

## **Headnote**

Mutual Reliance Review System for Exemptive Relief Applications – relief granted from the requirement to include prospectus level disclosure in an information circular on the condition that the circular include the same financial statements to be found in the REIT's IPO prospectus.

## **Applicable Alberta Statutory Provisions**

ASC Rule 41-501, Form 30 Item 11

**IN THE MATTER OF  
THE SECURITIES LEGISLATION OF  
ALBERTA, BRITISH COLUMBIA, ONTARIO, QUEBEC, SASKATCHEWAN,  
NEW BRUNSWICK, PRINCE EDWARD ISLAND, NEWFOUNDLAND AND  
LABRADOR, NORTHWEST TERRITORIES AND NUNAVUT**

**AND**

**IN THE MATTER OF  
THE MUTUAL RELIANCE REVIEW SYSTEM  
FOR EXEMPTIVE RELIEF APPLICATIONS**

**AND**

**IN THE MATTER OF T.G.S. PROPERTIES LTD.**

### **MRRS DECISION DOCUMENT**

WHEREAS the Canadian securities regulatory authority or regulator (collectively, the "Decision Makers") in each of Alberta, British Columbia, Ontario, Quebec, Saskatchewan, New Brunswick, Prince Edward Island, Newfoundland and Labrador, Northwest Territories and Nunavut (the "Jurisdictions") has received an application from T.G.S. Properties Ltd. ("TGS") for a decision under the securities legislation of the Jurisdictions (the "Legislation") that TGS be exempt from the requirement to include in its Information Circular (the "Information Circular") to be mailed to Securityholders in connection with a proposed reorganization of the business and affairs and share capital of TGS, financial statements of TGS consisting of 3 years of audited consolidated financial statements for the years ended December 31, 2001, the 11 months ended December 31, 2000 and the year ended January 31, 2000 and unaudited consolidated financial statements for the 6 months ended June 30, 2002 and 2001, as required by the information circular form and the prospectus form prescribed by the Legislation;

AND WHEREAS under the Mutual Reliance Review System for Exemptive Relief Applications (the "System") the Alberta Securities Commission is the principal regulator for this application;

AND WHEREAS TGS has represented to the Decision Makers that:

1. TGS is a corporation incorporated under the laws of Alberta;

2. The authorized capital of TGS consists of an unlimited number of common shares and an unlimited number of preferred shares;
3. As at September 15, 2002 37,351,428 common shares were issued and outstanding;
4. TGS is a reporting issuer in Alberta, British Columbia, Saskatchewan, Manitoba, Ontario and Quebec;
5. The common shares of TGS are presently listed on the Toronto Stock Exchange;
6. TGS intends to deliver to shareholders, holders ("Debentureholders") of its 8% convertible debenture due 2005 and holders of options ("Optionholders") to acquire common shares of TGS (collectively, the "Securityholders") an Information Circular in respect of a proposed reorganization of the business and affairs and share capital of TGS (the "Reorganization");
7. The Reorganization will include, among other things the sale by TGS of certain commercial real estate properties (the "Existing TGS Properties") to a real estate investment trust, TGS North American Real Estate Investment Trust (the "REIT"), and an arrangement (the "Arrangement") pursuant to which shareholders will acquire Units of the REIT and common shares of TGS Properties Inc. ("TGSPI"), a new public company which will continue the land development business of TGS. Also pursuant to the Arrangement Debentureholders and Optionholders will receive Debentures and Options, as applicable, of TGSPI which will be identical in all material respects to the securities they currently hold other than the exercise price and the conversion price, as applicable, will be reduced taking into account the post-Reorganization value of TGSPI;
8. Upon completion of the Reorganization TGSPI will become the parent holding company of TGS;
9. Contemporaneously with the Reorganization the REIT will complete an initial public offering of units by way of prospectus (the "IPO"). The closing of the IPO is a condition to the completion of the Reorganization;
10. The REIT will use the proceeds from the IPO to purchase five (5) additional commercial real estate properties in the United States (the "Acquisition Properties");
11. Subject to paragraph 12, the Information Circular will contain the information that would be included in a prospectus of TGS together with a detailed description of the Reorganization and the securities being issued thereunder;
12. Based on pre-filing discussions and correspondence with staff, TGS intends to include the same financial statements which are to be included in the REIT's IPO prospectus in the Information Circular instead of the financial statements that would be required in a prospectus of TGS, as prescribed by the Legislation.
13. The Information Circular will contain the following financial statements:
  - (a) combined financial statements for the Existing TGS Properties consisting of:
    - (i) audited balance sheets as at December 31, 2001 and 2000;

- (ii) unaudited interim balance sheet as at June 30, 2002;
- (iii) audited statements of income, cash flows and retained earnings for the years ended December 31, 2001, 2000 and 1999; and
- (iv) unaudited interim statements of income, distributable income, cash flows and retained earnings for the 6 months ended June 30, 2002 and 2001

(collectively, the "Existing TGS Properties Financial Statements").

The Existing TGS Properties Financial Statements will also contain segmented note disclosure by property and by year detailing the operations of each property for the full 3 year period (including the results from those years that the properties were not subject to common control) and supplemental note disclosure in column schedule format pertaining to salient financial operating and physical characteristics of each property including net rentable area, historical net book value, historical revenues and operating expenses;

- (b) for the 2 Acquisition Properties which are under common control of one vendor:

- (i) audited combined balance sheets as at December 31, 2001 and 2000;
- (ii) unaudited combined interim balance sheet as at June 30, 2002;
- (iii) audited combined statements of income, distributable income, cash flows and retained earnings for the years ended December 31, 2001, 2000 and 1999; and
- (iv) unaudited combined interim statements of income, distributable income, cash flows and retained earnings for the 6 months ended June 30, 2002 and 2001

(collectively, the "Combined Acquisition Properties Financial Statements").

The Combined Acquisition Properties Financial Statements will include segmented note disclosure by property detailing the operations of each property and supplemental note disclosure in column schedule format pertaining to salient financial operating and physical characteristics of each property including net rentable area, historical net book value, historical rental revenues and operating expenses;

- (c) separate sets of financial statements for each of the remaining three (3) Acquisition Properties consisting of:

- (i) audited balance sheets as at December 31, 2001 and 2000;
- (ii) unaudited interim balance sheet as at June 30, 2002;
- (iii) audited statements of income, distributable income, cash flows and retained earnings for the years ended December 31, 2001, 2000 and 1999; and
- (iv) unaudited interim statements of income, distributable income, cash flows and retained earnings for the 6 months ended June 30, 2002 and 2001.

- (d) pro forma financial statements consisting of:
  - (i) unaudited pro forma balance sheet of the REIT at June 30, 2002;
  - (ii) unaudited pro forma statement of income of the REIT for the year ended December 31, 2001; and
  - (iii) unaudited pro forma statement of income of the REIT for the 6 months ended June 30, 2002(collectively, the "Pro Forma Financial Statements").
- (e) pro forma balance sheet for TGSPI as at December 31, 2001 and as June 30, 2002 taking into account the Reorganization;

AND WHEREAS under the System, this MRRS Decision Document evidences the decision of each Decision Maker (collectively, "the Decision");

AND WHEREAS each of the Decision Makers is satisfied that the test contained in the Legislation that provides the Decision Maker with the jurisdiction to make the Decision has been met;

THE DECISION of the Decision Makers under the Legislation is that TGS is exempt from the requirement to include in the Information Circular financial statements of TGS consisting of 3 years of audited consolidated financial statements for the years ended December 31, 2001 and 2000 and January 31, 2000 and unaudited consolidated financial statements for the 6 months ended June 30, 2002 and 2001 as required by the information circular form and the prospectus form prescribed by the Legislation, provided that the Information Circular contains the financial statements referred to in representation 12.

DATED at Edmonton, Alberta on September 27, 2002

“original signed by”  
Agnes Lau, C.A.  
Deputy Director, Capital Markets