

COURT FILE NUMBER 1603 02314
COURT COURT OF QUEENS BENCH
JUDICIAL CENTRE EDMONTON

Clerk's Stamp

PLAINTIFF **THREE M MORTGAGES INC. AND AVATEX LAND CORPORATION**

DEFENDANTS **TODD OEMING, TODD OEMING AS THE PERSONAL REPRESENTATIVE OF THE ESTATE OF ALBERT OEMING AND THE ESTATE OF ALBERT OEMING**



DOCUMENT **SALE APPROVAL AND VESTING ORDER**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT

Dentons Canada LLP
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File No. 542874-12
Attention: Tom Gusa

I hereby certify this to be a true copy of the original.


for Clerk of the Court

DATE ON WHICH ORDER WAS PRONOUNCED: February 27, 2020
LOCATION WHERE ORDER WAS PRONOUNCED: Edmonton, Alberta
NAME OF JUSTICE WHO MADE THIS ORDER: The Honourable Mr. Justice D.R. Mah

UPON THE APPLICATION by BDO Canada Limited, in its capacity as Court-appointed receiver and manager (the "Receiver") of the current and future assets, undertakings, and properties of Wild Splendor Development Inc. (the "Debtor"), for an order approving the sale transaction (the "Transaction") contemplated by an agreement of purchase and sale (the "Sale Agreement") between the Receiver as Vendor, and Shelby Fehr as Purchaser (the "Purchaser") made as of February 7, 2020, and appended to the First Confidential Supplement to the Receiver's Second Report each respectively dated February 13, 2020 (collectively, the "Second Report"), and vesting the Debtors' right, title, and interest in and to the lands described in the Sale Agreement (the "Lands") in the Purchaser;

AND UPON HAVING READ the Receivership Order dated June 4, 2019 (the "Receivership Order"), and the Receiver's First Report, the Second Report and upon it appearing that service has been effected;

AND UPON HEARING the submissions of counsel for the Receiver and any other interested parties that may be present;

AND UPON NOTING that the Lands are subject to four real property leases and/or rental agreements (the "**Leases**"), that exist as between the Debtor as landlord and the following parties as tenants:

- a) Chipps Tree Care Inc.;
- b) Mad Cat Rentals Ltd.;
- c) Grey Lion Construction Corp.; and
- d) Sherwood Park Archery Club;

(collectively, the "**Tenants**")

IT IS HEREBY ORDERED AND DECLARED THAT:

SERVICE

- [1] Service of notice of this application and supporting materials is hereby declared to be good and sufficient, and no other person is required to have been served with notice of this application, and time for service of this application is abridged to that actually given.

APPROVAL OF ACTIVITIES

- [2] The Receiver's activities as set out in the Second Report are hereby ratified and approved.

APPROVAL OF TRANSACTION

- [3] 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 or for the conveyance of the Lands to the Purchaser (or its nominee(s)).

VESTING OF PROPERTY

- [4] Upon the delivery of a Receiver's certificate to the Purchaser substantially in the form set

out in Schedule "A" hereto (the "**Receiver's Closing Certificate**"), all of the Debtors' right, title, and interest in and to the Lands listed in Schedule "B" shall vest absolutely in the name of the Purchaser (or their nominee(s)) subject to the rights and entitlements of the Tenants, and free and clear of and from any and all other caveats, security interests, hypothecs, pledges, mortgages, liens, trusts or deemed trusts, reservations of ownership, royalties, options, rights of pre-emption, privileges, interests, assignments, actions, judgments, executions, levies, taxes, writs of enforcement, charges, or other claims, whether contractual, statutory, financial, monetary or otherwise, 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 or defined in the Receivership Order;
- (ii) all charges, security interests or claims evidenced by registration, filing, or publication pursuant to any of the following: (a) the *Personal Property Security Act* (Alberta); or (b) any other personal property registry system;
- (iii) any liens or claims of lien under the *Builders' Lien Act* (Alberta); and
- (iv) those Claims listed in Schedule "C" hereto (all of which are collectively referred to as the "**Encumbrances**", which term shall not include the permitted encumbrances, caveats, interests, easements, and restricted covenants, if any, in Schedule "D" (collectively, the "**Permitted Encumbrances**"),

and for greater certainty, this Court orders that all Claims including Encumbrances other than Permitted Encumbrances, affecting or relating to the Lands are hereby expunged, discharged and terminated as against the Lands.

[5] Upon delivery of the Receiver's Closing Certificate, and upon filing of a certified copy of this Order, together with any applicable registration fees, all governmental authorities including those referred to below in this paragraph (collectively, "**Governmental Authorities**") are hereby authorized, requested and directed to accept delivery of such Receiver's Closing Certificate and certified copy of this Order as though they were originals and to register such transfers, interest authorizations, discharges and discharge statements of conveyance as may be required to convey to the Purchaser or their nominee(s) clear title to the Lands subject only to Permitted Encumbrances. Without limiting the foregoing:

- (a) the Registrar of Land Titles ("**Land Titles Registrar**") for the lands defined below shall and is hereby authorized, requested and directed to forthwith:

- (i) cancel existing Certificates of Title for the Lands;
- (ii) issue a new Certificate of Title for the Lands in the name of the Purchaser (or their nominee(s));
- (iii) transfer to the New Certificate of Title the existing instruments listed in Schedule "D", to this Order, and to issue and register against the New Certificate of Title such new caveats, utility rights of ways, easements or other instruments as are listed in Schedule "D"; and

discharge and expunge the Encumbrances listed in Schedule "C" to this Order and discharge and expunge any Claims including Encumbrances (but excluding Permitted Encumbrances) which may be registered after the date of the Sale Agreement against the existing Certificate of Title to the Lands.

- [6] In order to effect the transfers and discharges described above, this Court directs each of the Governmental Authorities to take such steps as are necessary to give effect to the terms of this Order and the Sale Agreement. Presentment of this Order and the Receiver's Closing Certificate shall be the sole and sufficient authority for the Governmental Authorities to make and register transfers of title or interest and cancel and discharge registrations against any of the Lands of any Claims including Encumbrances but excluding Permitted Encumbrances.
- [7] No authorization, approval or other action by and no notice to or filing with any governmental authority or regulatory body exercising jurisdiction over the Lands is required for the due execution, delivery and performance by the Receiver of the Sale Agreement.
- [8] Upon delivery of the Receiver's Closing Certificate together with a certified copy of this Order, this Order shall be immediately registered by the Land Titles Registrar notwithstanding the requirements of section 191(1) of the *Land Titles Act*, RSA 2000, c.L-7 and notwithstanding that the appeal period in respect of this Order has not elapsed. The Land Titles Registrar is hereby directed to accept all Affidavits of Corporate Signing Authority submitted by the Receiver in its capacity as Receiver of the Debtor and not in its personal capacity.
- [9] For the purposes of determining the nature and priority of Claims, net proceeds from sale of the Lands (to be held in an interest bearing trust account by the Receiver) shall stand in the place and stead of the Lands from and after delivery of the Receiver's Closing Certificate and all Claims including Encumbrances (but excluding Permitted Encumbrances) shall not attach to, encumber or otherwise form a charge, security interest, lien, or other Claim against the Lands and may be asserted against the net proceeds from sale of the Lands with the same priority as they had with respect to the Lands immediately prior to the sale, as if the 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. Unless otherwise ordered (whether before or after the date of this Order), the Receiver shall not make any distributions to creditors of net proceeds from sale of the Lands without further order of this Court, provided however the Receiver may apply any part of such net proceeds to repay any amounts the Receiver has borrowed for which it has issued a Receiver's Certificate pursuant to the Receivership Order.

- [10] The Receiver, to the extent able and necessary, is hereby authorized and directed, without further order of this Honourable Court and without further notice to any persons, to take all necessary steps within its power to execute all documents and instruments necessary to effect any or all of the discharges relating to the Claims and the applicable registrars and other persons in control or otherwise supervising such offices of the corresponding registrations or recordings shall forthwith remove and discharge all such registrations or recordings.
- [11] Upon completion of the Transaction, the Debtor and all persons who claim by, through or under the Debtor in respect of the Lands, and all persons or entities having any Claims of any kind whatsoever in respect of the Lands, save and except for the Tenants and persons entitled to the benefit of the Permitted Encumbrances, shall stand absolutely and forever barred, estopped and foreclosed from and permanently enjoined from pursuing, asserting or claiming any and all right, title, estate, interest, royalty, rental, equity of redemption or other Claim whatsoever in respect of or to the Lands, and to the extent that any such persons or entities remain in the possession or control of any of the Lands, or any artifacts, certificates, instruments or other indicia of title representing or evidencing any right, title, estate, or interest in and to the Lands, they shall forthwith deliver possession thereof to the Purchaser (or their nominee(s)).
- [12] The Purchaser shall, by virtue of the completion of the Transaction, have no liability of any kind whatsoever in respect of any Claims against the Debtor.
- [13] The Purchaser (or their nominee(s)) shall be entitled to enter into and upon, hold and enjoy the Lands for their own use and benefit without any interference of or by the Debtor, or any person claiming by, through or against the Debtor, with the exception of the Tenants.
- [14] Immediately upon closing of the Transaction, the Tenants and the holders of Permitted Encumbrances shall have no claim whatsoever against the Receiver.
- [15] The Receiver is to file with the Court a copy of the Receiver's Certificate, forthwith after delivery thereof to the Purchaser (or their nominee(s)).

MISCELLANEOUS MATTERS

[16] Notwithstanding:

- (i) the pendency of these proceedings and any declaration of insolvency made herein;
- (ii) the pendency of any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c B-3 as amended (the "BIA"), in respect of the Debtor, and any bankruptcy order issued pursuant to any such applications;
- (iii) any assignment in bankruptcy made in respect of the Debtor; and
- (iv) the provisions of any federal or provincial statute,

the vesting of the Lands in the Purchaser (or their nominee(s)) pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of any 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 settlement, fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the BIA 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.

[17] The Receiver, the Purchaser (or their nominee(s)), and any other affected party, shall be at liberty to apply for further advice, assistance and directions as may be necessary in order to give full force and effect to the terms of this Order and to assist and aid the parties in closing the Transaction.


[18] This Honourable Court hereby requests the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in any of its provinces or territories or in any foreign jurisdiction, to act in aid of and to be complimentary to this Court in carrying out the terms of this Order, 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 order and to provide such assistance to the Receiver, as an officer of the 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.

[19] Service of this Order shall be deemed good and sufficient by:

- (a) serving the same on:
 - (i) the persons listed on the service list created in these proceedings;

- (ii) any other person served with notice of the application for this Order;
 - (iii) any other parties attending or represented at the application for this Order;
 - (iv) the Purchaser or the Purchaser's solicitors; and
- (b) posting a copy of this Order on the Receiver's website at:
<https://www.bdo.ca/en-ca/extranets/wildsplendordevelopmentinc/>
and service on any other person is hereby dispensed with.

[20] Service of this Order may be effected by facsimile, electronic mail, personal delivery or courier. Service is deemed to be effected the next business day following transmission or delivery of this Order.



Justice of the Court of Queen's Bench of Alberta

SCHEDULE A

Form of Receiver's Certificate

Clerk's Stamp:

COURT FILE NUMBER	1603 02314
COURT	COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE	EDMONTON
PLAINTIFF	THREE M MORTGAGES INC. AND AVATEX LAND CORPORATION
DEFENDANTS	TODD OEMING, TODD OEMING AS THE PERSONAL REPRESENTATIVE OF THE ESTATE OF ALBERT OEMING AND THE ESTATE OF ALBERT OEMING
DOCUMENT	<u>RECEIVER'S CERTIFICATE</u>
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	Dentons Canada LLP 2500 Stantec Tower 10220 – 103 Avenue Edmonton, Alberta T5J 0K4 Ph. (780) 423-7219 Fx. (780) 423-7276 File No.: 542874-12 Attention: Tom Gusa

RECITALS

- A. Pursuant to an Order of the Honourable Associate Chief Justice K.G. Nielsen of the Court of Queen's Bench of Alberta, Judicial District of Edmonton (the "**Court**") dated June 4, 2019, BDO Canada Limited was appointed as the receiver (the "**Receiver**") of the undertakings, property and assets of Wild Splendor Development Inc. (the "**Debtor**").
- B. Pursuant to an Order of the Court dated February 27, 2020, the Court approved the agreement of purchase and sale made as of February 7, 2020 (the "**Sale Agreement**") between the Receiver as vendor, and Shelby Fehr as Purchaser (the "**Purchaser**") and provided for the vesting in the Purchaser of the Debtor's right, title, and interest in and to the Lands, which vesting is to be effective with respect to the 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 Lands; (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.

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 Lands payable on the closing date pursuant to the Sale Agreement;
2. The conditions to Closing as set out 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]**.

BDO Canada Limited, in its capacity as Court-appointed Receiver and Manager of the current and future assets, undertakings and properties of WILD SPLENDOR DEVELOPMENT INC. and not in its personal capacity.

Per: _____

Name:

Title:

SCHEDULE B

PLAN 1220280

BLOCK 1

LOT 1

EXCEPTING THEROUT ALL MINES AND
MINERALS

AREA: 11.54 HECTARES (28.52 ACRES) MORE
OR LESS

and

PLAN 1220280

BLOCK 1

LOT 2

EXCEPTING THEROUT ALL MINES AND
MINERALS

AREA: 16.985 HECTARES (41.97 ACRES) MORE
OR LESS

and

PLAN 1220280

BLOCK 1

LOT 3

EXCEPTING THEROUT ALL MINES AND
MINERALS

AREA: 66.734 HECTARES (164.9 ACRES) MORE
OR LESS

SCHEDULE C

<u>Registration Number</u>	<u>Date Registered</u>	<u>Particulars</u>
192 074 473	March 29, 2019	Tax Notification
192 114 508	May 27, 2019	Order
192 136 913	June 20, 2019	Order
172 049 758	February 17, 2017	Mortgage

SCHEDULE D

<u>Registration Number</u>	<u>Date Registered</u>	<u>Particulars</u>
2945UZ	March 27, 1974	Caveat Re: Public Work
7454UF	July 17, 1974	Utility Right of Way