fees and disbursements of the Receiver and its counsel;

- 2 -

3. approving a distribution ~~of~~ to VanRooyen Earthmoving Ltd. ("VRE") of \$171,909 for its holdback claim, and a distribution of the remaining proceeds available in the estate of the Debtor to MarshallZehr Group Inc. ("MZ"); and

4. discharging KSV as Receiver of the undertaking, property and assets of the Debtors,

was heard this day at 330 University Avenue, Toronto, Ontario.

**ON READING** the Third Report, the affidavits of Mitch Vininsky, sworn September 23, 2024, of Laura Culleton, sworn September 20, 2024 and Christel Paul, sworn September 23, 2024 (the "**Fee Affidavits**"), and

**ON HEARING** the submissions of independent counsel for the Receiver, MZ and such other parties as appear on the counsel slip, no one appearing for any other person on the service list, although properly served as appears from the affidavit of ~~NAME~~ Christel Paul, sworn September 23, 2024, 2024 filed:

Formatted: Not Highlight

#### **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.

#### **DISTRIBUTION**

2. **THIS COURT ORDERS** that the Receiver be and hereby is authorized to pay:

- a) \$171,909 of ~~proceeds of~~ the Transaction proceeds, as defined in the Approval and Vesting Order of today's date granted by this Court, to VRE; and

- 3 -

- b) a distribution in quantum and timing at the Receiver's discretion of the remaining proceeds available in the estate of the Debtor from the Transaction to MZ.

#### APPROVALS

3. **THIS COURT ORDERS** that the Third Report, and the actions, conduct and activities of the Receiver as set out therein, be and are hereby approved provided, however, that only the Receiver in its personal capacity and only with respect to its own personal liability, shall be entitled to rely upon or utilize in any way such approval.

4. **THIS COURT ORDERS** that the fees and disbursements of the Receiver and its counsel, as set out in the Report and the Fee Affidavits, be and are hereby approved.

5. **THIS COURT ORDERS** that upon payment of the amounts set out in paragraph 32 hereof and upon the Receiver filing a certificate certifying that it has completed the other activities described in the Report, the Receiver shall be discharged as Receiver of the undertaking, property and assets of the Debtors, provided however that notwithstanding its discharge herein (a) the Receiver shall remain Receiver for the performance of such incidental duties as may be required to complete the administration of the receivership herein, and (b) the Receiver shall continue to have the benefit of the provisions of all Orders made in this proceeding, including all approvals, protections and stays of proceedings in favour of KSV in its capacity as Receiver.

6. **THIS COURT ORDERS AND DECLARES** that KSV is hereby released and discharged from any and all liability that KSV now has or may hereafter have by reason of, or in any way arising out of, the acts or omissions of KSV while acting in its capacity as Receiver herein, save and except for any gross negligence or wilful misconduct on the Receiver's part. Without limiting the generality of the foregoing, KSV is hereby forever released and discharged from any



- 4 -

and all liability relating to matters that were raised, or which could have been raised, in the within receivership proceedings, save and except for any gross negligence or wilful misconduct on the Receiver's part.

**GENERAL**

7. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. Eastern Time on the date of this Order.

---

Court File No. 23-00699432-00CL

**MARSHALLZEHR GROUP INC.**

and

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

Applicant

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

Proceedings commenced at Toronto

**DISTRIBUTION AND DISCHARGE 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.**

**MARSHALLZEHR GROUP INC.**

**2557386 ONTARIO INC. et al.**  
Respondents

Applicant

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

Proceedings commenced at Toronto

**SUPPLEMENTARY MOTION RECORD OF THE  
RECEIVER, KSV RESTRUCTURING INC.**  
(returnable October 1, 2024)

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

**R. Brendan Bissell** LSO No. 40354V  
Tel: 416.613.0066  
Email: [bbissell@reconllp.com](mailto:bbissell@reconllp.com)

**Jasmine Landau** LSO No. 74316K  
Tel: 416.613.4880  
Email: [jlandau@reconllp.com](mailto:jlandau@reconllp.com)

Fax: 416.613.8290

**Independent Counsel for the Receiver,  
KSV Restructuring Inc.**