Form 49
[Rule 13.19]

COURT FILE NUMBER	**1101-17318**	CLERK OF THE COURT FILED APR 16 2012 JUDICIAL CENTRE OF CALGARY
COURT	COURT OF QUEEN'S BENCH OF ALBERTA	
JUDICIAL CENTRE	Calgary	
APPLICANTS	**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, as amended** **AND IN THE MATTER OF THE *BUSINESS CORPORATIONS ACT*, R.S.A. 2000, c. B-9** **AND IN THE MATTER OF LEGACY COMMUNITIES INC., AIRDRIE CAPITAL CORPORATION and AIRDRIE COUNTRY ESTATES INC., RAILSIDE CAPITAL INC., RAILSIDE INDUSTRIAL PARK INC., FOUNDATION PLACE CAPITAL INC. and FOUNDATION PLACE INC.**	
DOCUMENT	**AFFIDAVIT OF RONALD AITKENS**	

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	Patrick T. McCarthy Q.C./John L. Ircandia Q.C. Borden Ladner Gervais LLP 1900, 520 3rd Ave. S.W. Calgary, AB T2P 0R3 Telephone: (403) 232-9441/232-9774 Facsimile: (403) 266-1395 Email: jircandia@blg.com File No. 439537-000003	BLG Borden Ladner Gervais

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AFFIDAVIT OF RONALD AITKENS

Sworn on April 16, 2012

Opposition to application of Unsecured Creditors Committee

I, Ronald Aitkens, of the City of Lethbridge, in the Province of Alberta, Businessman, SWEAR AND SAY THAT:

1. I make this Affidavit in response to the Affidavit of Kyle Brown (the "Brown Affidavit") of the Unsecured Creditors Committee (the "UCC") filed in these proceedings and in opposition to the

application of the UCC for an order of this Honourable Court appointing a Chief Restructuring Officer ("CRO") at this stage of the proceedings.

2. I am the sole director of each of Airdrie Capital Corporation ("ACC") and Airdrie Country Estates Inc. ("ACE") (ACC and ACE are sometimes collectively referred to herein as "Airdrie") and a director of Legacy Communities Inc. ("Legacy") and have been a director of these corporations since their inception in 2005 and 2006. I am also the sole director of each of Railside Capital Inc. and Railside Industrial Park Inc. (together, "Railside") and Foundation Place Capital Inc. and Foundation Place Inc. (together, "Foundation") and have been a director of these corporations since their inception in 2007 and 2008. I have personal knowledge of the matters and facts hereinafter deposed to except where stated to be based on information and belief, and where so stated, I verily believe the same to be true. All capitalized terms not defined herein are as defined in my prior affidavits. Legacy, Airdrie, Railside and Foundation are sometimes referred to herein as the "Applicants".

General

3. As indicated in the Affidavit I swore on April 13, 2012 in support of an application to extend the stay of proceedings for Airdrie and Legacy, we anticipate presenting formal plans of arrangement and compromise to creditors of Airdrie and Legacy by the end of May, 2012, a mere six weeks from the current hearing date.

4. As indicated in the Affidavit I swore on April 13, 2012 in support of an application to extend the stay of proceedings for Railside and Foundation, which have been in CCAA protection for less than a month, we are still working with the Consultants to determine the best strategy for dealing with the assets of each company and until that has been determined other planning towards a restructuring cannot be advanced in a material way.

5. Particularly in the case of Legacy and Airdrie I strongly believe that appointing a CRO at this late stage will create significant delays and costs that those companies can ill afford. Notwithstanding suggestions to the contrary by the UCC, I strongly believe that introducing a CRO with limited knowledge of the business affairs of Legacy and Airdrie will cause material delays. Further, as is evident from the reports of the Monitor, professional fees by a wide margin represent the most significant operating cost currently challenging Legacy and Airdrie. With Legacy and Airdrie so close to being a position to present a fulsome plan to the creditors, I question the value of appointing a CRO and adding to the significant costs already being incurred.

6. I received and was able to review a copy of the Brown Affidavit on the afternoon of Thursday, April 12, 2012 after returning to Calgary following investor meetings conducted by management in Edmonton and Red Deer. At the same time I was reviewing drafts of my affidavits since filed in these proceedings with respect to the extension of the stay of proceedings with respect to Airdrie, Legacy, Railside and Foundation and the establishment of a claims procedure with respect to each of ACC, ACE and Legacy in order to enable Legacy and Airdrie to proceed with the conclusion of a plan of arrangement and compromise within the time period referred to above.

7. There are a number of inaccurate and misleading statements contained in the Brown Affidavit with which I strongly disagree; however in the limited time available I have only addressed the ones most material to the applications before this Honourable Court.

Limited Support for a CRO

8. Despite suggestions to the contrary in the Brown Affidavit, I believe that there is limited support among the totality of the investors in all of Legacy, Airdrie, Railside and Foundation for the appointment of a CRO.

9. Over the past month we began to receive an increasing number of contacts from investors who were very concerned about messages and information coming from the UCC through both a series of meetings called by the UCC and through direct contacts, in some cases direct telephone calls, from the UCC.

10. In response to the calls we were receiving, we called a meeting of some of the Calgary-area Legacy and Airdrie investors, particularly those with larger investments, for the evening of March 29th, 2012, to try to deal with some of the concerns being expressed to us, and also to assess what investors felt about the idea of a CRO. As certain of the investors were unable to attend on March 29th, we also held a similar meeting on March 28th for a few investors.

11. At a meeting with the UCC and their counsel during the afternoon of March 28th, 2012 we reviewed the presentation materials we intended to use, and the UCC and their counsel were invited to attend the March 29th, 2012 meeting. Kyle Brown and Nicole Shurko of the UCC did attend, along with a representative of the Monitor.

12. The reaction by investors at the March 28th and 29th, 2012 meetings were very strongly and almost universally against the idea of a CRO. It appeared to us that there was a great deal of confusion and misunderstanding about what we were doing to restructure Airdrie and Legacy,

what progress we had made, what the next stages were in the restructuring process, and what a CRO would do. I believe this confusion was largely the result of misinformation that the investors were receiving from members of the UCC. We attempted at those meetings to provide investors with the information they needed to understand the progress that had been made, the current situation, and to assess the merits of the appointment of a CRO.

13. Following our March meetings it was apparent to us that, with so much of our effort focussed on advancing the restructuring of Airdrie and Legacy, we perhaps could have done a better job of communicating with investors both on the progress of the restructuring and on the issues being raised by the UCC.

14. As a result, we decided that in order to give investors both an update on our progress and factual and accurate information on which to make a decision regarding a CRO, we needed to convene larger scale meetings of all Legacy and Airdrie investors in Calgary, Red Deer and Edmonton to provide them with substantially the information conveyed to the smaller group of investors in the March meetings.

15. The vast majority of the numerous investors who have been contacting us on a day to day basis, both before and after the meetings we held, expressed concerns about the costs and delays associated with a CRO and indicated their opposition to such an appointment.

16. The Brown Affidavit is in my view misleading in its representation of the extent of the support among investors for the appointment of a CRO. The proxies held by the UCC in fact relate to a relatively small sample group both in terms of the number of investors and the relative dollar value of investor support. The reality is that:

a) Based on the numbers referred to in the Brown Affidavit, only 5.4% of the investors of Legacy, 7.9% of the investors of ACC, 7.4% of the investors of Railside and 8.6% of the investors of Foundation Place have provided proxies in favour of a CRO;

b) With respect to the entities involved in the CCAA proceedings, only 282 out of approximately 4077 investors have provided proxies in favour of a CRO; that is, less than 7%;

c) In terms of the relative dollar value of investment, based on the Brown Affidavit, $7,520,128 out of $92,860,946, namely 8% of the total amount of investment dollars respecting the entities involved in the CCAA proceedings, have provided proxies supporting a CRO;

d) In paragraph 35 of the Brown Affidavit, he includes a table of investors as well as the dollar value represented by such investors that have provided proxies in support of a CRO. Below is that same table adding additional information in the shaded areas respecting: i) the total number of investors, ii) the dollar value of the total investment, and iii) the percentage of investors and investment dollars with a view to providing the Court with a more accurate illustration of the relative support for the CRO among the investors of each of the entities involved in this CCAA proceedings.

Project	No. of Proxy Forms	Total No. of Investors	% of Investors	$ Amount of Bonds Represented	Total $ Investment	% $
Legacy	80	1476	5.4%	$2,850,757.68	$35,418,346	8%
ACC	54	679	7.9%	$1,039,110.00	$14,738,500	7%
Railside	110	1482	7.4%	$2,607,215.09	$34,199,100	7.6%
Foundation Place	38	440	8.6%	$1,023,045.20	$8,505,000	12%
Total	282	4077	6.9%	$7,520,128.00	$92,860,946	8%

17. At the meetings of investors held by management in Red Deer and Calgary, with the participation of the Monitor and attendance by the UCC, on Wednesday and Thursday, April 10 to 12, 2012, various investors provided Legacy and Airdrie with signed statements indicating that they were opposed to the appointment of a CRO and supported management in its undertaking to present a plan to the creditors.

18. Further, in the past two days since those meetings additional statements opposing the appointment of a CRO have been received by us. Although we have only started to try to quantify the level of opposition among investors to the appointment of a CRO over the past few days, as of Sunday, April 15, 2012, we have received confirmation of 462 investors opposed to the appointment of a CRO. In addition, approximately another 20 investors have emailed us requesting how to rescind or advising us of their rescission of their previous support of the UCC actions. The extent of this confirmed investor opposition to the appointment of a CRO is particularly significant insofar as

we have only been accumulating this information over the past few days in contrast to the UCC which has been actively soliciting investor support for the appointment of a CRO for the better part of a month. In view of the voluminous nature of these opposition forms, I have attached as **Exhibit "A"** to this my Affidavit a sample form of the written opposition being received by the Applicants. All forms opposing the appointment of a CRO will be provided to the Monitor and the UCC and otherwise available upon request.

19. The table below provides a summary of those investors who have provided Legacy and Airdrie with written confirmation of their opposition to a CRO at this stage, as of Monday morning on April 16, 2012. I would also point out that management has not yet had an opportunity to convene formal investor meetings with respect to Railside and Foundation Place and as such the opposition reflected, although significant, is at a very early stage.

Project	**# Investors Opposed**	**Total No. of Investors**	**% of Investors**	**$ Amount of Bonds Represented**	**Total $ Investment**	**% $**
Legacy	181	1476	12.3%	$6,380,172.00	$35,418,346	18%
ACC	105	679	15.5%	$2,636,310.00	$14,738,500	17.9%
Railside	172	1482	11.6%	$5,981,880.00	$34,199,100	17.5%
Foundation Place	63	440	14.3%	$1,642,199.00	$8,505,000	19.3%
Total	521	4077	12.8%	$16,640,561.00	$92,860,946	17.9%

Information Requests

20. Over the past six weeks we have been extremely busy finalizing the development strategies for Airdrie and Legacy, assembling information, consulting with professionals and the Monitor, examining exit financing options, meeting with and addressing the concerns of investors, considering an appropriate claims procedure under the circumstances, all with a view to getting to the current position where we anticipate presenting plans to creditors of Legacy and Airdrie within the next six weeks. Having said that, we have attempted to meet all reasonable requests for information from the UCC. The Brown Affidavit does make reference to a number of the UCC requests that have been resolved by Legacy and Airdrie or the Monitor. However, recognizing the

time constraints and the priority of doing all we can to develop restructuring plans we have nonetheless made additional efforts to keep the UCC apprised of all material developments:

a) We have held weekly meetings with the Monitor to discuss key issues moving towards the development of the plans. The UCC and its legal counsel have been invited to participate in these weekly sessions since March 28, 2012 and to my knowledge have participated in at least three of these sessions;

b) Although many of the requests of the UCC are time consuming and our focus has been on the development of the plans, there has been every intention to satisfy their reasonable requests for information. In this regard, commencing on February 8, 2012, we have specifically invited the UCC and their legal counsel on a number of occasions to attend at the "data room" we have assembled for Legacy and Airdrie in our offices so as to enable them, even while Legacy and Airdrie remained focused on the development of restructuring plans, to review all pertinent information that they could reasonably require. They have chosen not to attend at the data room;

c) We have held a number of meetings that have been attended by the Monitor, members of the UCC and/or their counsel. This includes recent meetings on or about April 5, 2012, April 10, 2012 and April 13, 2012 during which the UCC was apprised of all key developments in connection with the restructuring;

d) During the meeting among lawyers and the Monitor on Tuesday, April 10, 2012, in particular, UCC legal counsel had direct input on various details relative to the proposed restructuring plans;

e) Legal counsel for the UCC were involved in drafting a claims procedure with respect to Legacy and Airdrie;

f) We invited representatives of the UCC and its legal counsel to attend investor meetings conducted by management and provided the most up to date information available to them regarding the presentations prior to those meetings. Conversely, the UCC prohibited us from attending the investor meetings conducted by them.

21. The Brown Affidavit in paragraph 9 cites our failure to provide the UCC with email addresses for the bondholders of all of Legacy, Airdrie, Railside and Foundation Place. I am advised by our counsel and do verily believe that we have repeatedly advised the UCC that without the consent

of the various investors we were unable to provide this information due to concerns of violating privacy legislation. I am aware however that the Monitor offered to solicit the consent of each investor to the release of their email address to the UCC as well as to forward material to the investors on behalf of the UCC. Also, the UCC has from the outset had access to all names and addresses of the bondholders on the Monitor's website.

UCC & Management Meetings with Investors

22. The UCC and Management conducted separate meetings with investors. As is evident from the Brown Affidavit and noted above, with a view to promoting complete transparency and a balanced view of information and concerns, the Applicants invited representatives of the UCC and its legal counsel to attend investor meetings conducted by management with participation by the Monitor. We also provided the UCC and its counsel with the most up to date information available at the time regarding presentations to be made at those meetings. The Monitor provided its input in connection with the material prepared for these investor meetings.

23. The Brown Affidavit however does not mention that the UCC threatened to apply for an injunction after the Applicants had scheduled the first meeting with investors with a view to prohibiting the Applicants from proceeding to meet with their investors to apprise them of the status the CCAA proceeding and the development of the restructuring plans referred to herein.

24. Further, despite the request of the Applicants to attend the investor meetings conducted by the UCC, the UCC expressly prohibited me from attending and did not provide any detail as to what would be presented to investors at those meetings. Attached as **Exhibit "B"** to this my Affidavit is a copy of an email to me from Nicole Shurko of the UCC dated March 16, 2012 which not only prohibits my attendance from the meetings but demonstrates both my ongoing efforts to meet with the UCC and their reluctance to do so, as well as the apparent agenda of the UCC to impose a CRO over at least the last month.

Status of Aitkens as Director

25. The Brown Affidavit contains a number of disparaging remarks against me personally as well as other members of our current management team. Given the limited time available and recognizing that in the present circumstances our priority and focus must be on completing plans of arrangement for the benefit of all of our investors, I do not propose to deal with each and every statement. Having said that, I do feel compelled to address a number of the statements made in

the Brown Affidavit which I feel will illustrate the disingenuous and misleading nature of many of these statements.

26. I acknowledge that there may be amounts owed to Legacy or Airdrie by companies which I am involved with. The precise amount and repayment terms associated with these obligations as well as any corresponding set off claims are however uncertain. As such and as the UCC is aware, in the past two weeks Howard Gorman of the Norton Rose firm has been retained by these entities which I am involved with in order to assist in resolving these obligations. I fully intend to formalize all obligations owed in this regard to the satisfaction of the Monitor and ultimately this Honourable Court in the near future and in any event prior to the presentation of the restructuring plans to the creditors.

27. The Brown Affidavit refers to "lifts" or price increases on the original sale of certain properties to the investing entity. I can advise the Court that the purchase price of each and every such sale of property was expressly disclosed in the Offering Memorandum that accompanied each investment, as was the cost of the property to the vendor in each case.

28. The Brown Affidavit refers to an investigation by the Alberta Securities Commission ("ASC"). This investigation was commenced as a result of the complaint of an adjoining landowner who was opposed to development. The allegations listed in the Brown Affidavit were in fact not borne out in the investigation and the settlement agreement ultimately reached was not the result of anything I had done personally but rather principally the result of verbal statements made by another individual at a presentation. In any event, this matter has nothing to do with any of the entities involved in these CCAA proceedings and the reference to unproven allegations stated without context in the Brown Affidavit, can only have been intended to unfairly discredit me.

29. The Brown Affidavit also refers to an action against myself and others commenced by Neo Exploration Inc. ("Neo"). Again they include without context, various unproven allegations made in that pleading. This is completely misleading and in my view, disingenuous. First, apart from naming myself in my capacity as a director or officer of a partnership known as Foundation Resources Partnership ("Resources"), the lawsuit involves entities which have nothing to do with the present CCAA proceeding. Second, the reality is that the litigation respecting Neo in fact began when Resources commenced an action in November of 2011 against Neo as a result of Neo's breach of a farm out arrangement and consulting agreement that had been entered into between those parties. In particular, Neo had misapplied production monies from certain wells in

which Resources had an interest. As a result, on my instructions to Resources' legal counsel, Caireen Hanert of Heenan Blaikie, Resources commenced the action against Neo back in November, 2011. Subsequently, in January 2012 and in an obvious effort to counter our action, Neo filed the pleading referred to in the Brown Affidavit respecting the same subject matter as addressed in the Resources' claim and chose to include as defendants a number of parties, indirectly related, myself included, who clearly had no liability and against whom an identical "shopping list" of allegations were made. Based on the advice of legal counsel I verily believe that the Neo pleading was filed strictly for strategic and not meritorious reasons. In any event, I can advise the court that these actions have been settled.

30. Again, the inclusion without context of these unproven allegations in a pleading involving entities not involved in the CCAA proceedings and with respect to an action that has been settled, greatly concerns me and I believe demonstrates the unbalanced campaign being waged by the UCC or certain of its members in order to achieve their own agenda rather than promote transparency with a view to better enabling all of the investors to determine what is in their best interests.

31. I am doing all in my power to facilitate the completion of a cost effective and reasonable plan of arrangement and compromise that I believe is in the best interests of all of the investors and not just those represented by the UCC.

32. I do not intend to take a management role in any of the Applicants following the implementation of the plans. As noted in my April 13th affidavit with respect to Legacy and Airdrie, one of the objectives of the restructuring of each of the Applicants will be to make governance more direct and transparent and to allow the creditors (who will also be the shareholders) of each entity to elect their own board of directors.

Railside, Foundation Capital and Foundation Place

33. As noted, since Railside and Foundation have been in these CCAA proceedings less than one month, we cannot develop a restructuring plan or plans for those corporations until we have a clear strategy for dealing with the underlying assets. It is unrealistic for the UCC to expect that we would have made the degree of progress towards a resolution of the financial challenges of Railside and Foundation suggested in the Brown Affidavit. I can advise that we are dedicated to working diligently towards concluding a restructuring of Railside and Foundation that is in the best interests of all creditors and investors.

34. Also with respect to Railside, the Brown Affidavit in paragraph 47(k) refers to a receivable in the sum of $6.2 Million which he suggests "disappeared" from Railside. In fact, as the UCC is well aware, this was simply the correction of an accounting entry to reflect expenditures previously made to engineers, trades and consultants in respect of the project.

35. I am deeply concerned that the UCC is seeking in its application to appoint a CRO over Railside and Foundation Place despite the fact that the UCC has not filled the seats (2 seats each) on the UCC for those investor groups.

CRO Candidate

36. I do not intend to make any disparaging comments respecting the CRO candidate proposed by the UCC. I do believe however as stated above that such an appointment is not in the best interests of the totality of Legacy and Airdrie's investors. Further, I do believe the Court and all interested parties should be aware that, to the best of my knowledge, the proposed CRO candidate has no or limited knowledge of the history of Legacy, Airdrie, Railside and Foundation and the current state of business dealings leading up to the plans of arrangement and compromise that we intend to file by the end of May, 2012. In addition, it is apparent that the candidate has no prior experience acting as a CRO in the context of a CCAA proceeding, which exacerbates my concerns on behalf of all of Legacy, Airdrie, Railside and Foundation that such an appointment is not in the best interests of the investors and will lead to more significant delays and costs than those suggested by the UCC. Our current management team has developed the business opportunities for Legacy and Airdrie to the current stage where restructuring plans are imminent and those restructuring plans cannot help but be delayed by the appointment of a CRO.

37. Finally, I am aware that management does have some concerns which I share about the objectivity of the proposed CRO in that he has previously attended at our offices on a number of occasions in the past few months with a view to inquiring about the possibility of his acquiring our properties at advantageous prices in view of our financial challenges.

38. In summary, management is deeply concerned about the installation of a CRO at this late stage in the process. Our consulting team expects to be able to present a fulsome plan or plans to investors within the next six weeks. We are extremely concerned about the costs attributable to delays anticipated from the appointment of a CRO. We believe that the costs that are being and will be incurred by the UCC's insistence on a CRO will be significantly deleterious to bondholder value.

39. I make this Affidavit to clarify what I believe are misleading statements contained in the Brown Affidavit and in opposition to the application of the UCC for the appointment of a CRO at this stage of the proceedings.

SWORN BEFORE ME at Calgary, Alberta, this 16th day of April, 2012.	))))))	
Commissioner for Oaths in and for the Province of Alberta		**RONALD AITKENS**

DANIEL L. BAXTER
BARRISTER & SOLICITOR

Airdrie Country Estates
Legacy Communities
Foundation Place Capital Inc.
Railside Capital Inc.

My name is NORMAN M. YEE (please print) and I am a bondholder in ALL ABOVE MENTIONED, holding a total of $ 399,950.00 worth of bonds.

I do not support the current actions of the Unsecured Creditors' Committee to appoint a Chief Restructuring Officer and continue to have confidence in the ability of current management to run ALL ABOVE MENTIONED.

Signed this 12th day of April, 2012

Norman M. Yee
Signature
403-341-6068
nmyee e hotmail.com

AIRDRIE - $250,000
LEGACY - $50,000
FP - $50,000
RS - $50,000

This is Exhibit "A" referred to
in the Affidavit of
Ronald Aitkens
Sworn before me this 16th
Day of April A.D. 2012

A Commissioner for Oaths in and for
the Province of Alberta

DANIEL L. BAXTER
BARRISTER & SOLICITOR

Sign Up Letter

From: Nicole Shurko <savefccinvestors@gmail.com>
To: Ron Aitkens
Cc: Rick Skauge <rick@olympiatrust.com>; Brad Fisher <bradf@sfsgroup.ca>
Sent: Fri Mar 16 16:09:39 2012
Subject: Re: FC Follow Up

Hi Ron,

I would just like to clarify directly a few points. First of all, of course we are happy to talk with you. You know how to contact us and our lawyer, so please do so if you have anything you'd like to discuss.

With respect to a meeting with the UCC, we'll be responding through counsel about setting that up, but as a heads up we'd like to see an agenda and background material in advance in order that we can have a productive discussion with you.

With respect to attending our meetings with creditors next week, I thought I qualified my remarks to Brad. In fact, the UCC has decided to decline your offer. Frankly, until a transparent and objective view can be presented by an arms-length, external party, the UCC will have difficulty co-presenting with Harvest Group's current management. Maybe that something that we should be talking about in our upcoming meeting.

--
Nicole Shurko, CFP, FMA, CSWP
Investor Relations
Unsecured Creditor Committee (UCC)
(780) 455-3641
savefccinvestors@gmail.com

... Sign up for updates at www.foundationinvestorsgroup.com

On Fri, Mar 16, 2012 at 10:55 AM, Brad Fisher <bradf@sfsgroup.ca> wrote:

Hello Ron,

I just spoke with Nicole, and she is willing to speak and communicate with you as soon as possible. Also they would like to have you involved in the meetings next week (not sure where the communication breakdown happened) they just need a clear laid out plan from you as to what exactly will be discussed.

Please reach out to her ASAP as it's imperative that your story, vision and solution to these issues is communicated properly before these events takes place.

Thanks

March 22nd, 2012 – Calgary   March 23rd, 2012 - Red Deer

This is Exhibit " B " referred to in the Affidavit of Ronald Aitkens
Sworn before me this 16th
Day of April A.D. 2012

A Commissioner for Oaths In and for the Province of Alberta
DANIEL L. BAXTER
BARRISTER & SOLICITOR

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