



COURT FILE NO. 1901 -
COURT COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE CALGARY
PLAINTIFF/APPLICANT **ALBERTA TREASURY BRANCHES**
DEFENDANTS/RESPONDENTS **EAGLES QUAY PROPERTIES INC., FRANK LAYTON and CAROL LAYTON**
DOCUMENT **APPLICATION (SALES PROCESS)**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT
BLAKE, CASSELS & GRAYDON LLP
3500, 855 – 2nd Street S.W.
Calgary, Alberta T2P 4J8
Attention: Ryan Zahara
Matthew J. Summers
Telephone: 403-260-9628
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Email: ryan.zahara@blakes.com
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File Ref.: 88370/11

NOTICE TO RESPONDENTS

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 May 16, 2019
Time 10:00 a.m.
Where Calgary Courts Centre
Before Whom Honourable Justice C.M. Jones

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. Hardie & Kelly Inc., LIT, in its capacity as the court-appointed receiver and manager (the "**Receiver**") of all the current and future assets, undertakings, and properties (the "**Property**") of Eagles Quay Properties Inc. (the "**Debtor**"), seeks an order (the "**Order**") substantially in the form attached hereto as **Schedule "A"**:
 - (a) abridging the time for service of this application (the "**Application**"), if necessary, and declaring that this Application is properly returnable and that further service of this Application is hereby dispensed with;
 - (b) approving the proposed sale and listing process (collectively, the "**Proposed Listing Terms**") as outlined in the First Report of the Receiver dated May 6, 2019 (the "**First Receiver's Report**");
 - (c) compelling Frank Layton, Frank P. Layton Professional Corp., or any other entity or individual to deliver to the Receiver all of the books and records of the Debtor within five days of service of the Order;
 - (d) approving the actions, conduct, and activities of the Receiver as outlined in the First Receiver's Report; and
 - (e) sealing the confidential supplement to the First Receiver's Report dated May 6, 2019 (the "**Confidential Supplement**");
 - (f) such further and other relief as counsel may request and this Honourable Court may deem appropriate.

Grounds for making this Application:

Proposed Listing Terms

2. On March 5, 2019, the Receiver was appointed over all of the Property pursuant to the receivership order of Justice K.G. Nielsen dated March 5, 2019 (the "**Receivership Order**"). All capitalized terms used herein but not otherwise defined have the same meaning as defined in the Receivership Order.

3. Pursuant to sections 3(k) and (l) of the Receivership Order, the Receiver is authorized to, among other things, market any or all of the Property and sell the Property or any parts thereof with the approval of this Court.
4. As set out in the First Receiver's Report, the Proposed Listing Terms are designed to obtain the highest and best value for the Property in the circumstances.
5. The Proposed Listing Terms require the Receiver to return to this Honourable Court to obtain an order approving a sale and the vesting of any of the Property to a successful bidder.

Compelling Books and Records

6. In accordance with paragraph 6 of the Receivership Order, all Persons are required to turn over the Records of the Debtor to the Receiver.
7. Despite multiple attempts by the Receiver to obtain the Records of the Debtor from Frank Layton and Frank P. Layton Professional Corp., as outlined in the First Receiver's Report, the Receiver has been unable to obtain the Records.

Conduct of the Receiver

8. The Receiver has acted reasonably and in good faith during the administration of the receivership, as outlined in the First Receiver's Report, and its actions, conduct, and activities should be approved.

Sealing Order

9. The Confidential Supplement contains sensitive information in respect of this matter.
10. An order sealing the Confidential Supplement is appropriate given the sensitive information contained therein and the potential negative impact disclosure of such information may have on the parties involved in these receivership proceedings.
11. Such further and other grounds as counsel may advise and this Honourable Court may permit.

Material or evidence to be relied on:

12. The Receiver intends to rely upon the following materials:
 - (a) the Receivership Order;
 - (b) the First Receiver's Report;
 - (c) the Confidential Supplement; and
 - (d) such further and other materials as counsel may advise and this Honourable Court may permit.

Applicable acts and regulations:

13. The Receiver will rely upon and refer to the following during the making of the Application:
 - (a) The *Bankruptcy and Insolvency Act*, RSC 1985, c B-3;
 - (b) the *Alberta Rules of Court*, AR 124/2010; and
 - (c) such further and other statutes and regulations as counsel may advise and this Honourable Court may permit.

Any irregularity complained of or objection relied on:

14. None.

How application is proposed to be heard or considered:

15. Oral submission by counsel at the Application before the Honourable Justice C.M. Jones, as scheduled.

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 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"

Form of Order

(see attached)

Clerk's Stamp

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DATE ON WHICH ORDER WAS PRONOUNCED: May 16, 2019
NAME OF JUSTICE WHO MADE THIS ORDER: C.M. Jones
LOCATION OF HEARING: Calgary, Alberta

UPON the application (the "**Application**") of Hardie & Kelly Inc., LIT, in its capacity as receiver (the "**Receiver**") of Eagles Quay Properties Inc. (the "**Debtor**"); **AND UPON** having read the First Report of the Receiver dated May 6, 2019 (the "**First Receiver's Report**") and the Confidential Supplement to the First Report of the Receiver dated May 6, 2019 (the "**Confidential Supplement**"); **AND UPON** hearing from counsel for the Receiver, counsel for the Debtor, and any other interested parties appearing at the hearing of the within Application; **IT IS HEREBY ORDERED AND DECLARED THAT:**

SERVICE

1. The time for service of the notice of Application for this order is hereby abridged and service thereof is deemed good and sufficient.

APPROVAL OF CONDUCT

2. The actions, conduct, and activities of the Receiver, as outlined in the First Receiver's Report, are hereby approved.

APPROVAL OF PROPOSED LISTING TERMS

3. The sale and listing process (the "**Proposed Listing Terms**") outlined in the First Receiver's Report is hereby approved.
4. The Receiver is authorized and directed to implement the Proposed Listing Terms, including the engagement of the Listing Agent on the terms outlined in the First Receiver's Report, do all things that are reasonably necessary to conduct and give full effect to the Proposed Listing Terms, and carry out the Receiver's obligations thereunder.
5. The Receiver shall be at liberty to apply for an Order vesting title to the Debtor's purchased property in the successful bidder in accordance with the Proposed Listing Terms.

COMPELLING BOOKS AND RECORDS

6. Frank Layton, Frank P. Layton Professional Corp., and any other individual or entity in possession of the Records, as that term is defined pursuant to paragraph 6 of the Receivership Order, is hereby ordered to turn over all of the Records of the Debtor to the Receiver within five days of being served with a copy of this Order.

SEALING

7. Division 4 of Part 6 of the *Alberta Rules of Court*, Alta Reg 124/2010 does not apply.
8. The Confidential Supplement contains sensitive information, which if made publicly available could be used to the detriment of the parties and these receivership proceedings, and shall be sealed on the Court file, not form part of the public record, and not be available for public inspection unless and until the Receiver files a certificate with

this Court confirming the completion of these receivership proceedings or further order by this Court, upon seven days' notice to all interested parties.

9. The Clerk of the Court shall file the Confidential Supplement in a sealed envelope attached to a notice that sets out the style of cause of these proceedings and states that:

THIS ENVELOPE CONTAINS CONFIDENTIAL MATERIALS FILED BY HARDIE & KELLY INC., LIT.

THE CONFIDENTIAL MATERIALS ARE SEALED UNTIL HARDIE & KELLY INC., LIT, FILES THE RECEIVER'S COMPLETION CERTIFICATE OR FURTHER ORDER PURSUANT TO THE SEALING ORDER ISSUED BY THE HONOURABLE JUSTICE C.M. JONES ON MAY 16, 2019.

GENERAL

10. Service of this Order shall be deemed good and sufficient by serving all interested parties to the Application and by posting a copy of this Order on the Receiver's website established in respect of these proceedings.
11. Service of this Order shall be deemed good and sufficient regardless of whether service is effected by PDF copy attached to an email, facsimile, courier, personal deliver, or ordinary mail.

Justice of the Court of Queen's Bench of Alberta