

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

THE HONOURABLE MADAM) THURSDAY, THE 27TH
)
JUSTICE CONWAY) DAY OF MAY, 2021

IN THE MATTER OF THE *COURTS OF JUSTICE ACT*, R.S.O.
1990, c. C.43, AS AMENDED

AND IN THE MATTER OF THE ADMINISTRATION
PROCEEDINGS OF CARRIAGE HILLS VACATION OWNERS
ASSOCIATION

APPROVAL AND VESTING ORDER

THIS MOTION, made by BDO Canada Limited (“**BDO**”), in its capacity as the Court-appointed receiver (in such capacity, the “**Receiver**”) over all of the assets, properties and undertakings of the Carriage Hills Vacation Owners Association (the “**Applicant**”) and all the lands and premises on which the Applicant operated the Carriage Hills Resort (the “**Resort Property**”), appointed by Order of the Court with effect as of January 6, 2021 (the “**Receivership Order**”), 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 Sunray Group of Hotels Inc. (“**Sunray**”) dated April 6, 2021 (the “**Sale Agreement**”) and appended in redacted form to the Fourth Report of the Receiver dated May 11, 2021 (the “**Fourth Report**”), and as appended in unredacted form as an appendix to the Confidential Supplemental Report to the Fourth Report, dated May 11, 2021 (the “**Confidential Supplement**”), and vesting in Sunray’s designee, Sunray

Carriage Hills Development Inc. (the “**Purchaser**”) the right, title and interest of the Applicant and the owners of the Resort Property (the “**Owners**”) in and to the property described as the “**Purchased Assets**” in the Sale Agreement (the “**Purchased Assets**”), was heard this day by Zoom judicial video conference due to the COVID-19 pandemic.

ON READING the Fourth Report, the Confidential Supplement, the Supplemental Report to the Fourth Report dated May 25, 2021 and the appendices to each, and on hearing the submissions of counsel for the Receiver, counsel for Wyndham Worldwide Corporation, Shell Finco LLC, Carriage Hills Resort Corporation and Carriage Hills Hospitality Inc. and counsel for Lori Smith and Karen Levins and the submissions of Christopher Diana, no one else appearing for any other parties on the Service List, although properly served as appears from the affidavit of Christine Doyle sworn May 13, 2021, filed,

SERVICE

1. **THIS COURT ORDERS** that the time for service and filing of the Notice of Motion and the Motion Record is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof. This Court orders and confirms that service on the Owners and other persons with interests recorded on title to the Resort Property has been effected pursuant to the Service Protocol Order of Justice Conway dated April 30, 2021.

TRANSACTION

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 Assets to the Purchaser, or as it may direct.

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 "A"** hereto (the "**Receiver's Certificate**"), all of the right, title and interest of the Applicant and the Owners in and to the Purchased Assets described in the Sale Agreement and listed on **Schedule "B"** 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, or other financial, monetary or ownership 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 Receivership Order; (ii) all instruments registered on title to the Real Property (as hereinafter defined) (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 "C"**) and (iii) 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, for greater certainty, this Court orders that all of the Claims affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

4. **THIS COURT ORDERS** that, upon the registration in the Land Registry Office for the Land Registry Division of Simcoe 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 Sunray Carriage Hills Development Inc. 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 (including without limitation all registered instruments on title to the Real Property) save and except the permitted encumbrances, easements and restrictive covenants listed on **Schedule “C”** hereto.

5. **THIS COURT ORDERS** that the Land Registrar shall vest title as herein provided, free and clear of, and without regard to, any relevant writs of executions that may have been filed with the Sheriff as against each and every registered owner, either before or after the date of this Order.

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 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 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.

7. **THIS COURT ORDERS AND DIRECTS** the Receiver to file with the Court a copy of the Receiver’s Certificate, as soon as practical after delivery thereof.

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 Applicant and any bankruptcy order issued pursuant to any such applications; and

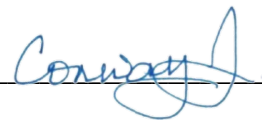
(c) any assignment in bankruptcy made in respect of the Applicant,

the vesting of the Purchased Assets in the Purchaser, or as it may direct, pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Applicant and shall not be void or voidable by creditors of the Applicant, 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 ORDERS** that the Confidential Supplement be sealed and protected until the Receiver's Certificate has been filed or until further Order of this Honourable Court.

10. **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.

11. **THIS COURT ORDERS** that, notwithstanding Rule 59.05, this order is effective from the date it is made, and it is enforceable without any need for entry and filing. In accordance with Rules 77.07(6) and 1.04, no formal order need be entered and filed unless an appeal or motion for leave to appeal is brought to an appellate court. Any party may nonetheless submit a formal order for original, signing, entry and filing, as the case may be, when the Court returns to regular operations.

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

Schedule “A” – Form of Receiver’s Certificate

Court File No. CV-20-00640265-00CL

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RECEIVER’S CERTIFICATE**RECITALS**

- I. Pursuant to an Order of the Honourable Madam Justice Conway of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) with effect as of January 6, 2021 (the “**Receivership Order**”), BDO Canada Limited (“**BDO**”) was appointed as receiver (in such capacity, the “**Receiver**”), without security, over all of the assets, properties and undertakings of the Carriage Hills Vacation Owners Association (the “**Applicant**”) and all the lands and premises on which the Applicant operated the Carriage Hills Resort, including proceeds thereof.
- II. Pursuant to an Order of the Court dated May 27, 2021, the Court approved the agreement of purchase and sale between the Receiver, as vendor, and Sunray Group of Hotels Inc. (“**Sunray**”) dated April 6, 2021 (the “**Sale Agreement**”), and provided for the vesting in Sunray’s designee, Carriage Hills Development Inc. (the “**Purchaser**”), of all the Applicant’s and the Owners’ rights, title and interests in and to 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.

III. 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 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].

BDO CANADA LIMITED, solely in its capacity as the Court-appointed receiver of Carriage Hills Vacations Owners Association, and not in its personal capacity or in any other capacity

Per: _____

Name:

Title:

SCHEDULE "B"
PURCHASED ASSETS

A. Real Property

Parcel 1-16 Section 51-ORO-3

Part of Lots 2 and 3, Concession 4 designated as Parts 5, 6, 7, 8, 9 and 10 on Plan 51R-26764 in the TOWNSHIP OF ORO.

Parcel 1-17 Section 51-ORO-3

Part of Lot 2, Concession 4 designated as Parts 11, 12, 13 and 14 on Plan 51R-26764 in THE TOWNSHIP OF ORO.

Parcel 1-18 Section 51-ORO-3

Part of Lot 2, Concession 4, designated as Parts 1, 2, 3, 4, 15, 16 and 17 on Plan 51R-26764 in the TOWNSHIP OF ORO.

BLK 196, PL 51M456, Township of Oro, except Part 1 on 51R21499 [PIN: 74053-0144]

B. Personal Property

See attached list on Schedule B-1.

C. Contracts

All right, title, and interest of the Associations in all Contracts related to the Real Property and the Personal Property, if any.

D. Warranty Rights

All right, title, and interest of the Associations in all Warranty Rights related to the Real Property and the Personal Property, if any.

E. Permits

All right, title, and interest of the Associations in all Permits related to the Real Property and the Personal Property, if any.

SCHEDULE "B-1"
PERSONAL PROPERTY - CONTINUED

SCHEDULE "C"
PERMITTED ENCUMBRANCES

Parcel 1-16 Section 51-ORO-3

Parcel	Date of Registration (yy/mm/dd)	Registration No.
1-16	96/09/27	306006
1-16	97/03/13	316667
1-16	97/04/17	318697
1-16	97/06/24	323086
1-16	97/06/24	323088
1-16	97/06/24	323091
1-16	99/06/30	392711
1-16	00/05/17	432318
1-16	08/07/14	SC663202
1-16	96/09/20	LT305553

Parcel 1-17 Section 51-ORO-3

Parcel	Date of Registration (yy/mm/dd)	Registration No.
1-17	96/09/27	306006
1-17	97/03/13	316667
1-17	97/04/17	318697
1-17	97/06/24	323086
1-17	97/06/24	323092
1-17	97/08/06	327070
1-17	99/06/30	392711
1-17	99/07/27	395393
1-17	99/07/29	395707
1-17	99/07/29	395708
1-17	99/08/25	51R-28904
1-17	99/09/15	402475
1-17	00/05/17	432318
1-17	08/07/14	SC663202

Parcel 1-18 Section 51-ORO-3

Parcel	Date of Registration (yy/mm/dd)	Registration No.
1-18	96/09/27	306006
1-18	97/03/13	316667
1-18	97/04/17	318697
1-18	97/06/24	323086
1-18	97/06/24	323093
1-18	99/06/30	392711
1-18	00/05/17	432318

BLK 196, PL 51M456

BLK	Date of Registration (yy/mm/dd)	Registration No.
196	90/10/31	LT185778
196	90/10/31	LT185779
196	02/07/15	SC37172
196	02/11/22	SC74245
196	03/09/25	SC154173
196	04/11/24	SC284657
196	04/12/22	SC294017
196	04/12/22	SC294018
196	96/09/13	LT305106