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December 10, 2007

Headnote

Mutual Reliance Review System for Exemptive Relief Applications - National Instrument 51-102 *Continuous Disclosure Obligations*, section 13.1 – relief from BAR requirements - BAR - An issuer requires relief from the requirement to file a business acquisition report - The acquisition is insignificant applying the asset and investment tests; applying the income test, the acquisition is significant only because the filer adopted a new method of calculating depreciation which led to a significant reduction in the issuer's income from continuing operations; the issuer will apply an alternative income test that uses net operating income (excluding mortgage interest and depreciation expense); the alternative income test yields approximately the same result as the asset and investment tests

Applicable British Columbia Provisions

NI 51-102, ss. 8.2 and 13.1

In the Matter of
the Securities Legislation of
British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Québec,
New Brunswick, Nova Scotia, Newfoundland and Labrador, Northwest
Territories, Nunavut and Yukon

and

In the Matter of
the Mutual Reliance Review System for Exemptive Relief Applications

and

In the Matter of
Canadian Apartment Properties Real Estate Investment Trust

MRRS Decision Document

Background

The local securities regulatory authority or regulator (the Decision Maker) in each of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Québec, New Brunswick, Nova Scotia, Newfoundland and Labrador, Northwest Territories, Nunavut and Yukon (collectively, the Jurisdictions) has received an application from Canadian Apartment Properties Real Estate Investment Trust (the REIT) for a decision pursuant to the securities legislation in the Jurisdictions (the Legislation) granting relief to use the NOI Test (defined below) rather than the income test specified under Part 8 of National Instrument 51-102 – Continuous

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Disclosure Obligations (NI 51-102) for the purposes of the REIT's continuous disclosure obligations in respect of the September 26, 2007 acquisition (the Acquisition) of certain multi-unit residential properties (the TransGlobe Portfolio) (the Requested Relief).

Under the Mutual Reliance Review System for Exemptive Relief Applications:

- (a) the Ontario Securities Commission is the principal regulator for this application, and
- (b) this MRRS decision document evidences the decision of each Decision Maker.

Interpretation

Defined terms contained in National Instrument 14-101 Definitions have the same meaning in this decision unless they are defined in this decision.

Representations

This decision is based on the following facts represented by the REIT:

1. The REIT is an internally managed unincorporated closed-end real estate investment trust owning interests in multi-unit residential properties including apartment buildings and townhouses located in major urban centres across Canada and two land lease adult lifestyle communities.
2. The REIT was established under the laws of the Province of Ontario by a declaration of trust and its head office is located in Toronto, Ontario.
3. The REIT is a reporting issuer under the securities legislation of each of the provinces and territories of Canada.
4. The units of the REIT are listed and posted for trading on the Toronto Stock Exchange under the trading symbol CAR.UN.
5. The REIT completed its initial public offering on May 21, 1997 pursuant to its final long form prospectus dated May, 12 1997.
6. As at October 22, 2007, the REIT had ownership interests in 27,853 residential suites well diversified by geographic location and asset class and 1,233 land lease sites.
7. As at and for the year ended December 31, 2006 the REIT had assets in excess of \$2 billion, net operating income (NOI) of approximately \$132.5 million

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(calculated as revenue less operating expenses (including trust expenses, interest income and interest on bank indebtedness), but before deducting mortgage interest expense and depreciation expense) and income from continuing operations of approximately \$722,000.

8. As at and for the year ended December 31, 2005 the REIT had assets of approximately \$1.9 billion, NOI of approximately \$120.9 million and income from continuing operations of approximately \$1.3 million.
9. Under NI 51-102, the REIT is required to file a business acquisition report (BAR) for any completed acquisition that is determined to be significant based on the acquisition satisfying any of the three significance tests set out in subsection 8.3(2) of NI 51-102.
10. One of the significance tests in subsection 8.3(2) requires the REIT to compare its proportionate share of the income from continuing operations of the TransGlobe Portfolio to its own income from continuing operations based on the most recently completed financial year of each ended before the date of the acquisition (the Income Test).
11. The application of the Income Test produces an anomalous result for the REIT in comparison to the results of the other tests of significance in subsection 8.3(2) of NI 51-102 that were not triggered.
12. The use of a test based on a comparison of the REIT's proportionate share of the NOI of the TransGlobe Portfolio to its own NOI based on the most recently completed financial year of each ended before the date of the acquisition, (the NOI Test) more accurately reflects the significance of the Acquisition from a business and commercial perspective and its results are generally consistent with the other tests of significance in subsection 8.3(2) of NI 51-102.

Decision

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 the Requested Relief is granted.

“Erez Blumberger”

Manager, Corporate Finance