

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

THE HONOURABLE MADAM) WEDNESDAY, THE 30th
)
JUSTICE MESBUR) DAY OF NOVEMBER, 2016
)



BETWEEN:

**MARSHALLZEHR GROUP INC. and THE BANK OF NOVA SCOTIA
TRUST COMPANY**

Applicants

- and -

2131059 ONTARIO LIMITED

Respondent

VESTING ORDER

THIS MOTION, made by Collins Barrow Toronto Limited in its capacity as the Court-appointed receiver (the "**Receiver**") of the undertaking, property and assets of 2131059 Ontario Limited (the "**Debtor**") for an order vesting the Debtor's right, title and interest in and to the "Purchased Assets" as defined in the agreement of purchase and sale between the Receiver and Mapleview Developments Ltd. (the "**Purchaser**") dated October 6, 2016 (the "**Sale Agreement**") in the Purchaser, the Sale Agreement having been previously approved pursuant to the Order of Mr. Justice Newbould dated November 22, 2016, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Receiver's Second Report dated November 9, 2016, previously filed, and the Supplementary Report dated November 28, 2016 (the "**Supplementary Report**"), the Responding Motion Record filed by Paladin Development Consultants Inc., Hewitt's Creek Management Inc. and Innis Shore Management Inc. (collectively, "**Paladin**"), the Affidavit of Alex Haditaghi, sworn November 18, 2016 filed by Moneylogix Group Inc. ("**Moneylogix**") and on hearing the submissions of counsel for the Receiver, Moneylogix, the Applicants and Sussman Mortgage Funding Inc. ("**Sussman**"), and upon being advised that Moneylogix, the Applicants, Sussman and Paladin consent to this order, no one appearing for any other person on the service list, although properly served as appears from the affidavit of Craig A. Mills sworn November 9, 2016 and the affidavits of service sworn by Maureen McLaren on November 14, 2016 and November 28, 2016, filed:

1. **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 Debtor's right, title and interest in and to the Purchased Assets described in the Sale Agreement 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 Regional Senior Justice Morawetz dated May 15, 2015, as amended pursuant to the Order of Mr. Justice Newbould dated August 27, 2015; (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.

2. **THIS COURT ORDERS** that upon the registration in the Land Registry Office for the Land Titles Division of Simcoe (LRO #51) 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 (the “**Real Property**”) 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.

3. **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.

4. **THIS COURT ORDERS** that nothing in this order releases either MarshallZehr Group Inc. (“MZG”) or Sussman, or any of their respective successors or assigns, from their respective agreements and obligations, as set out in the Acknowledgement and Confirmations dated December 31, 2009, as executed by each of MZG and Sussman in favour of Moneylogix.

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 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 ORDERS** that the timing and method of service of the Supplementary Report on the service list is hereby abridged and validated and the Supplementary Report, and the actions of the Receiver set out therein, are hereby approved.

8. **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.



ENTERED AT / INSCRIT À TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO:

NOV 30 2016

PER / PAR: 

Schedule A – Form of Receiver’s Certificate

Court File No. CV-15-10951-00CL

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

B E T W E E N:

**MARSHALLZEHR GROUP INC. and THE BANK OF NOVA SCOTIA
TRUST COMPANY**

Applicants

- and -

2131059 ONTARIO LIMITED

Respondent

RECEIVER’S CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable Regional Senior Justice Morawetz of the Ontario Superior Court of Justice (the "**Court**") dated May 15, 2015, Collins Barrow Toronto Limited was appointed as the receiver (the "**Receiver**") of the undertaking, property and assets of 2131059 Ontario Limited (the "**Debtor**").

B. Pursuant to an Order of the Court dated November 22, 2016, the Court approved the agreement of purchase and sale made as of October 21, 2016 (the "**Sale Agreement**") between the Receiver and Maplevue Developments Ltd. (the "**Purchaser**") and, pursuant to an Order of

the Court dated November 30, 2016, the court ordered and provided for the vesting in the Purchaser of the Debtor's right, title and interest in and to the Purchased Assets, 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 section 4 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 Assets payable on the Closing Date pursuant to the Sale Agreement;
2. The conditions to Closing as set out in section 4 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].

**COLLINS BARROW TORONTO LIMITED,
in its capacity as Receiver of the undertaking,
property and assets of 2131059 Ontario
Limited, and not in its personal capacity**

Per: _____

Name:

Title:

Schedule B – Real Property

Part S1/2 Lot 16 Concession 12 Innisfil Part 1 on Reference Plan 51R22928 except Part 4 on Reference Plan 51R32586; subject to easement over Parts 1, 2 and 3 on Reference Plan 51R32586 as in SC212816, subject to easement in gross over Part 8 on Reference Plan 51R34165 as in SC510541; Barrie; PIN 58091-1689 (LT)

Parcel 16-2 Section 51INN12; Part South ½ of Lot 16 Concession 12 Innisfil Part 1 on Reference Plan 51R22937, subject to easement in gross over Part 6 on Reference Plan 51R34165 as in SC510541; Barrie; PIN 58091-0288 (LT)

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

Reg. Num.	Date	Instrument Type	Amount	Parties From	Parties To
SC542787	May 11, 2007	Transfer	\$10,800,000	1615263 Ontario Inc.	2131059 Ontario Limited
SC929834	September 8, 2011	Charge	\$1,500,000	2131059 Ontario Limited	626353 Ontario Limited Nori Corp. Vaughancord Holdings Inc. 778788 Ontario Limited Corner World Developments Inc. Baywood Homes Partnership
SC1028162	November 30, 2012	Postponement		6626353 Ontario Limited Nori Corp. Vaughancord Holdings Inc. 778788 Ontario Limited Corner World Developments Inc. Baywood Homes Partnership	MarshallZehr Group Inc. The Bank of Nova Scotia Trust Company
SC1028163	November 30, 2012	Charge	\$4,712,500	2131059 Ontario Limited	MarshallZehr Group Inc.
SC1028178	November 30,	Postponement		626353 Ontario	MarshallZehr

Reg. Num.	Date	Instrument Type	Amount	Parties From	Parties To
	2012			Limited Nori Corp. Vaughancord Holdings Inc. 778788 Ontario Limited Corner World Developments Inc. Baywood Homes Partnership	Group Inc. The Bank of Nova Scotia Trust Company
SC1083201	September 6, 2013	Postponement		MarshallZehr Group Inc.	MarshallZehr Group Inc. The Bank of Nova Scotia Trust Company
SC1083204	September 6, 2013	Postponement		626353 Ontario Limited Nori Corp. Vaughancord Holdings Inc. 778788 Ontario Limited Corner World Developments Inc. Baywood Homes Partnership	MarshallZehr Group Inc. The Bank of Nova Scotia Trust Company
SC1083208	September 6, 2013	Charge	\$1,100,000	2131059 Ontario Limited	MarshallZehr Group Inc.

Reg. Num.	Date	Instrument Type	Amount	Parties From	Parties To
SC1083211	September 6, 2013	Notice of Assignment of Rents		2131059 Ontario Limited	MarshallZehr Group Inc.
SC1083215	September 6, 2013	Postponement		MarshallZehr Group Inc.	MarshallZehr Group Inc.
SC1083226	September 6, 2013	Postponement		626353 Ontario Limited Nori Corp. Vaughancord Holdings Inc. 778788 Ontario Limited Corner World Developments Inc. Baywood Homes Partnership	MarshallZehr Group Inc.
SC1083227	September 6, 2013	Notice		2131059 Ontario Limited	MarshallZehr Group Inc.
SC1083229	September 6, 2013	Postponement		626353 Ontario Limited Nori Corp. Vaughancord Holdings Inc. 778788 Ontario Limited Corner World Developments Inc. Baywood Homes Partnership	MarshallZehr Group Inc.
SC1117923	March 3, 2014	Notice		2131059 Ontario	

Reg. Num.	Date	Instrument Type	Amount	Parties From	Parties To
				Limited	
SC1219496	June 19, 2015	APL Court Order		Ontario Superior Court of Justice Commercial List	Collins Barrow Toronto Limited

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

(unaffected by the Vesting Order)

Reg. Num.	Date	Instrument Type	Amount	Parties From	Parties To
51R22928	April 24, 1992	Plan Reference			
51R22937	April 27, 1992	Plan Reference			
SC70752	November 8, 2002	Notice		Paladin Developments Consultants Inc.	
51R32586	February 12, 2004	Plan Reference			
SC212816	April 22, 2004	Transfer Easement	\$2.00	Gary McCluskey Gloria Ann McCluskey	The Corporation of the City of Barrie
51R32851	June 22, 2004	Plan Reference			
51R34165	December 2, 2005	Plan Reference			
SC510541	January 3, 2007	Transfer Easement	\$2.00	1615263 Ontario Inc.	The Corporation of the City of Barrie
SC761396	August 25, 2009	Notice		Moneylogix Group, Inc.	
SC792792	December 31, 2009	Charge	\$17,712,500	2131059 Ontario Limited	MarshallZehr Group Inc.
SC792819	December 31, 2009	Charge	\$2,500,000	2131059 Ontario Limited	Sussman Mortgage Funding Inc.
SC793283	January 5, 2010	Postponement		Moneylogix Group, Inc.	MarshallZehr Group Inc.
SC793383	January 5, 2010	Postponement		Moneylogix Group, Inc.	Sussman Mortgage Funding Inc.
SC805443	March 9, 2010	Transfer of		Sussman Mortgage Funding	B2B Trust

Reg. Num.	Date	Instrument Type	Amount	Parties From	Parties To
		Charge		Inc.	
SC814585	April 23, 2010	Transfer of Charge		Sussman Mortgage Funding Inc.	B2B Trust
SC840087	July 26, 2010	Transfer of Charge		Sussman Mortgage Funding Inc.	B2B Trust
SC844439	August 12, 2010	Transfer of Charge		Sussman Mortgage Funding Inc.	B2B Trust
SC854046	September 23, 2010	Transfer of Charge		Sussman Mortgage Funding Inc.	B2B Trust
SC860639	October 22, 2010	Transfer of Charge		Sussman Mortgage Funding Inc.	B2B Trust
SC865934	November 16, 2010	Transfer of Charge		Sussman Mortgage Funding Inc.	B2B Trust
SC872707	December 15, 2010	Transfer of Charge		Sussman Mortgage Funding Inc.	B2B Trust
SC878971	January 20, 2011	Transfer of Charge		Sussman Mortgage Funding Inc.	B2B Trust
SC883986	February 17, 2011	Transfer of Charge		Sussman Mortgage Funding Inc.	B2B Trust
SC885810	February 28, 2011	Transfer of Charge		Sussman Mortgage Funding Inc.	B2B Trust
SC893567	April 6, 2011	Transfer of Charge		B2B Trust	Sussman Mortgage Funding Inc.
SC893651	April 7, 2011	Transfer of Charge		Sussman Mortgage Funding	B2B Trust

Reg. Num.	Date	Instrument Type	Amount	Parties From	Parties To
				Inc.	
SC896177	April 20, 2011	Transfer of Charge		Sussman Mortgage Funding Inc.	B2B Trust
SC902547	May 19, 2011	Transfer of Charge		Sussman Mortgage Funding Inc.	B2B Trust
SC908798	June 15, 2011	Transfer of Charge		B2B Trust	Sussman Mortgage Funding Inc.
SC908799	June 15, 2011	Transfer of Charge		B2B Trust	Sussman Mortgage Funding Inc.
SC909986	June 21, 2011	Transfer of Charge		Sussman Mortgage Funding Inc.	BLML Developments Inc.
SC909987	June 21, 2011	Transfer of Charge		Sussman Mortgage Funding Inc.	B2B Trust
SC917770	July 21, 2011	Transfer of Charge		Sussman Mortgage Funding Inc.	B2B Trust
SC959176	January 24, 2012	Transfer of Charge		B2B Trust	Sussman Mortgage Funding Inc.
SC974756	April 17, 2012	Transfer of Charge		Sussman Mortgage Funding Inc.	B2B Trust
SC986599	June 6, 2012	Transfer of Charge		Sussman Mortgage Funding Inc.	B2B Trust
SC988054	June 13, 2012	Transfer of Charge		Sussman Mortgage Funding Inc.	B2B Trust
SC1014445	September 27, 2012	Transfer of Charge		Sussman Mortgage Funding	B2B Bank

Reg. Num.	Date	Instrument Type	Amount	Parties From	Parties To
				Inc.	
SC1028117	November 30, 2012	Transfer of Charge		MarshallZehr Group Inc.	MarshallZehr Group Inc. The Bank of Nova Scotia Trust Company
SC1028137	November 30, 2012	Notice	\$2	2131059 Ontario Limited	MarshallZehr Group Inc. The Bank of Nova Scotia Trust Company
SC1028138	November 30, 2012	Notice of Assignment of Rents		2131059 Ontario Limited	MarshallZehr Group Inc. The Bank of Nova Scotia Trust Company
SC1028161	November 30, 2012	Postponement		Sussman Mortgage Funding Inc. B2B Trust BLML Developments Inc. B2B Bank	MarshallZehr Group Inc. The Bank of Nova Scotia Trust Company
SC1028959	December 4, 2012	Transfer of Charge		Sussman Mortgage Funding Inc.	B2B Trustco
SC1045414	March 14, 2013	Notice	\$2	2131059 Ontario Limited	Sussman Mortgage Funding Inc. B2B Trust BLML Developments Inc. B2B Bank

Reg. Num.	Date	Instrument Type	Amount	Parties From	Parties To
					B2B Trustco
SC1045415	March 14, 2013	Notice	\$2	Sussman Mortgage Funding Inc. B2B Trust BLML Developments Inc. B2B Bank	
SC1046529	March 21, 2013	Notice		Sussman Mortgage Funding Inc. B2B Trust BLML Developments Inc. B2B Bank	
SC1050104	April 10, 2013	Transfer of Charge		Sussman Mortgage Funding Inc.	B2B Trustco
SC1080430	August 27, 2013	Transfer of Charge		BLML Developments Inc.	Sussman Mortgage Funding Inc.
SC1080949	August 29, 2013	Transfer of Charge		B2B Trust B2B Bank B2B Trustco	Community Trust Company
SC1083185	September 6, 2013	Notice		2131059 Ontario Limited	MarshallZehr Group Inc. The Bank of Nova Scotia Trust Company
SC1083192	September 6, 2013	Postponement		Sussman Mortgage Funding Inc.	MarshallZehr Group Inc. The Bank of Nova

Reg. Num.	Date	Instrument Type	Amount	Parties From	Parties To
				Community Trust Company	Scotia Trust Company

MARSHALLZEHR GROUP INC.
et al.
Applicants

and

2131059 ONTARIO LIMITED
Respondent

Court File No: CV-15-10951-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

Proceeding commenced at Toronto

ORDER
(VESTING ORDER)

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Lawyers for Collins Barrow Toronto
Limited. in its capacity as the Court-
appointed receiver, without security, of the
assets, undertakings and properties of
2131059 Ontario Limited