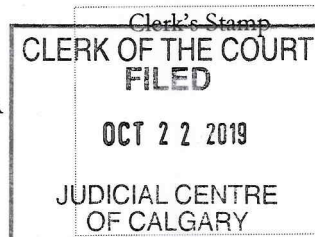


COURT FILE NO. 1801-04745  
COURT COURT OF QUEEN'S BENCH OF ALBERTA  
JUDICIAL CENTRE CALGARY  
PLAINTIFF HILLSBORO VENTURES INC.  
DEFENDANT CEANA DEVELOPMENT SUNRIDGE INC.



IN THE MATTER OF THE RECEIVERSHIP OF  
CEANA DEVELOPMENT SUNRIDGE INC.  
  
ALVAREZ & MARSAL CANADA INC. in its  
APPLICANT capacity as Court-appointed Receiver and Manager of  
the assets, undertakings and properties of CEANA  
DEVELOPMENT SUNRIDGE INC.

DOCUMENT **APPLICATION**  
**(Approval of General Contractor, Increase  
Receiver's Borrowings Charge, Approval of  
Receiver's Actions and Fees)**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT  
Torys LLP  
4600 Eighth Avenue Place East  
525 - Eighth Ave SW  
Calgary, AB T2P 1G1  
  
Attention: Kyle Kashuba  
Telephone: +1 403.776.3744  
Fax: +1 403.776.3800  
Email: [kkashuba@torys.com](mailto:kkashuba@torys.com)  
File No. 39108-2003

**NOTICE TO RESPONDENT(S):**

This Application is made against you. You are a Respondent.

You have the right to state your side of this matter before the Justice.

To do so, you must be in Court when the Application is heard as shown below:

Date: Tuesday, October 29, 2019

Time:	10:00 a.m.
Where:	Calgary Courts Centre
Before Whom:	Madam Justice K.M. Eidsvik, of the Commercial List

Go to the end of this document to see what else you can do and when you must do it.

### Remedy claimed or sought:

1. Alvarez & Marsal Canada Inc. (“**A&M**”), in its capacity as Court-appointed receiver and manager (the “**Receiver**”) of the assets, undertakings and properties of Ceana Development Sunridge Inc. (“**Ceana**” or the “**Debtor**”), seeks an Order (the “**Order**”) substantially in the form as that attached as Schedule “A” to this Application, granting relief including but not limited to:
  - 1.1 deeming service of notice of this Application to be good and sufficient, and declaring that no other person is required to have been served with notice of this Application;
  - 1.2 approving the appointment of Executive Flight Centre Developments Ltd. (“**EFC Developments**”) as the general (prime) contractor in respect of the Ceana project located at 2255 - 32<sup>nd</sup> Street NE, Calgary, Alberta (the “**Project**”);
  - 1.3 approving the actions, activities, recommendations, and conduct of the Receiver, and approving the fees and disbursements of the Receiver and its legal counsel, as set out and described in the Receiver’s First Report dated October 22, 2019 (the “**First Report**”);
  - 1.4 authorizing and approving an increase in the Receiver’s Borrowings Charge, from \$4,500,000 to \$6,000,000, pursuant to paragraph 21 of the Receivership Order granted by the Honourable Justice B.E.C. Romaine in this Action on July 3, 2019 (the “**Receivership Order**”); and
  - 1.5 directing that notwithstanding anything to the contrary granted in the Order, and notwithstanding anything in the Receivership Order, in respect of amounts borrowed by the Receiver from Hillsboro Ventures Inc. (“**Hillsboro**”), the whole of the Property (as defined in the Receivership Order) shall be charged by way of a fixed and specific charge (the “**Hillsboro Charge**”) as security for the payment of the monies borrowed from Hillsboro. The Hillsboro Charge shall rank subordinate in priority and payment to the security interests of Connect First Credit Union Ltd. (“**Connect First**”) against the Property, the Receiver’s Charge, the Receiver’s Borrowing Charge, and the charges set out in sections 14.06(7), 81.4(4), 81.6(2), and 88 of the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3.

2. A Restricted Court Access Order in substantially the form as attached as Schedule "B" to this Application, sealing the Confidential Appendices 1 to 3 of the First Report.
3. Such further and other relief, advice and directions as counsel may advise and this Honourable Court may deem just and appropriate.

**Grounds for making this Application:**

4. On June 3, 2019, upon the Application of Hillsboro, A&M was appointed as Receiver over the Property of Ceana, and was tasked with amongst other things, identifying, securing, arranging for sale and monetizing the assets, undertakings and properties of Ceana. Paragraph 21 of the Receivership Order granted the Receiver the power to borrow monies necessary to fund the exercise of the powers and duties conferred upon the Receiver, up to the maximum principal amount of \$4,500,000.
5. Connect First, the first position secured lender in respect of Ceana, supported the Application and the appointment of A&M as Receiver.

***Approval of EDC Developments as General Contractor***

6. The Receiver, with the support of Connect First and Hillsboro, has determined that it is in the best interest of the Ceana receivership estate and its stakeholders affected thereby that the Ceana Project be completed.
7. Pursuant to paragraph 3(d) of the Receivership Order, the Receiver is authorized and empowered to engage consultants, agents, experts, managers, general contractors, tradespersons and such other persons from time to time to assist with the exercise of the Receiver's powers and duties.
8. Following an extensive solicitation process and a review of a number of proposals being submitted to the Receiver from various general contractors, the Receiver has determined that EFC Developments is the appropriate general (prime) contractor to engage in the circumstances, to assist with the completion of the Project as contemplated.

***Increase in Receiver's Borrowing Charge***

9. As more particularly described in the Receiver's First Report, the Receiver has been required to exercise its borrowing powers pursuant to paragraph 21 of the Receivership Order to fund the payment and/or make commitments of approximately \$400,000 for the following but not limited to:
  - (a) ongoing property costs for, amongst other things, utilities and municipal taxes;



- (b) costs incurred and/or paid by EFC Developments in relation to a services agreement dated October 4, 2019 to perform certain initial tasks with respect to the Project; and
  - (c) professional fees and disbursements of the Receiver and its legal counsel.
10. The Receiver now requires additional funding in order to carry out its duties and responsibilities pursuant to the Receivership Order. Further, and in particular, the Receiver requires additional funding in order to pay the following but not limited to:
- (a) the costs of EFC Developments and its subcontractors engaged for the purposes of completing the Project;
  - (b) fees and costs of the Receiver's consultant, Quantity Surveying Services International Ltd. ("QSSI") to assist in the Project monitoring and provide progress certification, change and claim review, before the Receiver approves payments for costs incurred by EFC Developments and its subcontractors for work performed;
  - (c) ongoing holding costs associated with the Debtor's real estate, including the monitoring of sales efforts;
  - (d) ordinary course professional fees of the Receiver and its legal counsel; and
  - (e) municipal property taxes that will become due for 2019 and other utility and other operational costs incurred by the Receiver directly in these proceedings.
11. Based on the cost estimate to complete the Project by EFC Developments and as reviewed by QSSI, the proposed increase in the Receiver's Borrowings under paragraph 21 of the Receivership Order, in the amount sought, is fair and reasonable.

***Approval of Receiver's Actions and Conduct of the Receiver and Approval of Fees***

12. In the First Report, the Receiver has set out in detail a description of the activities undertaken by the Receiver since the date of its appointment.
13. Pursuant to paragraph 19 of the Receivership Order, the Receiver and its legal counsel are required to pass their accounts from time to time. The Receiver's and its legal counsel's accounts are available to the Court for its review.
14. Hillsboro and Connect First support the relief sought by Receiver in this Application.
15. The terms as set out in the proposed form of Order attached hereto as Schedule "A" are necessary to effect the increase in the Receiver's Borrowings Charge and the approval of the other matters set out in this Application, as contemplated by the Receiver.

***Restricted Court Access Order***

16. The Confidential Appendices 1 to 3 of the First Report contain matters of a sensitive commercial nature, including proposals, valuations, realization analysis, and other sensitive information (the “**Confidential Information**”).
17. The publication or dissemination of the Confidential Information could result in harm to the sale of the Property, in the course of a future sale process.
18. The Restricted Court Access Order being sought is the least restrictive and least prejudicial alternative to prevent the dissemination of the commercially sensitive Confidential Information, such that is fair and just in the circumstances to restrict public access to the Confidential Information.
19. Counsel to the Receiver completed and submitted a Notice to Media of Application to Restrict Access, in respect of the Restricted Court Access Order being sought.
20. The terms as set out in the proposed form of Restricted Court Access Order attached hereto as Schedule “B” are necessary to effect the sealing of the Confidential Appendices to the First Report.
21. Such further and other grounds as counsel may advise and this Honourable Court may permit.

**Material or evidence to be relied on:**

22. All pleadings, proceedings, orders, affidavits, reports and other materials filed in Alberta Court of Queen’s Bench Action No. 1801-04745, and in particular the Receivership Order granted by Madam Justice B.E.C. Romaine on July 3, 2019.
23. The First Report of the Receiver, filed October 22, 2019.
24. The proposed forms of Orders attached as Schedules “A” and “B” to this Application.
25. The Affidavit of Service in respect of this Application, to be sworn and filed.
26. The inherent jurisdiction of this Honourable Court to control its own process.
27. Such further and other material and evidence as counsel may advise and this Honourable Court may permit.

**Applicable rules:**

28. *Alberta Rules of Court*, AR 124/2010, as amended, and in particular Rules 1.3, 3.75, 6.3, 6.4, 11.27, 11.29 and 13.5 thereof; Part 6, Division 4, and in particular Rule 6.28(b); and Part 6, Division 7, and in particular Rules 6.47(e) and (f),
29. Such further and other rules as counsel may advise and that this Honourable Court may permit.

**Applicable Acts and Regulations:**

30. *Bankruptcy and Insolvency Act*, RSC 1985, c B-3, as amended, the *Judicature Act*, RSA 2000, c J-2, as amended, and such further and other Acts and Regulations as counsel may advise and that this Honourable Court may permit.

**Any irregularity complained of or objection relied on:**

31. None.

**How the Application is proposed to be heard or considered:**

32. Oral submissions by counsel at an Application in Commercial List Justice Chambers as agreed and scheduled by counsel, scheduled to be heard on Tuesday, October 29, 2019 at 10:00 a.m. before the Honourable Madam Justice K.M. Eidsvik, of the Commercial List.

**AFFIDAVIT EVIDENCE IS REQUIRED IF YOU WISH TO OBJECT.****WARNING**

If you do not come to Court either in person or by your lawyer, the Court may give the Applicant(s) what they want in your absence. You will be bound by any order that the Court makes. If you want to take part in this Application, you or your lawyer must attend in Court on the date and at the time shown at the beginning of the form. If you intend to rely on an affidavit or other evidence when the Application is heard or considered, you must reply by giving reasonable notice of the material to the Applicant.

**Schedule "A" - Proposed form of Order (Approval of General Contractor, Increase Receiver's Borrowing Charge, Approval of Receiver's Actions and Fees))**

Schedule "A"

COURT FILE NO.	1801-04745
COURT	COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE	CALGARY
PLAINTIFF	HILLSBORO VENTURES INC.
DEFENDANT	CEANA DEVELOPMENT SUNRIDGE INC.
	IN THE MATTER OF THE RECEIVERSHIP OF CEANA DEVELOPMENT SUNRIDGE INC.
APPLICANT	ALVAREZ & MARSAL CANADA INC. in its capacity as Court-appointed Receiver and Manager of CEANA DEVELOPMENT SUNRIDGE INC.
DOCUMENT	<b>ORDER</b> <b>(Approval of General Contractor, Increase Receiver's Borrowing Charge, Approval of Receiver's Actions and Fees)</b>
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	Torys LLP 4600 Eighth Avenue Place East 525 - Eighth Ave SW Calgary, AB T2P 1G1  Attention: Kyle Kashuba Telephone: +1 403.776.3744 Fax: +1 403.776.3800 Email: <a href="mailto:kkashuba@torys.com">kkashuba@torys.com</a> File No. 39108-2003

Clerk's Stamp

DATE UPON WHICH ORDER WAS PRONOUNCED: Tuesday, October 29, 2019  
NAME OF JUSTICE WHO MADE THIS ORDER: Madam Justice K.M. Eidsvik  
LOCATION OF HEARING: Calgary, Alberta

**UPON THE APPLICATION** by Alvarez & Marsal Canada Inc., in its capacity as Court-appointed receiver and manager (the "Receiver") of the assets, undertakings and properties of



Ceana Development Sunridge Inc. ("**Ceana**"); **AND UPON HAVING READ** the Receivership Order filed in this matter on July 3, 2019 (the "**Receivership Order**"), the Application and the First Report of the Receiver (the "**First Report**"), both filed October 22, 2019, and any other material and evidence filed to date in the within proceedings; **AND UPON HEARING** the submissions of counsel for the Receiver, and from any other interested parties who may be present, with no one appearing for any other person on the service list, although properly served as appears from the Affidavit of Service; **AND UPON IT APPEARING** that all interested and affected parties have been served with notice of this Application;

**IT IS HEREBY ORDERED AND DECLARED THAT:**

1. Service of notice of this Application and supporting materials is hereby declared to be good and sufficient, no other person is required to have been served with notice of this Application, and the time for service of this Application is abridged to that actually given.
2. The Receiver's selection and engagement of Executive Flight Centre Developments Ltd. as the general (prime) contractor in respect of the Ceana project located at 2255 - 32nd Street NE, Calgary, Alberta, is hereby approved.
3. The amount that the Receiver is permitted to borrow pursuant to paragraph 21 of the Receivership Order and covered by the Receiver's Borrowings Charge shall be and is hereby increased from the principal amount of \$4,500,000 to the principal amount of \$6,000,000.
4. The actions, activities, recommendations and conduct of the Receiver, and the fees and disbursements of the Receiver and the Receiver's counsel, as set out and described in the First Report, are hereby approved.
5. Notwithstanding anything to the contrary in this Order, and notwithstanding anything in the Receivership Order, in respect of amounts borrowed by the Receiver from Hillsboro Ventures Inc. ("**Hillsboro**"), the whole of the Property (as defined in the Receivership Order) shall be and is hereby charged by way of a fixed and specific charge (the "**Hillsboro Charge**") as security for the payment of the monies borrowed from Hillsboro. The Hillsboro Charge shall rank subordinate in priority and payment to the security interests of Connect First Credit Union Ltd. against the Property, the Receiver's Charge, the Receiver's Borrowing Charge, and the charges set out in sections 14.06(7), 81.4(4), 81.6(2), and 88 of the BIA.

**MISCELLANEOUS**

6. The Receiver shall be at liberty to reapply for further advice, assistance and direction from this Honourable Court as may be required to enforce or to carry out the terms of this Order.
7. This Order must be served only upon those interested parties attending or represented at the within Application and service may be effected by facsimile, electronic mail, personal delivery or courier. Service is deemed to be effected the next business day following the transmission or delivery of such documents.
8. Service of this Order on any party not attending this Application is hereby dispensed with.

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Justice of the Alberta Court of Queen's Bench

**Schedule “B” - Proposed form of Restricted Court Access Order**

Schedule "B"

COURT FILE NO. 1801-04745

COURT COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE CALGARY

PLAINTIFF HILLSBORO VENTURES INC.

DEFENDANT CEANA DEVELOPMENT SUNRIDGE INC.

IN THE MATTER OF THE RECEIVERSHIP OF  
CEANA DEVELOPMENT SUNRIDGE INC.

APPLICANT ALVAREZ & MARSAL CANADA INC. in its  
capacity as Court-appointed Receiver and Manager of  
CEANA DEVELOPMENT SUNRIDGE INC.

DOCUMENT **RESTRICTED COURT ACCESS ORDER**

ADDRESS FOR SERVICE AND CONTACT  
INFORMATION OF PARTY FILING THIS DOCUMENT

Torys LLP  
4600 Eighth Avenue Place East  
525 - Eighth Ave SW  
Calgary, AB T2P 1G1

Attention: Kyle Kashuba  
Telephone: +1 403.776.3744  
Fax: +1 403.776.3800  
Email: [kkashuba@torys.com](mailto:kkashuba@torys.com)  
File No. 39108-2003

Clerk's Stamp

DATE UPON WHICH ORDER WAS PRONOUNCED: Tuesday, October 29, 2019

NAME OF JUSTICE WHO MADE THIS ORDER: Madam Justice K.M. Eidsvik

LOCATION OF HEARING: Calgary, Alberta

**UPON THE APPLICATION** by Alvarez & Marsal Canada Inc., in its capacity as Court-appointed receiver and manager (the "**Receiver**") of the assets, undertakings and properties of Ceana Development Sunridge Inc. ("**Ceana**"); **AND UPON HAVING READ** the Application and the First Report of the Receiver (the "**First Report**"), both filed October 22, 2019, and any other material and evidence filed to date in the within proceedings; **AND UPON HEARING** the



submissions of counsel for the Receiver, and from any other interested parties who may be present, with no one appearing for any other person on the service list, although properly served as appears from the Affidavit of Service; **AND UPON IT APPEARING** that all interested and affected parties have been served with notice of this Application;

**IT IS HEREBY ORDERED AND DECLARED THAT:**

1. Service of notice of this Application and supporting materials is hereby declared to be good and sufficient, no other person is required to have been served with notice of this Application, and the time for service of this Application is abridged to that actually given.
2. The Confidential Appendices 1 to 3 to the First Report of the Receiver shall be treated as confidential, sealed and not form part of the public record, and shall be inserted in a sealed envelope which shall be clearly marked "THIS ENVELOPE CONTAINS THE CONFIDENTIAL APPENDICES 1 TO 3 TO THE FIRST REPORT OF ALVAREZ & MARSAL CANADA INC., IN ITS CAPACITY AS COURT-APPOINTED RECEIVER AND MANAGER OF CEANA DEVELOPMENT SUNRIDGE INC., WHICH IS SEALED PURSUANT TO COURT ORDER, IS NOT TO BE OPENED, AND IS NOT TO BE PLACED ON THE PUBLIC RECORD OR MADE PUBLICALLY ACCESSIBLE WITHOUT PRIOR AUTHORITY FROM THE HONOURABLE MADAM JUSTICE K.M. EIDSVIK OR ANY OTHER JUSTICE OF THE COURT OF QUEEN'S BENCH".
3. The Confidential Appendices 1 to 3 to the First Report of the Receiver shall be filed with the Court within 180 days following the granting of this Order.
4. The Receiver is at liberty to reapply for further advice, assistance and direction as may be necessary to give full force and effect to the terms of this Order.

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Justice of the Alberta Court of Queen's Bench