

Endorsement:

KSV Restructuring Inc. in its capacity as Court-appointed Receiver of all of the assets, undertakings and properties of Sunrise Acquisitions (HWY 7) Inc. (the "Company") acquired for, or used in relation to a business carried on by the Company and the proceeds therefrom, including, certain real property owned by the Company in Markham, Ontario (the "Real Property") moves for an order (i) to the extent it is not already terminated, terminating, repudiating and/or disclaiming an agreement of purchase and sale in respect of Lot 43 dated June 24, 2016 (the Pre-Filing APS") with 1879281 Ontario Inc. (the "Pre-Filing Purchaser"), (ii) approving the sale transaction contemplated by the agreement of purchase and sale between the Receiver, as vendor, and Silas Si Long Yip and Etta Chee (together, Purchaser") dated August 17, 2021 (as amended, the "Sale Agreement"), and vesting in the Purchaser all of the Company's right, title and interest in and to the property described in the Sale Agreement, and (iii) other relief as set out in the draft order.

The background facts are set out in the First Report of the Receiver dated July 27, 2021 and the Second Report of the Receiver dated September 3, 2021. The facts in relation to this motion are set out in the Second Report and they are summarized in the Receiver's factum at paragraphs 6-29.

Following its appointment, the Receiver was provided with a copy of the Pre-Filing APS. The Pre-Filing APS had cheques attached to it from 2016 but, following its preliminary review, the Receiver was unable to find any evidence that the Pre-Filing Deposit Funds were actually deposited into the Company's bank accounts. The Company subsequently confirmed that the Pre-Filing Deposit Funds were never deposited and advised the Receiver that it should remarket Lot 43 as there is no ongoing agreement in effect for that property. The Receiver served the Pre-Filing Purchaser with a copy of its Sale Process approval materials and the Receiver's counsel engaged with the now former counsel for the Pre-Filing Purchaser and advised counsel that the Receiver intended to seek approval of the Sale Agreement and, to the extent not already terminated, to terminate, repudiate and/or disclaim the Pre-Filing APS. Legal counsel with whom the Receiver was in contact no longer represents the Pre-Filing Purchaser.

The Pre-Filing APS has not been completed and obligations thereunder have not been performed. The Pre-Filing Purchaser was served with the materials for this motion and did not appear to oppose the requested order or to assert an interest in Lot 43. The Receiver has provided me with authority where similar orders were made to facilitate a sale: See Order and Endorsement of Mesbur J. dated August 3, 2017 in *Re Scollard Development Corporation (CV-17-11689-00CL)*; *Firm Capital Mortgage Fund Inc. v. 2012241 Ontario Ltd.*, 2012 ONSC 4816. I have considered the equities and I am satisfied that they do not favour the Pre-Filing Purchaser. The Pre-Filing APS was made more than five years ago. The deposit cheques were never deposited. The Pre-Filing Purchaser has not appeared to assert an interest in Lot 43. Given these circumstances, I am satisfied that the requested Order should be made.

I am satisfied that the other relief sought by the Receiver on this motion is proper and that the motion should be granted.

Order to issue in form of attached order signed by me.

A handwritten signature in blue ink, appearing to read 'Cavanagh J.', is written over a light blue rectangular background.

Cavanagh J.