COURT FILE NUMBER	2303 06543
COURT	COURT OF KING'S BENCH OF ALBERTA
JUDICIAL CENTRE OF	EDMONTON
	IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, as amended AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF J.W. CARR HOLDINGS LTD., SPRUCE GROVE INDUSTRIAL PARK INC., 272649 ALBERTA LTD., 279896 ALBERTA LTD., GRANDE PRAIRIE PLACE ENTERPRISES (1996) INC., 1170292 ALBERTA LTD. and 627612 ALBERTA LTD.
DOCUMENT	**ORIGINATING APPLICATION**
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT:	**MLT AIKINS LLP** Lawyers Suite 2200, 10135 – 101st Street NW Edmonton, AB T5J 3G1 Solicitor: Jeffrey M. Lee, K.C. and Mandi Deren-Dube Telephone: (306) 975-7136/ (780) 969-3518 Facsimile: (306) 975-7145/ (780) 969-3549 Email: jmlee@mltaikins.com mderendube@mltaikins.com File Number: 159371.8

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 judge.

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

Date:	Wednesday, April 19, 2023
Time:	10:00 am
Where:	Edmonton Law Courts V~~IA WEBE~~X
Before:	The Honourable Justice J.J. Gill

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

Remedy claimed or sought:

1. The Applicants, J.W. Carr Holdings Ltd., Spruce Grove Industrial Park Inc., 272649 Alberta Ltd., 279896 Alberta Ltd., Grande Prairie Place Enterprises (1996) Inc., 1170292 Alberta Ltd. and 627612 Alberta Ltd. (collectively, the "**Applicants**" or the "**Carr Group**") seek an Initial Order under the *Companies' Creditors Arrangement Act,* RSC 1985, c C-36 ("**CCAA**"), substantially in the form attached hereto as **Schedule "A"**, granting the following relief:

   (a) declaring that the Applicants are companies to which the CCAA applies;

   (b) authorizing the Applicants to carry on business in a manner consistent with the preservation of their business and property;

   (c) authorizing the Applicants to pay the reasonable expenses incurred by them in carrying on their business in the ordinary course, including certain expenses incurred prior to the date of the Initial Order;

   (d) staying all proceedings, rights and remedies against or in respect of the Applicants or their business or property, or the Monitor, except as otherwise set forth in the Initial Order;

   (e) appointing Ernst & Young Inc. ("**EYI**") as the monitor (the "**Monitor**") of the Applicants in these proceedings;

   (f) authorizing and directing the Applicants to pay the reasonable professional fees and disbursements of the Monitor and its legal counsel, and the reasonable professional fees and disbursements of legal counsel to the Applicants, with the payment of such reasonable professional fees and disbursements to be secured by a court-ordered charge on the assets of the Applicants (the "**Administration Charge**"); and

   (g) approving the Interim Financing of up to $2,700,000 which is proposed to be provided by MGB Investments Ltd. to the Applicants in order to finance the Applicants' operations during these proceedings, with the payment of such interim financing to be secured by a court-ordered charge on the assets of the Applicants (the "**Interim Lender's Charge**");

(h) approving and granting a limited form of priority to the Administration Charge and the Interim Lender's Charge; and

(i) such further and other relief as this Honourable Court may deem just.

Grounds for making this application:

Background

2. The Applicants comprise seven Alberta corporations, six of which corporations own a portfolio of real estate proprerties comprising commerical and residential buildings, condominiums and development land in Grande Prairie, Edmonton, Spruce Grove, Fort Saskatchewan and Wetaskiwin, Alberta (the "**Properties**").

3. The Applicants have made and continue to make a significant contribution to the municipal tax base and local economy of Grande Prairie, Edmonton, Spruce Grove, Fort Saskatchewan and Wetaskiwin, Alberta.

The Applicants' Insolvency

4. The Applicants meet the statutory requirements to be eligible for relief under the CCAA, as the Applicants are insolvent and owe more than $5,000,000.00 to their creditors.

5. As at April 10, 2023, the Applicants owed liabilities to their creditors in a total approximate amount exceeding $163,000,000.

6. The Applicants are undergoing a severe liquidity crisis, which has been caused or contributed to by:

(a) the significant downturn in the economy of Grande Prairie, Alberta (where the majority of the Properties are located) and the resulting financial distress experienced by Carr Group as a result of operating costs and debt service costs increasing more rapidly than the rental rates which Carr Group is able to charge to its commercial and residential tenants;

(b) the inability of Carr Group to overcome the disruption to its business and financial affairs resulting from the untimely death of J.W. (Jim) Carr, the founder and leader of Carr Group, in October of 2017;

(c) the severe negative impact experienced in the commercial real estate sector as a result of the lingering effects of the COVID-19 global pandemic and the associated disruption to conventional work arrangements among the office, government and retail business enterprises which comprise the tenants of Carr Group;

(d) extended periods of significant vacancy in the Grande Prairie commercial buildings owned by Carr Group (which have only recently begun to experience improvements in their ability to attract tenants);

(e) high municipal property tax rates charged to the Properties by the City of Grande Prairie (relative to the market value of the Properties);

(f) the retirement, departure or other loss of significant employees of Carr Group in recent years;

(g) the negative impact of significant increases to interest rates over the past eighteen months and its impact on debt service costs required to be paid by Carr Group; and

(h) the negative impact upon the cash flow of Carr Group which has resulted from recent initiatives by condominium corporation boards in condominium properties in which Carr Group owns condominium units to attach rents to fund significant special assessments of condominium corporation fees which are disputed by Carr Group (in whole or in part).

7. Carr Group's senior secured creditors, The Bank of Nova Scotia, Servus Credit Union, Romspen Investment Corporation, ATB Financial, Canadian Western Bank, Roynat Inc. and Bank of Montreal have served demands for payment of their secured debt, which demands included Notices of Intention to Enforce Security under section 244 of the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3.

<u>The Applicants' Need for CCAA Proceedings</u>

8. The Applicants require the stability of the proposed CCAA proceedings in order to develop and implement a plan for the sale, restructuring and/or orderly liquidation (the "**Restructuring**") of the Applicants' portfolio comprising the Properties. Further, and in

particular, the Applicants require the cash flow relief and stability of the proposed CCAA proceedings in order to ensure:

(a) that the Applicants are able to develop and implement a Sales and Investment Solicitation Process (the "**SISP**") that will enable the Applicants to maximize the value of the Properties for the benefit of the Applicants and their stakeholders;

(b) that all or substantially all of the Properties are included in the SISP, in order to attract significant interest from a pool of high quality potential purchasers from Alberta, Canada and international locations;

(c) that the SISP is conducted in a co-ordinated, unified and coherent manner, in order to avoid the disruption, market confusion and impairment of value of the Properties that would result from disconnected, *ad hoc* efforts to sell individual Properties through multiple, parallel competing security enforcement proceedings such as receiverships or foreclosure and sale proceedings;

(d) that the costs of the Restructuring are controlled and spread across all or substantially all of the Properties through a single court-supervised proceeding under the oversight of a single court officer;

(e) that the secured creditors of the Applicants experience little or no prejudice to their respective security positions and are able to enjoy the benefit of an efficient and cost-effective Restructuring involving no significant court-ordered charges on the Properties ranking in priority to their respective first charge mortgages on the Properties;

(f) that enforcement efforts by unsecured creditors of the Applicants (including judgment creditiors, condominium corporation boards and others) are stayed while the Applicants develop and implement the SISP; and

(g) that the prospects for the Applicants to capture and realize the equity in the Properties past the secured debt on the Properties are maximized, in order to fund a Plan of Arrangement intended to return a dividend for the unsecured creditors of the Applicants.

Interim Financing

9. The Applicants require interim financing of up to $2,700,000 in order to fund ongoing costs associated with their business operations, to provide sufficient liquidity to address contingencies and to fund the payment of professional fees associated with these proposed proceedings under the CCAA and to ensure that their operations are not interrupted during these CCAA proceedings.

10. MGB Investments Ltd. of Calgary, Alberta has agreed to provide interim financing up to a maximum aggregate amount of $2,700,000 (the **"Interim Financing"**) to fund the Applicants' operations during the Restructuring. The Interim Financing is limited to what is reasonably necessary to fund the Applicants' operations during the Restructuring.

Charges

11. Certain charges are necessary to ensure that the Restructuring is successful, with priority among the charges proposed to be as follows:

    (a) First – The First Charge Encumbrances (comprising existing fixed mortgages of specific real property of the Applicants which are registered against title to the Properties as first priority fixed charge mortgages and associated security);

    (b) Second – The Administration Charge (to the maximum amount of $500,000) to secure the payment of the reasonable professional fees and disbursements of the Monitor, legal counsel to the Monitor and legal counsel to the Applicants;

    (c) Third – The Interim Lender's Charge (to the maximum amount of up to $2,700,000) in order to secure the repayment of funds advanced to the Applicants pursuant to the Interim Financing; and

    (d) Fourth – The Non-First Charge Encumbrances (comprising all encumbrances other than First Charge Encumbrances).

Conclusion

12. The Applicants' senior secured lenders have been provided with advance notice of this Originating Application for an Initial Order and either: (a) expressly support; (b) have not

expressed opposition to; or (c) are in dialogue with the Applicants regarding, the granting of the relief sought herein.

13. Ernst & Young Inc. has consented to its appointment as Monitor of the Applicants.

14. The Applicants further rely on the grounds set out in the Affidavit of Marjorie Carr sworn on April 10, 2023, the provisions of the CCAA, and the equitable jurisdiction of this Court.

15. Such further and other grounds as counsel for the Applicants may advise and this Honourable Court may permit.

Material or evidence to be relied on:

16. This Originating Application;

17. The Affidavit of Marjorie Carr sworn on April 10, 2023;

18. Draft Initial Order;

19. Brief of Law on Behalf of the Applicants;

20. The Pre-filing Report of the Proposed Monitor, Ernst & Young Inc.;

21. The Consent of Ernst & Young Inc. to act as Monitor of the Applicants;

22. Such further and other materials as counsel for the Applicants may advise and this Honourable Court may permit.

Applicable rules:

23. Part 6, Division 1 of the Alberta *Rules of Court*, Alta Reg 124/2010.

Applicable Acts and regulations:

24. The *Companies' Creditors Arrangement Act*, RSC 1985, c C-36; and

25. Such further and other Acts or regulations as counsel may advise and this Honourable Court may permit.

Any irregularity complained of or objection relied on:

26. None.

How the application is proposed to be heard or considered:

27. By hearing conducted through WebEx video conference.

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 give evidence in response to the application, you must reply by filing an affidavit or other evidence with the Court and serving a copy of that affidavit or other evidence on the applicant a reasonable time before the application is to be heard or considered.

SCHEDULE "A"

DRAFT CCAA INITIAL ORDER