

COURT FILE NO.: 2401-15969
COURT COURT OF KING'S BENCH OF ALBERTA
JUDICIAL CENTRE CALGARY



IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, RSC 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF ANGUS A2A GP INC., ANGUS MANOR PARK A2A GP INC., ANGUS MANOR PARK A2A CAPITAL CORP., ANGUS MANOR PARK A2A DEVELOPMENTS INC., HILLS OF WINDRIDGE A2A GP INC., WINDRIDGE A2A DEVELOPMENTS, LLC, FOSSIL CREEK A2A GP INC., FOSSIL CREEK A2A DEVELOPMENTS, LCC, A2A DEVELOPMENTS INC., SERENE COUNTRY HOMES (CANADA) INC. and A2A CAPITAL SERVICES CANADA INC.

Dec 13, 2024

4:33 PM

APPLICANT **ALVAREZ & MARSAL CANADA INC.**, in its capacity as Court-appointed Monitor of ANGUS A2A GP INC., ANGUS MANOR PARK A2A GP INC., ANGUS MANOR PARK A2A CAPITAL CORP., ANGUS MANOR PARK A2A DEVELOPMENTS INC., HILLS OF WINDRIDGE A2A GP INC., WINDRIDGE A2A DEVELOPMENTS, LLC, FOSSIL CREEK A2A GP INC., FOSSIL CREEK A2A DEVELOPMENTS, LCC, A2A DEVELOPMENTS INC., SERENE COUNTRY HOMES (CANADA) INC. and A2A CAPITAL SERVICES CANADA INC.

DOCUMENT **APPLICATION**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT
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Email: joliver@cassels.com / dmarechal@cassels.com

File No.: 57100-4

Attention: Jeffrey Oliver/Danielle Marechal

NOTICE TO THE RESPONDENTS AND SERVICE LIST IN SCHEDULE "B"

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 December 18, 2024
Time 10:00 a.m. MST
Where Calgary Courts Centre
<https://albertacourts.webex.com/meet/virtual.courtroom03>

Before Whom The Honourable Justice Simard

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

Remedy claimed or sought:

1. Alvarez & Marsal Canada Inc. ("**A&M**"), in its capacity as monitor (in such capacity, the "**Monitor**") of the Debtor Companies (as defined in **Schedule "A"** hereto) seeks, among other things:
 - (a) an Order under the *Companies' Creditors Arrangement Act*, RSC 1985, c C-36, as amended (the "**CCAA**"), substantially in the form attached hereto as **Schedule "C"**, among other things:
 - (i) abridging the time for service and deeming service of this Application and supporting materials to be good and sufficient;
 - (ii) extending the Stay Period (as defined herein) up to and including February 28, 2025;
 - (iii) granting an increase in the aggregate amount of the Administration Charge (as defined herein) to a maximum amount of \$1,250,000;
 - (iv) approving the fees and disbursements of the Monitor and Monitor's Counsel for the period up to November 25, 2024; and
 - (v) approving the Pre-Filing Report of the Monitor dated November 13, 2024 (the "**Pre-Filing Report**"), the Monitor's First Report dated November 20, 2024 (the "**First Report**"), the Monitor's Second Report dated November 28, 2024 (the "**Second Report**"), and the Monitor's Third report dated December 13, 2024 (the "**Third Report**") and the activities of the Monitor set out therein; or
 - (b) in the alternative, an Order under the *Judicature Act*, RSA 2000, c J-2, as amended appointing A&M as receiver manager over all the current and future property, assets and undertaking of the Debtor Companies and Affiliate Entities (as defined below);
 - (c) advice and direction of this Honourable Court with respect to the Debtor Companies failure to produce the Requested Information by the Information Deadline (as defined herein); and
 - (d) such further and other relief as this Honourable Court deems appropriate.

Grounds for making this application:

Background

2. On November 14, 2024, on application by an ad hoc group of Canadian investors in various real estate and land investment projects (the "**Applicant Investors**"), this Honourable Court granted an initial order (the "**Initial Order**") providing protection to the Debtor Companies (as defined in the Initial Order) under the CCAA granting the following relief, among other things:
- (a) appointing A&M as Monitor of the Debtor Companies with certain enhanced powers;
 - (b) granting a stay of proceedings for an initial period up to and including November 24, 2024 (the "**Stay Period**") with respect to the Debtor Companies and the Affiliate Entities (as defined in **Schedule "A"** hereto);
 - (c) appointing Fasken Martineau DuMoulin LLP as representative counsel for the Canadian investors (in such capacity, the "**Canadian Representative Counsel**");
 - (d) appointing Norton Rose Fulbright Canada LLP as representative counsel for the investors outside of Canada (in such capacity, the "**Foreign Representative Counsel**", and together with Canadian Representative Counsel, "**Representative Counsel**");
 - (e) authorizing the Monitor, on behalf of the Debtor Companies, to enter into an interim financing agreement with Pillar Capital Corp. ("**Pillar**" or the "**Interim Lender**") and to borrow from Pillar the initial principal amount of \$500,000 with the ability in the future to borrow up to \$2,000,000;
 - (f) granting the following charges over the Property in the following relative priorities:
 - (i) First – a charge in favour of the Monitor, its Assistants, Monitor's Counsel and Representative Counsel (the "**Administration Charge**") to a maximum amount of \$250,000; and
 - (ii) Second – a charge in favour of Pillar in respect of the Interim Financing to a maximum amount of \$500,000 (the "**Interim Lender's Charge**");(collectively, the "**Charges**"); and
 - (g) authorizing the Monitor to act as "Foreign Representative" of the A2A Group, in order to apply for a Temporary Restraining Order in the US and subsequently apply to commence ancillary insolvency proceedings under Chapter 15 of Title 11 of the US Bankruptcy Code in the US Bankruptcy Court for the Northern District of Texas.

3. On November 18, 2024, the Monitor filed an application returnable on November 21, 2024, seeking an amended and restated initial in these CCAA proceedings (the “**Comeback Application**”).
4. On November 21, 2024, this Honorable Court granted an Order extending the Stay Period up to and including November 26, 2024, and reserved its decisions on the remaining relief sought at the Comeback Application and an application to set aside the CCAA until November 25, 2024, at 2:00 p.m. MST.
5. On November 25, 2024, this Honourable Court granted an amended and restated initial order (the “**ARIO**”) under the CCAA, among other things:
 - (a) extending the Stay Period up to and including December 18, 2024, adjourning certain relief under the Comeback Application to Wednesday, December 18, 2024, at 10:00 am MST;
 - (b) directing the Monitor to provide the Second Report of the Monitor by Thursday November 28, 2024 at 4:00 pm MST for the purpose of providing the Court with the following:
 - (i) the expenditures and accruals to date of the Monitor, Monitor’s Counsel, and Representative Counsel; and
 - (ii) a revised cash flow statement listing all proposed expenditures of the Monitor, Monitor’s Counsel, and Representative Counsel until and including the Continuation Date;
 - (c) directing the Monitor to provide a comprehensive report (i.e., the Third Report) by 4:00 p.m. on Friday, December 13, 2024 to the Court to address, among other things:
 - (i) any entitlements of each class of investors, including the investors’ rights to approve property sales;
 - (ii) the ownership of the properties;
 - (iii) the value of the properties;
 - (iv) the marketing process that was conducted or is being conducted for the properties; and
 - (v) the investor approval process conducted for any sales, including how investors were notified of sales, what they were told, what opportunities they were given to approve sales, and how sales were approved, including by whom and under what authority; and

- (vi) directing the Debtor Companies and Affiliate Entities to provide to the Monitor by 4:00 p.m. on Friday December 6, 2024 (the “**Information Deadline**”), the Requested Information (as defined in the ARIO).
 - (d) On November 29, 2024, this Honourable Court granted an order granting, among other things, an increase to the Initial Interim Lender’s Charge from \$500,000 to \$1,250,000 plus the amount of all interest, fees and expenses in respect of the principal amount advanced with respect to the Interim Financing.
6. The Debtor Companies and Affiliate Entities failed to or refused to provide the majority of the Requested Information by the Information Deadline, in contravention of the ARIO, an order of this Honourable Court. However, the Debtor Companies have continued to provide portions of the Requested Information since the Information Deadline, including critical documents that were provide to the Monitor as late as December 12, 2024.
7. Capitalized terms not otherwise defined herein shall have the meaning given to such terms in the ARIO.

Stay Extension

8. The Stay Period will expire on December 18, 2024.
9. The Monitor requests that the stay of proceedings be extended (the “**Stay Extension**”) to the earlier of: (i) the termination of these CCAA Proceedings; or (ii) February 28, 2025.
10. In accordance with the terms of the ARIO, the Monitor has been working diligently with its counsel and Representative Counsel to gather and review information relating to the businesses and operations of the Debtor Companies and Affiliate Entities, and to prepare the Third Report.
11. The requested Stay Extension is required for the following reasons:
- (a) it will afford the Monitor sufficient time to determine a strategy for the monetization of the Property;
 - (b) assuming the increase to the Administration Charge is granted, there will be sufficient coverage afforded to the professionals; and
 - (c) the Monitor does not believe any creditor of the Debtor Companies will be materially prejudiced by the proposed Stay Extension.

12. It is just, convenient and in the best interest of the Debtor Companies and their stakeholders for the Debtor Companies to continue to be afforded the protections by the CCAA pursuant to a Stay Extension

Increase to Administration Charge

13. The Monitor is seeking an increase to the Administration Charge from \$250,000 to \$1,250,000.
14. The Monitor submits that it is appropriate for this Honourable Court to exercise its jurisdiction and increase the amount of the Administration Charge, given that:
 - (a) the Debtor Companies and Affiliated Entities consist of a large and intertwined group of companies and entities, formed under the laws of at least two Canadian provinces and the United States, with real property in both countries. Consequently, any sale or restructuring of the Property will be complex given the number of stakeholders and the necessity for cross-border Insolvency Proceedings;
 - (b) all beneficiaries of the Administration Charge (*i.e.*, the Monitor, counsel to the Monitor and Representative Counsel) have contributed, and will continue to contribute, to the restructuring efforts of the Debtor Companies and there is no unwarranted duplication of roles; and
 - (c) the quantum of the charge is fair and reasonable in light of the enhanced powers and responsibilities of the Monitor under the ARIO, and the professional expertise and knowledge required by the Monitor and other beneficiaries of the Administration Charge in order to successfully navigate these CCAA Proceedings and maximize value for the benefit of all stakeholders.
15. The Monitor is of the view that the proposed increase to the Administration Charge is appropriate and necessary in light of the Businesses, Properties, the Monitor's duties, the duties of counsel to the Monitor, and the duties, and necessity for, Representative Counsel.

Approval of Professional Fees

16. The total fees and disbursements the Monitor for the period to November 25, 2024 are \$172,380.90 inclusive of GST in the amount of \$8,208.62.
17. The total fees and disbursements of the Monitor's counsel for the period to November 25, 2024 are \$218,002.82 inclusive of GST in the amount of \$10,313.58.

18. The total fees and disbursements of the Monitor's US counsel to November 30, 2024 are USD \$96,172.00.
19. The Monitor is of the view that its fees and disbursements and those of its legal counsel are reasonable in the circumstances, and commensurate with the work performed by the parties, which was necessary and appropriate in the circumstances.

Approval of Activities of Monitor

20. The Monitor has acted diligently since its appointment as Monitor
21. The actions, conduct and activities of the Monitor are described in the Pre-Filing Report, the First Report, the Second Report and the Third Report are lawful, proper, and consistent with its powers under the ARIO.

Advice and Direction

22. Given that several documents, including some that appear to be central to the Monitor's questions and concerns, were delivered to the Monitor well after the Information Deadline, the Monitor and its counsel are in the process of reviewing those documents. As such, the Monitor's position on the advice and direction relief will be fully articulated in its brief or in a subsequent report once the Monitor and its counsel have had the opportunity to review the information that came in after the Information Deadline.

Alternative Relief

23. If the Court is not prepared to continue these CCAA Proceedings, A&M alternatively seeks the appointment of A&M as receiver over all the current and future property, assets and undertaking, including all proceeds thereof (the "**Property**") of the Debtor Companies and Affiliate Entities.
24. Debtor Companies' management is either unwilling or unable to deal with the Property and the A2A Investors have lost faith in the ability of Debtor Companies' management to protect their claims. Court intervention is required to create a single, fair and transparent process with the various claims of the stakeholder, including the A2A Investors.
25. The Monitor is of the view that, if the CCAA Proceedings are not continued, the appointment of an equitable Receiver is just and convenient in the circumstances and necessary to protect the interest of the A2A Investors.

Material or evidence to be relied on:

26. Pre-Filing Report of the Proposed Monitor dated November 12, 2024;
27. Consent to Act as Monitor and Receiver executed by a duly authorized representative of A&M, filed November 14, 2024;
28. First Report of the Monitor, dated November 20, 2024;
29. First Supplement to the First Report of the Monitor dated November 21, 2024;
30. Second Supplement to the First Report of the Monitor dated November 25, 2024;
31. Second Report of the Monitor dated November 28, 2024;
32. Third Report of the Monitor dated December 13, 2024;
33. Such further and other material or evidence as counsel may advise and this Honourable Court permits.

Applicable Acts and regulations:

34. *Companies' Creditors Arrangement Act*, RSC 1985, c C-36, as amended, in particular sections 2 to 5, 11, 11.001, 11.02, 11.2, 11.7, 11.23, 11.52, and 18.6;
35. *Judicature Act*, RSA 2000, c J-2, as amended.
36. *Alberta Rules of Court*, AR 124/2010 and in particular, Rule 13.5;
37. Such further and other legislation as counsel may advise and this Honourable Court permits.

How the application is proposed to be heard or considered:

38. Via Webex, on the Calgary Commercial List before the Honourable Justice Simard.

WARNING

You are named as a respondent because you have made or are expected to make an adverse claim in respect of this originating application.

If you do not come to Court either in person or by your lawyer, the Court may make an order declaring you and all persons claiming under you to be barred from taking any further proceedings against the applicant and against all persons claiming under the applicant. You will be bound by any order the Court makes, or another order might be given or other proceedings taken which the applicant is entitled to make without any further notice to you.

If you want to take part in the application, you or your lawyer must attend in Court **[or via Webex]** on the date and at the time shown at the beginning of this 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"

- (a) Angus A2A GP Inc. ("**Angus GP**");
 - (b) Angus Manor Park A2A GP Inc. ("**Angus Manor GP**");
 - (c) Angus Manor Park A2A Capital Corp. ("**Angus Manor Capital**");
 - (d) Angus Manor Park A2A Developments Inc. ("**Angus Manor Developments**");
 - (e) Hills of Windridge A2A GP Inc. ("**Windridge GP**");
 - (f) Windridge A2A Developments, LLC ("**Windridge Developments**");
 - (g) Fossil Creek A2A GP Inc. ("**Fossil Creek GP**");
 - (h) Fossil Creek A2A Developments, LLC ("**Fossil Creek Developments**");
 - (i) A2A Developments Inc. ("**Developments**");
 - (j) Serene Country Homes (Canada) Inc. ("**Serene**"); and
 - (k) A2A Capital Services Canada Inc. ("**A2A CSC**"),
- (collectively, the "**Debtor Companies**").

- (a) Angus A2A Limited Partnership ("**Angus LP**");
 - (b) Angus Manor Park A2A Limited Partnership ("**Angus Manor LP**");
 - (c) Hills of Windridge A2A LP ("**Windridge LP**");
 - (d) Hills of Windridge A2A Trust ("**Windridge Trust**");
 - (e) Fossil Creek A2A Limited Partnership ("**Fossil Creek LP**");
 - (f) Fossil Creek A2A Trust ("**Fossil Creek Trust**"),
- (collectively, the "**Affiliate Entities**").

SCHEDULE "B"
SERVICE LIST

SCHEDULE "A" – SERVICE LIST
Action No. 2401-15969
Last Update Dec 13, 2024

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Marie Lind Email: marie.lind@serenehomes.com	Interested Party	Email

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SCHEDULE "C"

ORDER

COURT FILE NUMBER 2401-15969
COURT COURT OF KING'S BENCH OF ALBERTA
JUDICIAL CENTRE CALGARY

Clerk's Stamp

IN THE MATTER OF THE *COMPANIES' CREDITORS*
ARRANGEMENT ACT, RSC 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF THE COMPROMISE OR ARRANGEMENT OF
ANGUS A2A GP INC., ANGUS MANOR PARK A2A GP INC., ANGUS
MANOR PARK A2A CAPITAL CORP., ANGUS MANOR PARK A2A
DEVELOPMENTS INC., HILLS OF WINDRIDGE A2A GP INC.,
WINDRIDGE A2A DEVELOPMENTS, LLC, FOSSIL CREEK A2A GP
INC., FOSSIL CREEK A2A DEVELOPMENTS, LCC, A2A
DEVELOPMENTS INC., SERENE COUNTRY HOMES (CANADA) INC.
and A2A CAPITAL SERVICES CANADA INC.

APPLICANT **ALVAREZ & MARSAL CANADA INC.**, in its capacity as Court-appointed
Monitor of ANGUS A2A GP INC., ANGUS MANOR PARK A2A GP INC.,
ANGUS MANOR PARK A2A CAPITAL CORP., ANGUS MANOR PARK
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WINDRIDGE A2A DEVELOPMENTS, LLC, FOSSIL CREEK A2A GP
INC., FOSSIL CREEK A2A DEVELOPMENTS, LCC, A2A
DEVELOPMENTS INC., SERENE COUNTRY HOMES (CANADA) INC.
and A2A CAPITAL SERVICES CANADA INC.

DOCUMENT **ORDER APPROVING INCREASE TO ADMINISTRATION CHARGE,
ETC.**

ADDRESS FOR
SERVICE AND
CONTACT
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OF PARTY
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P: 403 351 2920 / 403 351 2922

Attention: Jeffrey Oliver / Danielle Marechal

File no. 57100-4

DATE ON WHICH ORDER WAS PRONOUNCED: December 18, 2024

LOCATION WHERE ORDER WAS PRONOUNCED: Calgary, Alberta

JUSTICE WHO MADE THIS ORDER: The Honourable Justice Simard

UPON the application (the "**Application**") of Alvarez & Marsal Canada Inc. ("**A&M**") in its capacity as the
court-appointed monitor with enhanced powers (in such capacity, the "**Monitor**") of Angus A2A GP Inc.,
Angus Manor Park A2A GP Inc., Angus Manor Park A2A Capital Corp., Angus Manor Park A2A

Developments Inc., Hills of Windridge A2A GP Inc., Windridge A2A Developments, LLC, Fossil Creek A2A GP Inc., Fossil Creek A2A Developments, LLC, A2A Developments Inc., Serene Country Homes (Canada) Inc., and A2A Capital Services Canada Inc. (together, the "**Debtor Companies**"); **AND UPON** having read the Pre-filing Report of the Monitor dated November 13, 2024, the First Report of the Monitor dated November 20, 2024, the First Supplement to the First Report of the Monitor dated November 21, 2024, the Second Supplement to the First Report of the Monitor dated November 25, 2024, the Second Report of the Monitor dated November 28, 2024 and the Third Report of the Monitor dated December 13, 2024 ; **AND UPON** reviewing the Initial Order granted by the Honourable Justice C. Feasby in these proceedings on November 14, 2024 and the Amended and Restated Initial Order granted by the Honourable Justice C. Simard in these proceedings on November 25, 2024 (the "**ARIO**"); **AND UPON** hearing counsel for the Monitor, Representative Counsel (as defined herein), counsel for the Debtor Companies and any other party in attendance; **AND UPON** being satisfied that it is appropriate to do so;

IT IS HEREBY ORDERED AND DECLARED THAT:

SERVICE

1. The time for service of the notice of application for this order (the "**Order**") is hereby abridged and deemed good and sufficient and the Application is properly returnable today.

CAPITALIZED TERMS

2. Capitalized terms used herein but not otherwise defined in this Order shall have the meaning given to such terms in ARIO.

STAY OF PROCEEDINGS

3. The Stay Period is hereby extended until and including February 28, 2025.

INCREASE TO ADMINISTRATION CHARGE

4. The aggregate amount of the Administration Charge set out in paragraphs 49 of the ARIO is increased from \$250,000 to \$1,250,000.
5. The ARIO shall be and is hereby amended by deleting paragraph 57 therefore and replacing it with new paragraph 57 reading as follows:

57. The priorities of the Administration Charge, and the Interim Lender's Charge, as among them,

shall be as follows:

First – Administration Charge (to the maximum amount of \$250,000);

Second – Interim Lender's Charge (to the maximum amount of \$1,250,000, plus the amount of all interest, fees and expenses in respect of the principal amount advanced under the Term Sheet and/or Definitive Documents).

Third – Administration Charge (to the maximum amount of \$1,000,000);

APPROVAL OF PROFESSIONAL FEES

6. The fees and disbursements of the Monitor and Monitor's Counsel, as set out in the Third Report, are hereby approved without the necessity of a formal passing of its accounts.

APPROVAL OF ACTIVITIES OF MONITOR

7. The Pre-Filing Report of the Monitor dated November 13, 2024, the First Report of the Monitor dated November 20, 2024, the Second Report of the Monitor dated November 28, 2024 and the Third Report of the Monitor dated December 13, 2024 and the activities of the Monitor set out therein are approved.

SERVICE AND NOTICE PROTOCOL

8. This Order shall be served upon those parties listed on the Service List by ordinary mail, courier, or electronic transmission. Service to be deemed effected by the next business day following transmission or delivery of such documents.
9. The Monitor shall post a copy of this Order to the Monitor's Website for these proceedings:
www.alvarezandmarsal.com/a2a
10. Service of this Order to any other party is hereby dispensed with.

Justice of the Court of King's Bench of Alberta