

COURT FILE NUMBER	1703 21274
COURT	COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE	EDMONTON
APPLICANT	THE CITY OF EDMONTON
RESPONDENT	ALVAREZ & MARSAL CANADA INC.in its capacity as Court-appointed Receiver of the current and future assets, undertakings and properties of REID-BUILT HOMES LTD., 1679775 ALBERTA LTD., REID WORLDWIDE CORPORATION, BUILDER'S DIRECT SUPPLY LTD., REID BUILT HOMES CALGARY LTD., REID INVESTMENTS LTD., REID CAPITAL CORP., and EMILIE REID
DOCUMENT	APPLICATION BY THE CITY OF EDMONTON
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	City of Edmonton Law Branch 9th Floor Chancery Hall Edmonton, AB T5J 2C3 Per: Allan Delgado/Carly Androschuk Phone: (780) 442-0985 Fax: (780) 496-7267



NOTICE TO THE RESPONDENT: ALVAREZ & MARSAL CANADA INC.in its capacity as Court-appointed Receiver of the current and future assets, undertakings and properties of REID-BUILT HOMES LTD., 1679775 ALBERTA LTD., REID WORLDWIDE CORPORATION, BUILDER'S DIRECT SUPPLY LTD., REID BUILT HOMES CALGARY LTD., REID INVESTMENTS LTD., REID CAPITAL CORP., and EMILIE REID

This application is made against you. You are the 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: **Tuesday, January 9, 2018**
Time: **2:00 PM**
Where: **Law Courts, 1A Sir Winston Churchill Square, Edmonton, AB**
Before Whom: **The Honourable Mr. Justice R.A. Graesser**

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. Clarification from this Honourable Court with respect to what is meant by paragraph 3 of the Order pronounced November 29, 2017 in this Receivership and filed on November 30, 2017 (the "Order").
2. A modification or further order that the City of Edmonton maintains a priority, as set out in section 348 of the *Municipal Government Act*, ahead of the charge of the Receiver as described in the November 29, 2017 Order for any outstanding municipal property taxes against the Property that is the subject of the November 29, 2017 Order.

Grounds for making this application:

3. The *Municipal Government Act*, R.S.A. 2000, c M-26 at section 348 states:

Tax becomes debt to municipality

348 Taxes due to a municipality

- (a) are an amount owing to the municipality,
- (b) are recoverable as a debt due to the municipality,
- (c) **take priority over the claims of every person except the Crown, and**
- (d) **are a special lien**
 - (i) on land and any improvements to the land, if the tax is a property tax, a community revitalization levy, a special tax, a local improvement tax or a community aggregate payment levy, or
 - (ii) on goods, if the tax is a business tax, a community revitalization levy, a well drilling equipment tax, a community aggregate payment levy or a property tax imposed in respect of a designated manufactured home in a manufactured home community.

[Emphasis added]

4. At the Application heard November 29, 2017, counsel for the court appointed Receiver, Alvarez & Marsal Canada Inc. made the following submissions:

15 If the stakeholders in one of these buildings agreed with the receiver that we should be
16 paying the property tax to avoid interest, they agreed that they are a priority, we will,
17 upon agreement, make those payments. **It's not for us today to say we've decided**
18 **unilaterally the City has priority**, that the tax amount is right, and that we should pay it.
19 That's what your court officer does, and that's what your court officer has been
20 empowered and entrusted to do, and **that is what they will do, going forward, with respect**
21 **to each project and each property.**
[Transcript from the Proceedings for the afternoon of November 29, 2017 at p.7, emphasis added]

5. The Order filed November 30, 2017, states at para. 3:

The Receiver is entitled to and is hereby granted a first charge as against any specific Property so improved by exercise of the Property Powers, **where such first charge ranks in priority to all other charges and claims**, including the lien claims, as against the Property so improved.
[Emphasis added]

6. It has come to the attention of the City of Edmonton that the Receiver expects that the impending written decision of this Honourable Court will include, among other things, a determination on the question of whether the City's special lien under section 348 of the MGA will be subordinate to the first charge of the Receiver granted at para. 3 of the Order.
7. While the City of Edmonton did not make submissions at the Application heard November 29, 2017, on the basis of a misunderstanding of the position of the Receiver, it is in the interests of justice that this Honourable Court consider the submissions of the City of Edmonton with respect to its special lien priority under section 348 of the MGA in order to avoid a possible error in its judgment and to determine this issue on its merits.

Material or evidence to be relied on:

8. The Affidavit of Megan Sawchyn, filed December 20, 2017;
9. The pleadings and other documents filed with the Court in this Receivership; and
10. Such further and other materials as counsel for the City may present and this Honourable Court may permit.

Applicable rules:

11. Rules 1.2, 1.4, 9.13, 9.14, 9.15 of the *Alberta Rules of Court*, Alta Reg 124/2010; and
12. Such other rules as counsel may advise or this Honourable Court may permit.

Applicable Acts and regulations:

13. Section 348 of the *Municipal Government Act*, RSA 2000, c M-26.

Any irregularity complained of or objection relied on:

14. None.

How the application is proposed to be heard or considered:

15. In person before the Honourable Mr. Justice R.A. Graesser, on notice to all parties.

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 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.