

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

THE HONOURABLE

)

FRIDAY, THE 29TH

JUSTICE CONWAY

)

DAY OF SEPTEMBER, 2023

)

B E T W E E N :

DORR CAPITAL CORPORATION

Applicant

- and -

HIGHVIEW BUILDING CORP INC.

Respondent

**APPLICATION UNDER SUBSECTION 243(1) OF THE *BANKRUPTCY AND
INSOLVENCY ACT*, R.S.C. 1985, c. B-3, AS AMENDED, AND SECTION 101 OF THE
COURTS OF JUSTICE ACT, R.S.O. 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 and manager (in such capacity, the “**Receiver**”), without security, of the assets, undertakings and properties of Highview Building Corp Inc. (the “**Debtor**”), for an order, *inter alia*, approving the sale transaction (the “**Transaction**”) contemplated by an agreement of purchase and sale between the Receiver, as vendor, and 2133904 Ontario Inc. (the “**Purchaser**”), as purchaser, dated August 10, 2023, and amended on August 25, 2023 (the “**Sale Agreement**”) and vesting in the Purchaser the Purchased Assets (as defined in the Sale Agreement), was heard this day.

ON READING the Receiver's Report to the Court and appendices thereto, and on hearing the submissions of counsel for the Receiver and such other counsel as were present, no one appearing for any other person on the service list, although properly served as appears from the affidavit of Beatrice Loschiavo sworn September 22, 2023, filed,

1. **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 Assets to the Purchaser.

2. **THIS COURT ORDERS AND DECLARES** that upon the delivery of a Receiver's certificate to the Purchaser substantially in the form attached as **Schedule A** hereto (the "**Receiver's Certificate**"), all of the Purchased Assets described in the Sale Agreement, including, without limitation, all of the Debtor's right, title and interest in and to the real property listed on **Schedule "B"** hereto (the "**Real Property**"), 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, 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: (i) any encumbrances or charges created by the Order of The Honourable Justice Steele made on May 2, 2023; (ii) 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 (iii) 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 of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

3. **THIS COURT ORDERS** that upon the registration in the Land Registry Office for the appropriate Land Titles Division 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 enter the Purchaser as the owner of the subject Real Property identified in **Schedule “B”** hereto in fee simple, and is hereby directed to delete and expunge from title to the Real Property all of the Claims listed in **Schedule “C”** hereto.

4. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, 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 Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

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

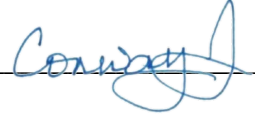
6. **THIS COURT ORDERS** that, notwithstanding:

- (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 Assets in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtor and shall not be void or voidable by creditors of any of the Debtor, 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.

7. **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.

8. **THIS COURT ORDERS** that this Order is effective from today's date and is enforceable without the need for entry and filing.

A handwritten signature in blue ink, appearing to read "Conway J.", is written over a horizontal line.

Schedule “A” (AVO) – Form of Receiver’s Certificate

Court File No. CV-23-00698632-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

B E T W E E N :

DORR CAPITAL CORPORATION

Applicant

- and -

HIGHVIEW BUILDING CORP INC.

Respondent

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

RECEIVER’S CERTIFICATE

WHEREAS pursuant to an Order of The Honourable Justice Steele of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) made on May 2, 2023, KSV Restructuring Inc. was appointed as receiver and manager (in such capacity, the “**Receiver**”), without security, of the assets, undertakings and properties of Highview Building Corp Inc. (the “**Debtor**”).

AND WHEREAS pursuant to an Order of the Court dated September 29, 2023, the Court approved the agreement of purchase and sale between the Receiver, as vendor, and 2133904 Ontario Inc. (the “**Purchaser**”), as purchaser, dated August 10, 2023, and amended on August 25, 2023 (the “**Sale Agreement**”), and provided for the vesting in the Purchaser of the Purchased Assets (as defined in the Sale Agreement), which vesting is to be effective with respect to the

Purchased Assets 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 Assets; (ii) that the conditions to closing as set out in 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.

AND WHEREAS unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.

NOW THEREFORE THE RECEIVER CERTIFIES the following:

1. The Purchaser has paid and the Receiver has received the purchase price for the Purchased Assets payable on the closing date pursuant to the Sale Agreement;
2. The conditions to closing as set out in the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser;
3. The Transaction has been completed to the satisfaction of the Receiver; and
4. This Certificate was delivered by the Receiver at _____ [TIME] on _____ [DATE].

KSV RESTRUCTURING INC., solely in its capacity as the Court-appointed receiver and manager of the Debtor, and not in its personal capacity or in any other capacity

Per:

Name: Bobby Kofman

Title: Licensed Insolvency Trustee

Schedule “B” (AVO) – Real Property

Municipal Address:

89 Nashville Road, Kleinberg, Ontario

99 Nashville Road, Kleinberg, Ontario

Legal Description:

PIN 03323 – 0578 (LT) LRO #65 PART OF LOTS 54, 55 & 56, PLAN 9, PART 1, PLAN 65R37961; CITY OF VAUGHAN

PIN 03323 – 0579 (LT) LRO #65 PART OF LOTS 52 & 53, PLAN 9, PART 2, PLAN 65R37961; CITY OF VAUGHAN

PIN 03323 – 0580 (LT) LRO #65 PART LOTS 52, 53, 54, 55 & 56, PLAN 9 & PART LOT 24, CONCESSION 8(VGN), PART3, PLAN 65R37961; CITY OF VAUGHAN

Schedule “C” (AVO) – Instruments to Be Deleted from Title

PIN 03323-0578 (LT)

Reg. No.	Date	Instrument Type	Amount	Parties From	Parties To
YR2775168	2017/12/18	Transfer	\$5,350,000	Marzano, Domenico Marzano, Anna	Highview Building Corp Inc.
YR2775218	2017/12/18	Notice	\$1	Marzano, Domenico Marzano, Anna	Highview Building Corp Inc.
YR2775219	2017/12/18	Notice	\$1	Enza Realty Ltd.	Highview Building Corp Inc.
YR2775220	2017/12/18	Notice	\$1	Enza Realty Ltd.	Highview Building Corp Inc.
YR2854532	2018/07/26	APL Absolute Title		Highview Building Corp.	
YR2980803	2019/07/08	Notice	\$2	Marzano, Domenic Marzano, Anna	Highview Building Corp Inc.
YR3391965	2022/03/09	Charge	\$9,000,000	Highview Building Corp Inc.	Dorr Capital Corporation
YR3391966	2022/03/09	No Assgn Rent Gen		Highview Building Corp Inc.	Dorr Capital Corporation
YR3511235	2022/12/22	Charge	\$5,300,000	Highview Building Corp. Inc.	MCO Management Inc.
YR3541887	2023/04/18	Charge	\$1,945,000	Highview Building Corp. Inc.	2515792 Ontario Inc.
YR3547500	2023/05/02	APL Court Order		Ontario Superior Court of Justice (Commercial List)	Dorr Capital Corporation
YR3548859	2023/05/05	Construction Lien	\$99,598	GEI Consultants Ltd.	
YR3568785	2023/06/30	Certificate		GEI Consultants Ltd.	

PIN 03323-0579 (LT)

Reg. No.	Date	Instrument Type	Amount	Parties From	Parties To
YR2775168	2017/12/18	Transfer	\$5,350,000	Marzano, Anna Marzano, Domenico	Highview Building Corp Inc.
YR2775218	2017/12/18	Notice	\$1	Marzano, Domenico Marzano, Anna	Highview Building Corp Inc.
YR2775219	2017/12/18	Notice	\$1	Enza Realty Ltd.	Highview Building Corp Inc.
YR2775220	2017/12/18	Notice	\$1	Enza Realty Ltd.	Highview Building Corp Inc.
YR2854532	2018/07/26	APL Absolute Title		Highview Building Corp.	
YR2980803	2019/07/08	Notice	\$2	Marzano, Domenic Marzano, Anna	Highview Building Corp Inc.
YR3391965	2022/03/09	Charge	\$9,000,000	Highview Building Corp Inc.	Dorr Capital Corporation
YR3391966	2022/03/09	No Assgn Rent Gen		Highview Building Corp Inc.	Dorr Capital Corporation
YR3511235	2022/12/22	Charge	\$5,300,000	Highview Building Corp. Inc.	MCO Management Inc.
YR3541887	2023/04/18	Charge	\$1,945,000	Highview Building Corp. Inc.	2515792 Ontario Inc.
YR3547500	2023/05/02	APL Court Order		Ontario Superior Court of Justice (Commercial List)	Dorr Capital Corporation
YR3548859	2023/05/05	Construction Lien	\$99,598	GEI Consultants Ltd.	
YR3568785	2023/06/30	Certificate		GEI Consultants Ltd.	

PIN 03323-0580 (LT)

Reg. No.	Date	Instrument Type	Amount	Parties From	Parties To
YR2775168	2017/12/18	Transfer	\$5,350,000	Marzano, Anna Marzano, Domenico	Highview Building Corp Inc.
YR2775218	2017/12/18	Notice	\$1	Marzano, Domenico Marzano, Anna	Highview Building Corp Inc.
YR2775219	2017/12/18	Notice	\$1	Enza Realty Ltd.	Highview Building Corp Inc.
YR2775220	2017/12/18	Notice	\$1	Enza Realty Ltd.	Highview Building Corp Inc.
YR2854532	2018/07/26	APL Absolute Title		Highview Building Corp.	
YR2980803	2019/07/08	Notice	\$2	Marzano, Domenic Marzano, Anna	Highview Building Corp Inc.
YR3391965	2022/03/09	Charge	\$9,000,000	Highview Building Corp Inc.	Dorr Capital Corporation
YR3391966	2022/03/09	No Assgn Rent Gen		Highview Building Corp Inc.	Dorr Capital Corporation
YR3511235	2022/12/22	Charge	\$5,300,000	Highview Building Corp. Inc.	MCO Management Inc.
YR3541887	2023/04/18	Charge	\$1,945,000	Highview Building Corp. Inc.	2515792 Ontario Inc.
YR3547500	2023/05/02	APL Court Order		Ontario Superior Court of Justice (Commercial List)	Dorr Capital Corporation
YR3549403	2023/05/09	Construction Lien	\$99,598	GEI Consultants Ltd.	
YR3568785	2023/06/30	Certificate		GEI Consultants Ltd.	

Schedule “D” (AVO) – Permitted Encumbrances

PIN 03323-0578 (LT)

Reg. No.	Date	Instrument Type	Amount	Parties From	Parties To
65R37961	2018/07/26	Plan Reference			

PIN 03323-0579 (LT)

Reg. No.	Date	Instrument Type	Amount	Parties From	Parties To
65R37961	2018/07/26	Plan Reference			

PIN 03323-0580 (LT)

Reg. No.	Date	Instrument Type	Amount	Parties From	Parties To
VA47085Z	1961/06/15	Rest Cov APL Annex			
YR235943	2002/11/25	Notice		The Corporation of the City of Vaughan	Enza Realty Ltd.
YR592089	2005/01/26	Notice		The Corporation of the City of Vaughan	Enza Realty Ltd.
65R35421	2015/01/15	Plan Reference			
YR2559482	2016/10/13	Plan Correction		Assistant Examiner of Surveys	
65R37961	2018/07/26	Plan Reference			

DORR CAPITAL CORPORATION

-and-

HIGHVIEW BUILDING CORP INC.

Applicant

Respondent

Court File No. CV-23-00698632-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceedings commenced at Toronto

APPROVAL AND VESTING ORDER

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