



ONTARIO SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

COUNSEL/ENDORSEMENT SLIP

COURT FILE NO.: CV-25-00741138-00CL

DATE: November 4, 2025

NO. ON LIST: 1

TITLE OF PROCEEDING: MARPER HOLDINGS LIMITED v. FOXPARK DEVELOPMENT CORP

BEFORE: JUSTICE KIMMEL

PARTICIPANT INFORMATION

For Plaintiff, Applicant, Moving Party:

Name of Person Appearing	Name of Party	Contact Info
James S. Quigley	Counsel for the Applicant	jsquigley@szklaw.ca

For Defendant, Respondent, Responding Party:

Name of Person Appearing	Name of Party	Contact Info
Carl Strand	Self-represented Respondent on behalf of Foxpark Development Corporation	carl@foxparkdevelopments.com

For Other:

Name of Person Appearing	Name of Party	Contact Info
Tali Green	Counsel for the Receiver	tgreen@greenadvocacy.ca
Nathan Stadig	Counsel for Eunice Moore	nstadig@barristonlaw.com

ENDORSEMENT OF JUSTICE KIMMEL:

- 1) On July 8, 2025, on application by Marper Holdings Limited, Russo Corp. was appointed by this Court as a receiver and manager (the "Receiver") over the real property municipally described as of 77 Fox Street, Penetanguishene, Ontario (the "Property"), registered in the name of the Respondent, Foxpark Development Corporation (the "Debtor").

- 2) In an October 3, 2025 endorsement, following a hearing held on September 29, 2025, the court dealt with various issues raised by both the Receiver's motion and the Debtor corporation's response, after granting leave to Mr. Strand (who is not a lawyer) to represent the Debtor corporation for purposes of the matters that were before the court on September 29, 2025.
- 3) One aspect of the relief sought by the Receiver was for the approval of a proposed sale process for the marketing and sale of the Debtor's Property (the "Sale Process"). In that regard, the court determined (as summarized at paragraph 29 (d) and (e) of the October 3, 2025 endorsement) that:
 - a. A Sale Process will be approved, after the Receiver retains a listing agent or broker and develops, with them, a revised Sale Process that the agent/broker and the Receiver both recommend.
 - b. The Sale Process will expressly allow for the possibility of redemption of the existing encumbrances with refinancing or equity investment backing.
- 4) The court set out specific language in the October 3, 2025 endorsement (at paragraph 45) that was to be included Sale Process Order with respect to redemption rights and the possibility of a transaction other than a sale (the "Alternative Transaction Language").
- 5) Since that last hearing and endorsement, the Receiver has undertaken various efforts in furtherance of the Sale Process in order to comply with the court's directions and to address the court's concerns about the Receiver's then proposed Sale Process that were outlined in the October 3, 2025 endorsement, including that it:
 - a. was not developed with the benefit of advice from any agent or consultant;
 - b. does not contemplate that the Property will be listed on MLS;
 - c. involves an insular marketing and solicitation process which appears to be directed to "known" potential purchasers; and
 - d. does not expressly allow for alternative transactions to a sale.
- 6) The Alternative Transaction Language was provided by the Receiver after the September 29, 2025 hearing and before the October 3, 2025 endorsement (and is referenced in that endorsement, and now has been carried over into the proposed Sale Process Approval Order). The Receiver's efforts with respect to the other concerns are detailed in its Second Supplement to its First Report, dated October 31, 2025. They have been reviewed and considered by the court and need not be repeated in this endorsement.

- 7) The Receiver was directed to come back to court on a case conference to demonstrate how it had addressed the Court's concerns with its previously proposed Sale Process, and it has now done so.
- 8) Having regard to the steps taken by the Receiver since the last attendance, I am satisfied that the Receiver has done what was expected of it and that it has now proposed, with the benefit of advice from a professional broker, a Sale Process that satisfies the requirements for court approval and that should be approved.
- 9) As outlined in paragraphs 35 and 36 of the Court's October 3, 2025 endorsement:

[35] ... The court has jurisdiction to approve the Sale Process pursuant to section 243(1)(c) of the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3.

[36] The reasonableness and adequacy of any sales process proposed by a court-appointed receiver must be assessed in light of the factors which a court will take into account when considering the approval of a proposed sale. Those factors were identified by the Court of Appeal in its decision in *Royal Bank of Canada v. Soundair Corp.*, 1991 CanLII 2727 (ON CA), at para 16, adopted in *CCM Master Qualified Fund v. blutip Power Technologies*, 2012 ONSC 1750 (CanLII), at para.6. Specifically, the court is to assess:

- a the fairness, transparency and integrity of the proposed process;
- b the commercial efficacy of the proposed process in light of the specific circumstances facing the receiver; and
- c whether the sales process will optimize the chances, in the particular circumstances, of securing the best possible price for the assets up for sale.

- 10) The further details and now new and improved Sale Process set out in the Second Supplement to its First Report satisfies these requirements. Furthermore, it is now robust enough and allows for the time and flexibility for a genuine pursuit of alternative transactions to a sale by the Debtor, if the Debtor remains so inclined. I find the Receiver's now proposed Sale Process to be reasonable and adequate, having regard to the *Soundair* factors.

- 11) The Applicant asked for a bid deadline to be included in the Sale Process so that it is not entirely open-ended. This was achieved through a small amendment made today to the Sale Process at Appendix A to the Sale Process Approval Order. The bid deadline will now be at the end of the six-week marketing stage provided for. The Applicant fully supports the granting of the now slightly amended Sale Process Approval Order.
- 12) Mr. Strand appeared today to indicate that he had attempted to seek leave to appeal the orders and directions contained in the court's prior endorsement of October 3, 2025 and suggested that the court not grant the Sale Process Approval Order in light of that. Counsel for the Applicant advised that there may be a procedural irregularity with the request for leave to appeal. In any event, counsel rightly points out that there is no automatic stay upon making a request for leave to appeal. But quite apart from that, if the Debtor wishes to appeal the Court's determinations made at and after the September 29, 2025 hearing in connection with the aspects of the Receiver's motion that were dealt with, the Sale Process Approval Order sought today is inextricably linked to the court's prior determinations. Any appeal proceedings relating to those prior determinations would be incomplete without the inclusion of the Sale Process Approval Order that was expressly contemplated and provided for.
- 13) The Sale Process Approval Order signed by me today may issue.

A handwritten signature in black ink, appearing to read "Kimmel J.", is written above a horizontal line.

Jessica Kimmel

Date: Nov 04, 2025