



NO. S-244252
VANCOUVER REGISTRY

BETWEEN:

THE UNITED STATES LIFE INSURANCE COMPANY IN THE CITY OF NEW YORK, and
AMERICAN HOME ASSURANCE COMPANY

PETITIONERS

AND:

SCREO I METROTOWN INC., and SCREO I METROTOWN L.P.

RESPONDENTS

NOTICE OF APPLICATION

Name of applicant: Alvarez & Marsal Canada Inc., in its capacity as court-appointed
Monitor of SCREO I Metrotown Inc. and SCREO I Metrotown L.P.

To: The Service List attached hereto as **Schedule "A"**

TAKE NOTICE that an application will be made by the applicant to the presiding judge or associate judge at the courthouse at 800 Smithe Street, Vancouver, British Columbia, on 07/NOV/2024 at 9:45 a.m. for the orders set out in Part 1 below.

The applicant estimates that the application will take 5 minutes.

- ☐ This matter is within the jurisdiction of an associate judge.
- ☒ This matter is not within the jurisdiction of an associate judge.

Part 1: ORDERS SOUGHT

1. An order adding Westmount West Services Inc. ("**Westmount**") as a respondent to these proceedings.

Part 2: FACTUAL BASIS

1. On July 8, 2024, on the application of the Petitioner, the Honourable Mr. Justice Brongers granted an order (the "**Receivership Order**"), among other things, appointing Alvarez &

Marsal Canada Inc. (the "**A&M**") as receiver (in such capacity, the "**Receiver**"), without security, of the real property and all of the assets, undertakings and property both real and personal, located at, relating to or used in connection with the real property of (i) SCREO I Metrotown Inc. (the "**Legal Owner**"), and (ii) SCREO I Metrotown L.P. (the "**Beneficial Owner**" and together with the Legal Owner, the "**Debtors**" and each a "**Debtor**"), including the real property with the following municipal address and legal description:

Municipal address: 4330 Kingsway Avenue and 5945 Kathleen Avenue, Burnaby, British Columbia; and

Legal Description: PID 031-357-881, Lot 1 District Lot 153 Group 1 New Westminster District Plan EPP107270

(the "**Real Property**")

2. The following entities hold secured charges against the Real Property:
 - a) a mortgage (CA7388731) and assignment of rents (CA7388732) held by the Petitioners; and
 - b) a mortgage (CA9245030) and assignment of rents (CA9245031) held by Westmount (the "**Westmount Mortgage**").
3. The Receiver has entered into a sales agreement with the City of Burnaby, pursuant to which the Real Property will be transferred to the City of Burnaby free and clear of all encumbrances.
4. The Receiver seeks to add Westmount as a respondent to these receivership proceedings, to ensure it is able to deliver clear title to the Real Property to the City of Burnaby.

Part 3: LEGAL BASIS

1. The Petitioner relies on:
 - (a) the *Supreme Court Civil Rules*, B.C. Reg. 241/2010, as amended (the "**SCCR**");
 - (b) the inherent and equitable jurisdiction of this Honourable Court; and

- (c) such further and other legal bases and authorities as counsel may advise and this Honourable Court may permit.

Adding Parties

1. The Petitioner seeks to add the Tenants as Respondents in these proceedings pursuant to

Rule 6-2(7) of the SCCR, which reads, in part, as follows:

Adding, removing or substituting parties by order

(7) At any stage of a proceeding, the court, on application by any person, may, subject to subrules (9) and (10),

(b) order that a person be added or substituted as a party if

(i) that person ought to have been joined as a party, or

(ii) that person's participation in the proceeding is necessary to ensure that all matters in the proceeding may be effectually adjudicated on, and

(c) order that a person be added as a party if there may exist, between the person and any party to the proceeding, a question or issue relating to or connected with

(i) any relief claimed in the proceeding, or

(ii) the subject matter of the proceeding

that, in the opinion of the court, it would be just and convenient to determine as between the person and that party.

2. The Petitioner seeks to add Westmount as a Respondent in these proceedings, as it ought to have been joined as a party as the holder of the Westmount Mortgage as a charge on the Real Property.

Part 4: MATERIAL TO BE RELIED ON

1. Affidavit #1 of Chelsea Denton, made 25/OCT/2024

TO THE PERSONS RECEIVING THIS NOTICE OF APPLICATION: If you wish to respond to this Notice of Application, you must, within 5 business days after service of this Notice of Application or, if this application is brought under Rule 9-7, within 8 business days of service of this Notice of Application,

(a) file an Application Response in Form 33,

(b) file the original of every affidavit, and of every other document, that

- (i) you intend to refer to at the hearing of this application, and
- (ii) has not already been filed in the proceeding, and
- (c) serve on the applicant 2 copies of the following, and on every other party of record one copy of the following:
 - (i) a copy of the filed Application Response;
 - (ii) a copy of each of the filed affidavits and other documents that you intend to refer to at the hearing of this application and that has not already been served on that person;
 - (iii) if this application is brought under Rule 9-7, any notice that you are required to give under Rule 9-7(9).

Date: 25/OCT/2024


 Signature of lawyer for applicant
 Jordan Schultz

<i>To be completed by the court only:</i>	
Order made	
<input type="checkbox"/>	in the terms requested in paragraphs _____ of Part 1 of this Notice of Application
<input type="checkbox"/>	with the following variations and additional terms:
Date:	
Signature of <input type="checkbox"/> Judge <input type="checkbox"/> Associate Judge	

APPENDIX

THIS APPLICATION INVOLVES THE FOLLOWING:

- ☐ discovery: comply with demand for documents
- ☐ discovery: production of additional documents
- ☐ other matters concerning document discovery

- ☐ extend oral discovery
- ☐ other matter concerning oral discovery
- ☐ amend pleadings
- ☐ add/change parties
- ☐ summary judgment
- ☐ summary trial
- ☐ service
- ☐ mediation
- ☐ adjournments
- ☐ proceedings at trial
- ☐ case plan orders: amend
- ☐ case plan orders: other
- ☐ experts
- ☒ Other

SCHEDULE "A"

NO. S-244252
VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

THE UNITED STATES LIFE INSURANCE COMPANY IN THE CITY OF NEW YORK, and
AMERICAN HOME ASSURANCE COMPANY

PETITIONERS

AND:

SCREO I METROTOWN INC., and SCREO I METROTOWN L.P.

RESPONDENTS

SERVICE LIST

(As at October 25, 2024)

Receiver's website: <https://www.alvarezandmarsal.com/screometrotown>

COUNSEL:	PARTY(IES):
Dentons Canada LLP 20 th Floor – 250 Howe Street Vancouver, BC V6C 3R8 Phone No. 604.687.4460 Attention: Jordan Schultz Cassandra Federico Email: jordan.schultz@dentons.com cassandra.federico@dentons.com avic.arenas@dentons.com chelsea.denton@dentons.com	<i>Counsel for the court-appointed Receiver, Alvarez & Marsal Canada Inc.</i>
Alvarez & Marsal Canada Inc. Licensed Insolvency Trustee Cathedral Place Building 925 West Georgia Street, Suite 902 Vancouver, BC V6C 3L2 Phone No. 604.639.0845 Attention: Pinky Law Anthony Tillman Email: pinky.law@alvarezandmarsal.com atillman@alvarezandmarsal.com marianna.lee@alvarezandmarsal.com	<i>Court-Appointed Receiver</i>

COUNSEL:	PARTY(IES):
<p>Nathanson, Schachter & Thompson LLP 750 – 900 Howe Street Vancouver, BC V6Z 2M4 Phone No. Attention: Peter J. Reardon Kayla K. Strong Email: preardon@nst.ca kstrong@nst.ca</p>	<p><i>Counsel for the Petitioners, The United States Life Insurance Company In The City Of New York and American Home Assurance Company</i></p>
<p>Blake, Cassels & Graydon LLP 199 Bay Street Suite 4000 Commerce Court West Toronto, ON M5L 1A9 Phone No. 416.863.2400 Attention: Aryo Shalviri Email: aryo.shalviri@blakes.com</p>	<p><i>Co-Counsel for the Petitioners, The United States Life Insurance Company In The City Of New York and American Home Assurance Company</i></p>
<p>McCarthy Tetrault LLP 2400- 745 Thurlow Street Vancouver, BC V6E 0C5 Phone No. 604.643.7154 Attention: Lance Williams Ashley Bowron Email: williams@mccarthy.ca abowron@mccarthy.ca</p>	<p><i>Counsel for SCREO I Metrotown Inc. and SCREO I Metro town L.P.</i></p>
<p>Borden Ladner Gervais LLP 1200 Waterfront Centre, 200 Burrard Street P.O. Box 48600 Vancouver, BC, V7X 1T2 Phone No. 604.640.4106 Attention: Jennifer Pepper David Madsen Jack Maslen Email: JPepper@blg.com DMadsen@blg.com JMAslen@blg.com</p>	<p><i>Counsel for Timbercreek Mortgage Servicing Inc.</i></p>

COUNSEL:	PARTY(IES):
Farris LLP 700 W Georgia St #2500 Vancouver, BC V7Y 1B3 Phone No. 604.661.2174 Attention: Tevia Jeffries Email: tjeffries@farris.com	<i>Counsel for City of Burnaby</i>
Lawson Lundell LLP Suite 1600 Cathedral Place 925 West Georgia Street Vancouver, BC V6C 3L2 Phone No. 604.631.6742 Attention : Mandeep Dhaliwal Email : mdhaliwal@lawsonlundell.com	<i>Counsel for Westmount West Services Inc.</i>

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