

2006 BCSECCOM 369

COR 06/051

Headnote

Securities Act s. 48,76 Other - Exemption from s. 34(1)(a) requirement to be registered as a dealer for a trade and s. 61 requirement to file a prospectus for a distribution other than in connection with a corporate acquisition or reorganization; business associates; debt settlements; or employee investment plans and consultants - An issuer of real estate securities wants registration and prospectus relief on behalf of itself and purchasers of its securities - the real estate securities are comprised of a direct interest in real property, an interest in an existing or potential rental pool or management agreement for the property, and a right to occupy the property; the seller must comply with the Real Estate Development Marketing Act and must not market any expected economic benefits of the pooling or management agreement

Exemption Order

Royal Private Residence Club

Sections 48 and 76 of the Securities Act, R.S.B.C. 1996, c. 418

Background

- ¶ 1 Royal Private Residence Club (RPRC) applied for exemption from the requirements to be registered to trade and to file and obtain receipts for a preliminary prospectus and prospectus in sections 34(1)(a) and 61 of the Act (the registration and prospectus requirements) for certain intended trades.

Representations

- ¶ 2 RPRC represents that:
1. it is a joint venture consisting of Royal Host (Canada) GP Inc. as general partner of the Royal Private Residences Club (Canada) Limited Partnership, RH Private Residences Ltd., and Grand Okanagan Resort Ltd;
 2. none of the co-venturers nor RPRC are nor have any intention of becoming a reporting issuer under the Act;
 3. it is the developer of a 70 unit private residence club located next to the Grand Okanagan Hotel in Kelowna, British Columbia;

2006 BCSECCOM 369

4. it intend to distribute fractional interests consisting of:
 - (a) whole, 1/3, 1/6, and 1/12 interests in a strata lot;
 - (b) the right to occupy the unit for at least approximately 30 days per year; and
 - (c) an optional rental pool arrangement that pools revenue, expenses, and profits among owners of the units who elect to participate in the rental pool agreement from time to time, in accordance with proportionate interests;
5. it will offer the fractional interests to purchasers in British Columbia under prospectuses dated May 14, 2004 and August 9, 2004, accepted for filing under the *Real Estate Act*, and a disclosure statement dated July 8, 2005, as amended to reflect this order, accepted for filing under the *Real Estate Development Marketing Act*, which have been or will be delivered to each purchaser before an agreement of purchase and sale is entered into;
6. it expects to receive an occupancy permit for the development and commence closings by June 30, 2006;
7. the rental pool arrangement does not include or purport to include any rental or cash flow guarantee, or other financial commitment on the part of any person connected with the offering; and
8. the fractional interests would qualify as optional rental pool securities under BC Instrument 45-512 *Real Estate Securities* except that a purchaser of a fractional interest will have the right to occupy the unit only at times proportionate to the purchaser's fractional interest.

Order

- ¶ 3 Because it is not prejudicial to the public interest, the Commission orders under section 48 and 76 of the Act, that a trade in a fractional interest is exempt from the registration and prospectus requirements, provided that:

- (1) the seller complies with the *Real Estate Development Marketing Act*; and

2006 BCSECCOM 369

- (2) the seller, or an agent acting on the seller's behalf, does not market any expected economic benefits of the rental pool agreement.

¶ 4 June 2, 2006

Brent W. Aitken
Vice Chair
British Columbia Securities Commission