

Clerk's Stamp

COURT FILE NUMBER 2303 06543

COURT COURT OF KING'S BENCH OF ALBERTA

JUDICIAL CENTRE 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 **APPLICATION (Sale Approval & Vesting Order and
Sealing Order)**

ADDRESS FOR
SERVICE AND
CONTACT
INFORMATION OF
PARTY FILING THIS
DOCUMENT

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NOTICE TO RESPONDENTS: As indicated in the attached Service List.

This application is made against you. You are a respondent. 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: **October 11, 2023**

Time: **2:00 P.M.**

Where: **Edmonton Law Courts (Via WebEx)**

Before Whom: **The Honourable Justice N. J. Whitting**

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. The Applicants, J.W. Carr Holdings Ltd., Spruce Grove Industrial Park Inc., 272649 Alberta Ltd. ("**272**"), Grande Prairie Place Enterprises (1996) Inc., 279896 Alberta Ltd., 1170292 Alberta Ltd. and 627612 Alberta Ltd. ("**627**") (collectively, the "**Applicants**") seek the following Orders under the *Companies' Creditors Arrangement Act*, RSC 1985, c C-36 (the "**CCAA**") granting the following relief:

(a) Sale Approval and Vesting Orders (the "**SAVO's**"), substantially in the forms attached as **Schedule "A", Schedule "B", and Schedule "C"** hereto, granting the following relief:

- i. abridging, if necessary, the time for service of the application materials in support thereof, and declaring service of the same to be good and sufficient;
- ii. approving and authorizing the transactions (the "**Transactions**") pertaining to the real property more particularly described in the purchase and sale agreements (the "**PSA's**") between:

i. 272 (as Vendor) and MLS Property Group Ltd. ("**MLS**") (as Purchaser) of the Clariant Building (as defined herein) (the "**Clariant PSA**");

ii. 272 (as Vendor) and 2537141 Alberta Ltd. (as Purchaser) of the First Mulhurst Bay Property (as defined herein) (the "**First Mulhurst Bay PSA**"); and

iii. 272 (as Vendor) and Dutell Equipment Ltd. (as Purchaser) of the Second Mulhurst Bay Property (as defined herein) (the "**Second Mulhurst Bay PSA**");

Copies of the PSA's are exhibited to the Confidential Affidavit of Marjorie Carr sworn on October 2, 2023 (the "**Sixth Confidential Carr Affidavit**");

- iii. authorizing 272 and Ernst & Young Inc., the court appointed monitor of the Applicants under the CCAA proceedings (the "**Monitor**"), to enter into and perform their respective obligations under the PSAs and to take all steps reasonably necessary to close the Transactions.

- (b) an Order sealing the Sixth Confidential Carr Affidavit, substantially in the form attached as **Schedule “D”** hereto; and
- (c) such further and other relief as this Honourable Court may deem just.

Grounds for making this application:

2. The Applicants have obtained within these proceedings an Initial Order granted on April 19, 2023, an Amended and Restated Initial Order (the “**ARIO**”) and a Sales and Investment Solicitation Process (“**SISP**”) Order, both granted on April 26, 2023, and an Amended and Restated Sales and Investment Solicitation Process Order granted on July 26, 2023 (the “**Amended and Restated SISP Order**”).

3. 272 is the registered and beneficial owner of the real property which is the subject of the Clariant PSA, and which bears the following legal description:

PLAN 1523374
BLOCK 7
LOT 3
EXCEPTING THEREOUT ALL MINES AND MINERALS

(the “**Clariant Property**”)

4. 272 is the registered and beneficial owner of the real property which is the subject of the First Mulhurst Bay PSA, and which bears the following legal description:

FIRST
MERIDIAN 4, RANGE 28, TOWNSHIP 47
SECTION 11
THE NORTH 1322 FT IN PERPENDICULAR WIDTH THROUGHOUT OF
THE NORTH EAST QUARTER
WHICH LIES EAST OF THE STREET SHOWN AS ROAD ON SUBDIVISION PLAN 30ET
CONTAINING 31.8 HECTARES (78.48 ACRES) MORE OR LESS
EXCEPTING THEREOUT: HECTARES (ACRES) MORE OR LESS
A) PLAN 8920446 – SUBDIVISION 10.23 25.28
B) PLAN 9620098 – SUBDIVISION 0.228 0.56
C) PLAN 0524102 – SUBDIVISION 0.90 2.22
EXCEPTING THEREOUT ALL MINES AND MINERALS
AND THE RIGHT TO WORK THE SAME

AND

SECOND

MERIDIAN 4, RANGE 28, TOWNSHIP 47

SECTION 11

ALL THAT PORTION OF THE STREET SHOWN AS ROAD ON SUBDIVISION PLAN 30ET
IN THE NORTH EAST QUARTER

WHICH LIES NORTH OF A LINE PARALLEL TO THE NORTH BOUNDARY OF THE SAID
QUARTER SECTION AND 1322 FT DISTANT SOUTHERLY THEREFROM

CONTAINING 0.817 HECTARES (2.02 ACRES) MORE OR LESS

EXCEPTING THEREOUT: HECTARES (ACRES) MORE OR LESS

A) PLAN 8920446 – SUBDIVISION 0.311 0.77

B) PLAN 0524102 – SUBDIVISION 0.08 0.20

EXCEPTING THEREOUT ALL MINES AND MINERALS

AND THE RIGHT TO WORK THE SAME

(the “**First Mulhurst Bay Property**”)

5. 272 is the registered and beneficial owner of the real property which is the subject of the
Second Mulhurst Bay PSA, and which bears the following legal description:

FIRST

MERIDIAN 4 RANGE 28 TOWNSHIP 47

SECTION 11

ALL THAT PORTION OF THE NORTH EAST QUARTER

WHICH LIES EAST OF THE STREET SHOWN AS ROAD ON SUBDIVISION PLAN 30ET

AND SOUTH OF A LINE DRAWN PARALLEL TO THE NORTH BOUNDARY OF THE SAID

QUARTER SECTION 1322 FEET PERPENDICULARLY DISTANT SOUTHERLY

THEREFROM

CONTAINING 33.62 HECTARES (78.5 ACRES) MORE OR LESS

EXCEPTING THEREOUT ALL MINES AND MINERALS

AND

SECOND

MERIDIAN 4 RANGE 28 TOWNSHIP 47

SECTION 11

ALL THAT PORTION OF THE STREET SHOWN AS ROAD ON THE SAID

SUBDIVISION PLAN 30ET IN THE SAID QUARTER SECTION

WHICH LIES SOUTH OF A LINE DRAWN PARALLEL TO THE NORTH

BOUNDARY OF THE SAID QUARTER SECTION 1322 FEET

PERPENDICULARLY DISTANT SOUTHERLY THEREFROM

CONTAINING 0.809 HECTARES (2 ACRES) MORE OR LESS

EXCEPTING THEREOUT ALL MINES AND MINERALS

(the “**Second Mulhurst Bay Property**”)

6. The Clariant Property, the First Mulhurst Bay Property, and the Second Mulhurst Bay
Property are hereinafter collectively described as the “**Properties**”.

7. In furtherance of the objectives of these CCAA Proceedings, and in accordance with the process contemplated by the SISP Order, 272 has entered into three separate PSAs with prospective purchasers of the Properties (subject to the approval of the Court). 272 seeks to sell the Properties and to transfer to the Purchasers all right, title and interest of 272 in and to the Properties, in accordance with the terms and conditions of the PSAs.
8. The Selling Applicants, the Monitor and the Purchasers have worked diligently and in good faith to negotiate, finalize and conclude the PSAs for the sale of the Properties in accordance with the SISP.
9. The Sixth Confidential Carr Affidavit contains copies of the PSAs. The information contained in the PSAs is commercially sensitive and, if publicly disclosed, has the potential to compromise the sale of the Properties if the Transactions fail to close (for whatever reason).
10. The Applicants have given notice to the media of their intention to seek a Sealing Order, as reflected in the Notice to the Media of Application to Restrict Access submitted on October 2, 2023.
11. 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:

12. The Applicants rely on the following materials and evidence in support of this Application:
 - (a) The Affidavit of Marjorie Carr sworn on April 10, 2023;
 - (b) The Supplemental Affidavit of Marjorie Carr sworn on April 18, 2023;
 - (c) The Supplemental Affidavit of Marjorie Carr sworn on July 17, 2023;
 - (d) The Sixth Confidential Carr Affidavit, sworn on October 3, 2023;
 - (e) The Initial CCAA Order granted on April 19, 2023;
 - (f) The Amended and Restated CCAA Initial Order granted on April 26, 2023;
 - (g) The Sales Investment and Solicitation Process Order granted on April 26, 2023;

- (h) The Amended and Restated Sales Investment and Solicitation Process Order granted on July 26, 2023;
- (i) The Order Extending the Stay of Proceedings, granted July 26, 2023;
- (j) The Bench Brief of the Applicants (with authorities);
- (k) Notice to the Media of Application to restrict access, submitted September 5, 2023;
- (l) The Pre-filing Report of the Proposed Monitor, Ernst & Young Inc. dated April 10, 2023;
- (m) The First Report of the Monitor, filed April 25, 2023;
- (n) The Second Report of the Monitor dated May 19, 2023;
- (o) The Third Report of the Monitor dated June 30, 2023;
- (p) The Fourth Report of the Monitor dated July 18, 2023;
- (q) The Fifth Report of the Monitor dated July 24, 2023;
- (r) The Sixth Report of the Monitor dated August 1, 2023;
- (s) The Seventh Report of the Monitor dated August 18, 2023;
- (t) The Eighth Report of the Monitor, September 11, 2023;
- (u) The Ninth Report of the Monitor, to be filed; and
- (v) Such further and other materials as counsel for the Applicant may advise and this Honourable Court may permit.

Applicable rules:

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

Applicable Acts and regulations:

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

15. 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:

16. None.

How the application is proposed to be heard or considered:

17. 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(s) 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(s) a reasonable time before the application is to be heard or considered.

SCHEDULE "A"
PROPOSED FORM OF SAVO – CLARIANT BUILDING

SCHEDULE "B"
PROPOSED FORM OF SAVO – FIRST MULHURST BAY PROPERTY

SCHEDULE "C"
PROPOSED FORM OF SAVO – SECOND MULHURST BAY PROPERTY

SCHEDULE "D"
PROPOSED FORM OF SEALING ORDER