

2002 BCSECCOM 980

Headnote

Relief granted from the prospectus requirement to permit the first trades of securities without a seasoning period

Exemption Order

Brookfield Homes Corporation

Section 76 of the *Securities Act*, R.S.B.C. 1996, c. 418

Background

- ¶ 1 Brookfield Homes Corporation (BHC) applied for an exemption from the requirement to file and obtain receipts for a preliminary prospectus and prospectus in section 61 of the Act for certain intended trades of its securities.

Representations

- ¶ 2 BHC represents that:
1. it is incorporated under the laws of the State of Delaware;
 2. its authorized capital consists of 65 million shares of common stock with a par value of \$0.01 per share (BHC shares), and 10 million shares of preferred stock, with a par value of \$0.01 per share;
 3. it has applied to list the BHC shares on the New York Stock Exchange (NYSE);
 4. it does not intend to list any of its securities in Canada;
 5. it will be subject to the reporting requirements of the United States *Securities Exchange Act of 1934*, as amended, and will file annual reports, proxy statements and other continuous disclosure information required under applicable United States securities laws with the United States Securities and Exchange Commission;
 6. it has filed a preliminary non-offering prospectus in each province and intends to become a reporting issuer prior to December 31, 2002, and will file continuous disclosure information under applicable securities laws in all of the provinces;

2002 BCSECCOM 980

7. it is currently an indirect, wholly owned subsidiary of Brookfield Properties Corporation (Brookfield);
8. Brookfield is a reporting issuer in all provinces and has its common shares (Brookfield shares) listed on The Toronto Stock Exchange and the NYSE;
9. Brookfield intends to distribute its United States residential home building business to the holders of its Brookfield shares (shareholders) by transferring this business to BHC through a series of internal reorganizations, then distributing BHC shares to the shareholders as a special distribution (the special distribution);
10. under the special distribution, each shareholder will receive one fifth of one BHC share for each Brookfield share held;
11. Brookfield intends to complete the special distribution on December 31, 2002 to its shareholders of record on December 20, 2002;
12. Brookfield intends to distribute the BHC shares to residents of British Columbia under the exemptions from the registration and prospectus requirements in the Act in sections 45(2)(14) and 74(2)(13) of the Act, respectively;
13. Brookfield will provide notice in advance of the special distribution to the Executive Director;
14. because BHC will be a “qualified issuer” for the purposes of section 2.6 of Multilateral Instrument 45-102 *Resale of Securities*, the first trade of the BHC shares held by residents of British Columbia will be deemed to be a distribution unless it has been a reporting issuer for the four months immediately preceding the trade; and
15. as of December 31, 2002, the intended date of the special distribution, BHC will not have been a reporting issuer for four months.

Order

- ¶ 3 Because it is not prejudicial to the public interest, the Executive Director orders under section 76 of the Act that the first trade in BHC shares received by shareholders under the special distribution are exempt from the prospectus requirements, provided that
- (a) BHC becomes a reporting issuer in British Columbia by filing and obtaining a receipt for a final prospectus from the Executive Director, and

2002 BCSECCOM 980

(b) the conditions in subsections 2.6(3)2, 3, 4 and 5 of MI 45-102 are satisfied.

¶ 4 December 5, 2002

Brenda Leong
Director