

# 2002 BCSECCOM 734

## **Headnote**

Mutual Reliance Review System for Exemptive Relief Applications – relief from requirement to file and deliver interim financial statements while issuer completes winding up

## **Applicable British Columbia Provisions**

*Securities Act*, R.S.B.C. 1996, c. 418, s. 91

*Securities Rules*, B.C. Reg. 194/97, ss. 144, 149

## **IN THE MATTER OF THE SECURITIES LEGISLATION OF BRITISH COLUMBIA AND ONTARIO**

**AND**

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

**AND**

## **IN THE MATTER OF DEL CANO PROPERTIES TRUST**

## **MRRS DECISION DOCUMENT**

WHEREAS the local securities regulatory authority or regulator (the “Decision Maker”) in British Columbia and Ontario (the “Jurisdictions”) has received an application from Del Cano Properties Trust (the “Issuer”) for a decision under the securities legislation of the Jurisdictions (the “Legislation”) that the requirement contained in the Legislation to file interim financial statements with the Decision Makers and deliver such statements to its shareholders (the “Interim Financial Requirement”), shall not apply to the Issuer;

AND WHEREAS under the Mutual Reliance Review System for Exemptive Relief Applications (the “System”), the British Columbia Securities Commission is the principal regulator for this application;

AND WHEREAS the Issuer has represented to the Decision Makers that:

1. the Issuer is a closed-end real estate investment trust, formed under the laws of the State of Maryland, with a head office located in Vancouver, British Columbia;
2. the Issuer is a reporting issuer under the Legislation and is not in default of any requirement of the Legislation;
3. the Issuer’s authorized capital consists of 20,000 priority preferred shares (“Priority Shares”) and 7,000 common shares of which 4,237.6 Priority Shares and no common shares are outstanding;

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4. the Priority Shares may be traded through a licensed broker of the Canadian Unlisted Board, which is an over-the-counter market;
  5. until April 30, 2002, the Issuer owned and operated 11 residential income-producing properties (the "Properties"), through a series of wholly-owned limited partnerships;
  6. on April 30, 2002, the Issuer controlled limited partnerships sold the Properties to nominees of Aspen Square Management, Inc. for US \$107.55 million, of which the Issuer received net proceeds of approximately US \$32.7 million;
  7. since selling the Properties, the Issuer has begun a winding up process of its business and affairs, which should be completed by early 2003;
  8. as part of the winding up process, the Issuer is divesting itself of all its material assets, and has made or is going to make the following distributions from sale proceeds of the Properties to holders of Priority Shares:
    - (a) first cash distribution announced on May 31, 2002 of approximately US \$3,836 per share before withholding taxes;
    - (b) second cash distribution announced on June 27, 2002 of approximately US \$3,431 per share before withholding taxes; and
    - (c) final liquidating dividend to be announced in late 2002 or early 2003;
  9. the holders of Priority Shares will obtain adequate financial information from the audited annual financial statements of the Issuer; and
  10. since the Issuer is in the process of winding up, satisfying the Interim Financial Requirement will not be of significant benefit to the holders of Priority Shares and may impose a material financial burden on the Issuer;
- 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;

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THE DECISION of the Decision Makers under the Legislation is that the Interim Financial Requirement shall not apply to the Issuer, provided that this relief will terminate if a material change occurs in the affairs of the Issuer, unless the Decision Makers have confirmed in writing to the Issuer that the relief should continue.

DATED August 16, 2002

Brenda Leong,  
Director