

Headnote

Mutual Reliance Review System for Exemptive Relief Applications - issuer selling undivided half-interest in a property development to former director in consideration for surrender and cancellation of shares held by director - transaction exempted from issuer bid requirements of the Legislation

Applicable Alberta Statutory Provisions

Securities Act, S.A., 1981, c.S-6.1, as amended, s. 135 - 137.2, s. 144(2)(c)

IN THE MATTER OF
THE SECURITIES LEGISLATION
OF ALBERTA AND SASKATCHEWAN

AND

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

AND

IN THE MATTER OF BOSTON DEVELOPMENT CORP.

MRRS DECISION DOCUMENT

1. WHEREAS the local securities regulatory authority or regulator (the “Decision Maker”) in each of Alberta and Saskatchewan (the “Jurisdictions”) has received an application from Boston Development Corp. (“Boston”) for a decision pursuant to the securities legislation of the Jurisdictions (the “Legislation”) that the issuer bid requirements of the Legislation (the “Issuer Bid Requirements”) shall not apply to the acquisition by Boston for cancellation of common shares of Boston (the “Common Shares”) in connection with the sale by Boston of an undivided 50% interest in one of its properties;
2. 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;
3. AND WHEREAS Boston has represented to the Decision Makers that:
 - 3.1. **Boston is incorporated under the *Business Corporations Act* (Alberta). Its head office is in Calgary, Alberta and it is a reporting issuer in the Jurisdictions;**

- 3.2. the authorized capital of Boston consists of an unlimited number of Common Shares and an unlimited number of Class "B" and Class "C" Preferred Shares of which as at October 31, 2000, 21,947,362 Common Shares were issued and outstanding;
 - 3.3. the Common Shares are listed and posted for trading on the Canadian Venture Exchange Inc.;
 - 3.4. Boston is involved in the acquisition, management and development of commercial and residential real estate and owns properties in the Provinces of Alberta, Saskatchewan, Manitoba and Ontario. One of Boston's holdings is an undivided 50% interest in a residential and commercial development property situated in Oakville, Ontario (the "Oakville Project"). The Oakville Project is held indirectly by Boston's wholly-owned subsidiary 1369883 Ontario Ltd. ("1369883"), and by the Brownstones Inc. ("Brownstones") through co-tenancy agreements. Other than its interest in the Oakville Project, 1369883 has no other assets;
 - 3.5. Dale C. Haugrud ("Haugrud") was a senior officer, director and promoter of Boston and was instrumental in introducing Boston to the Oakville Project. Haugrud's father-in-law is an officer and director of Brownstones and an officer and director of one of the two shareholders of Brownstones;
 - 3.6. over the past two years, Boston has had a number of disagreements and difficulties with Brownstones relating to Brownstones' management and control of the Oakville Project, with the result that both have threatened to commence litigation. Boston has considered a number of alternatives to resolve its difficulties with the Oakville Project, including termination of the co-tenancies or the sale of its undivided interest. An agreement could not be reached for Brownstones to acquire Boston's interest on satisfactory terms and any sale or other resolution requires the approval of Brownstones;
 - 3.7. the difficulties arising from the Oakville Project caused a strain in the relationship between Haugrud and other members of Boston's management such that Haugrud resigned his positions in Boston and its subsidiaries effective September 1, 2000;
 - 3.8. Boston has reached an agreement with Haugrud, subject to regulatory approval, that would resolve Haugrud's departure from Boston and terminate Boston's involvement in the Oakville Project. The agreement contemplates that Boston will sell its interest in the Oakville Project to Haugrud in exchange for 4,840,000 Common Shares owned and/or controlled by Haugrud and his wife, Catherine Haugrud (the "Transaction"), both of whom are residents of Alberta. Boston is advised by Haugrud that such shares represent all of the Common Shares owned and controlled by him with the exception of 244,000 Common Shares held in his RRSPs;
 - 3.9. the deemed price of the Transaction is \$2.4 million, which is supported by a valuation report prepared by an independent firm of real estate valuers and counsellors on Boston's undivided 50% interest in the Oakville Project;
 - 3.10. based on prior appraisals and their knowledge of the real estate market in western Canada, management of Boston is of the view that after taking into effect the Transaction, the net asset value of Boston's remaining assets on a per share basis would be within 10% of the deemed price per share of the Transaction;
 - 3.11. the Common Shares being acquired by Boston amount to 21.4% of the issued and outstanding Common Shares;
 - 3.12. the Transaction has been approved by the non-conflicted members of the Board of Directors of Boston who beneficially own and exercise control over an aggregate of 41.8% of the issued and outstanding Common Shares (53.6% exclusive of Haugrud's interest);
 - 3.13. the Transaction is subject to the Issuer Bid Requirements;
 - 3.14. Haugrud and his wife would not benefit from the protections afforded by the Issuer Bid Requirements;
 - 3.15. non-conflicted members of the Board of Directors of Boston and one senior officer of Boston who hold, in the aggregate, 58% of the Common Shares exclusive of Haugrud's interest, have approved the Transaction, and do not object to the granting of the relief requested.
4. AND WHEREAS under the System, this MRRS Decision Document evidences the decision of each Decision Maker (collectively, the "Decision");

5. 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;
6. THE DECISION of the Decision Makers under the Legislation is that the issuer bid requirements contained in the Legislation shall not apply to Boston in connection with the Transaction.

DATED at Edmonton, Alberta this 28th day of November, 2000.

“original signed by”

Stephen P. Sibold, Q.C., Chair

“original signed by”

Eric T. Spink, Vice-Chair