

COURT FILE NUMBER

1403 ✓
1401-13215

COURT

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

EDMONTON

PLAINTIFF

E CONSTRUCTION LTD.

DEFENDANTS

SPRAGUE-ROSSER CONTRACTING CO.
LTD. and REGIONAL MUNICIPALITY OF
WOOD BUFFALO

DOCUMENT

ORDER (E Construction Scheduling)

ADDRESS FOR SERVICE
AND CONTACT
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DATE ON WHICH ORDER WAS PRONOUNCED: June 28, 2016

LOCATION WHERE ORDER WAS
PRONOUNCED: Edmonton, Alberta

NAME OF JUSTICE WHO MADE THIS ORDER: Justice J.M. Ross



UPON THE APPLICATION of Alvarez & Marsal Canada Inc., in its capacity as the court-appointed receiver and manager (the "Receiver") of Contracting pursuant to the Receivership Order; **AND UPON** noting the order issued by the Honourable Justice J. M. Ross, dated May 5, 2016, in the within proceedings (the "Consent Order"); **AND UPON** having read the Eighth Report of the Receiver, dated June 6, 2016, and all previous reports of the Receiver filed in either the Edmonton Receivership Proceedings or the Calgary Receivership Proceedings, as applicable; **AND UPON** having read the Affidavit of Jack Farrar, sworn on July 10, 2014 (the "Farrar Affidavit"), and filed in Alberta Court of Queen's Bench Court File No. 1403-08959; **AND UPON** having read the Affidavit of Service of Donna van Eerde, sworn June 23, 2016; **AND UPON** hearing submissions from the Receiver, RBC and E Construction and any other persons present;

IT IS HEREBY ORDERED AND DECLARED THAT:

Defined Terms

1. Capitalized terms used herein and not otherwise defined shall have the meaning ascribed to them in the Consent Order.

E Construction Lien Issues

2. The following issues shall be determined in respect of the E Construction Lien:
 - (a) whether any lien that E Construction may have had in respect of RMWB's interest in the E Construction Liened Lands became statute barred or ceased to exist prior to the registration of the E Construction Lien pursuant to section 42 of the BLA;
 - (b) whether E Construction performed any work or furnished any material in respect of an improvement occurring on certain exceptions to the titles of the E Construction Liened Lands (which do not constitute lienable interests), as opposed to an improvement occurring on the E Construction Liened Lands
 - (c) In the event that E Construction did perform work or furnish material in respect of an improvement occurring on the E Construction Liened Lands, whether the work performed and materials furnished was in respect to a public highway within the meaning of section 7 of the BLA; and
 - (d) such further and other issues as may be agreed to by each of the Receiver, RBC and E Construction or as otherwise ordered by this Court;

(collectively, the "E Construction Lien Issues").

Litigation Schedule

3. The Receiver shall be the applicant and E Construction shall be the respondent in respect of the determination of the E Construction Lien Issues. Subject to paragraph 4 of this Order, the E Construction Lien Issues shall be determined in accordance with the following schedule:

- (a) The Receiver shall file any evidence that it intends to rely on in respect of the determination of the E Construction Lien Issues on or before August 2, 2016;
- (b) E Construction shall file any further evidence that that it intends to rely on in respect of the determination of the E Construction Lien Issues on or before September 2, 2016;
- (c) Questioning on the Farrar Affidavit and on any other affidavits tendered by either the Receiver or E Construction pursuant to the terms of this Order shall occur on or before September 23, 2016;
- (d) The Receiver and RBC may serve written briefs of law and argument in respect of their respective positions on the E Construction Lien Issues on or before 11:59 pm on September 29, 2016;
- (e) E Construction may serve a written brief of law and argument in respect of its position on the E Construction Lien Issues on or before 11:59 pm on October 5, 2016; and
- (f) The hearing in respect of the E Construction Lien Issues shall occur before the Edmonton Commercial Court on October 7, 2016

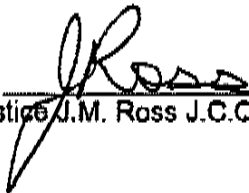
(the "Litigation Schedule").

4. The Farrar Affidavit and any questioning thereon shall be admissible as evidence in the determination of the E Construction Lien Issues. Neither Contracting nor E Construction are obligated by the terms of this Order to file any further evidence in respect of the determination of the E Construction Lien Issues and nothing in this Order shall determine the quantum of the claim owing, if any, by Contracting to E Construction.

5. RBC shall be entitled to participate in the litigation in respect of the E Construction Lien Issues as an interested person. Each of the Receiver, RBC and E Construction are granted leave to seek further and advice and direction from this Court regarding the E Construction Lien Issues or the Litigation Schedule.

Service

6. 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 of this Order on any party not attending this Application is hereby dispensed with.


Justice J.M. Ross J.C.Q.B.A. _____