

COURT OF APPEAL OF ALBERTA

COURT OF APPEAL FILE NUMBER

1803-0050AC

Clerk's Stamp



TRIAL COURT FILE NUMBER

1703-21274

REGISTRY OFFICE

EDMONTON

PLAINTIFF

ROYAL BANK OF CANADA

STATUS ON APPEAL

NOT A PARTY TO THE APPEAL

~~STATUS ON APPLICATION~~

~~RESPONDENT [to City of Edmonton Application]~~

DEFENDANTS

REID-BUILT HOMES LTD, 1679775 ALBERTA LTD,
REID WORLDWIDE CORPORATION, BUILDER'S
DIRECT SUPPLY LTD, REID BUILT HOMES
CALGARY LTD, REID INVESTMENTS LTD, REID
CAPITAL CORP, and EMILIE REID

STATUS ON APPEAL

NOT A PARTY TO THE APPEAL

~~STATUS ON APPLICATION~~

~~NOT A PARTY [to City of Edmonton Application]~~

APPLICANT

ALVAREZ & MARSAL CANADA INC., in its capacity
as court-appointed receiver and manager of Reid-Built
Homes Ltd, 1679775 Alberta Ltd, Reid Worldwide
Corporation, Builder's Direct Supply Ltd, Reid Built
Homes Calgary Ltd, Reid Investments Ltd, and Reid
Capital Corp

STATUS ON APPEAL

APPELLANT

~~STATUS ON APPLICATION~~

~~RESPONDENT [to City of Edmonton Application]~~

RESPONDENT

CITY OF EDMONTON

STATUS ON APPEAL

RESPONDENT

~~STATUS ON APPLICATION~~

~~APPLICANT~~

DOCUMENT

**APPLICATION TO SEEK LEAVE TO APPEAL
PURSUANT TO SECTION 193(e) of the
BANKRUPTCY AND INSOLVENCY ACT, RSC 1985,
c. B-3**

APPELLANT'S ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF PARTY FILING
THIS DOCUMENT

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Howard A. Gorman Q.C. / Aditya M. Badami
*Counsel for the court-appointed receiver, Alvarez &
Marsal Canada Inc. [File No.: 1001004429]*

NOTICE TO RESPONDENT: CITY OF EDMONTON

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

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

Date: ~~As determined by the Court~~ March 20, 2018

Time: 9:30 A.M.

Where: Edmonton Law Courts

Before: single judge of the court (Rule 14.37)

WARNING

If you do not come to Court either in person or by your lawyer, the Court may give the applicant what it wants 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 give evidence or prepare a memorandum in response to the application, you must file and serve those documents in compliance with the Rules. (Rule 14.41 and 14.43)

Nature of Application and Relief Sought:

1. In the alternative to the Civil Notice of Appeal for an express right of appeal pursuant to sections 193(b) and 193(c) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 (**BIA**), filed concurrently by the Applicant/Appellant, Alvarez & Marsal Canada Inc. in its capacity as receiver and manager of the current and future assets, undertakings, and properties of Reid-Built Homes Ltd, 1679775 Alberta Ltd, Reid Worldwide Corporation, Builder's Direct Supply Ltd, Reid Built Homes Calgary Ltd, Reid Investments Ltd, and Reid Capital Corp (the **Receiver**), the Receiver seeks leave to appeal under section 193(e) of the BIA from the Reasons for Judgment pronounced by the Honourable Mr. Justice R. A. Graesser on February 21, 2018, which granted the relief requested by the Respondent, the City of Edmonton;
2. Adjourning this application to a fixed date to allow counsel to arrange for the filing of argument, the filing of further evidence, if any, and the hearing of the merits of this application;
3. Permission to have this application heard at the same time as the hearing of the within appeal; and
4. Such further and other related relief as counsel may request and this Honourable Court may grant.

Grounds for making this application:

5. The Honourable Mr. Justice Graesser erred in law, in fact, or in law and fact by:
 - a. determining that the City of Edmonton's (**Edmonton**) statutory "special lien" for unpaid municipal property taxes pursuant to section 348 of the *Municipal Government Act*, RSA 2000, c M-26, has a first-ranking super-priority charge ahead of the Receiver's fees and approved borrowings;
 - b. determining that Edmonton would not stand to benefit from the receivership and is thereby entitled to a super-priority for property taxes;
 - c. distinguishing between liquidating and non-liquidating receiverships;
 - d. exercising judicial discretion in light of an incorrect or incomplete factual matrix; and
 - e. raising issues, making arguments, and articulating legal tests that were not advanced by the parties and on which the parties had no opportunity to make submissions.
6. There are serious and arguable grounds of appeal which resulted in a judgment contrary to law and equity, and involving an error causing prejudice to the Applicant for which there is no remedy. The points in issue are of significance to all parties to the proceeding and to insolvency practice in general.
7. Such further and other grounds as the Applicant may advise and this Honourable Court may permit.

Material or evidence to be relied on:

8. The Reasons for Judgment of the Honourable Mr. Justice R. A. Graesser dated February 21, 2018;
9. The transcripts from the hearing held January 9, 2018;
10. The application materials that were before the Honourable Mr. Justice R. A. Graesser on January 9, 2018, including but not limited to:
 - a. the Application filed by Edmonton on December 20, 2017;
 - b. the Affidavit of Shauna Esterer filed December 20, 2017;
 - c. the Brief of Law and Book of Authorities filed by Edmonton on January 4, 2018; and
 - d. the Brief of Law and Book of Authorities filed by the Receiver on January 9, 2018.

11. The Receivership Order and Property Powers Order granted by the Court of Queen's Bench of Alberta on November 2, 2017, and November 29, 2017, respectively.
12. Such affidavit or Receiver's Report, to be filed if applicable;
13. Such further and other evidence as the Receiver may advise of and as this Honourable Court may permit.