

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE MR.) THURSDAY, THE 15TH
JUSTICE HAINEY) DAY OF OCTOBER, 2020

BETWEEN:

THE SUPERINTENDENT OF FINANCIAL SERVICES

Applicant

- and -

BUILDING & DEVELOPMENT MORTGAGES CANADA INC.

Respondent

**APPLICATION UNDER SECTION 37 OF THE
MORTGAGE BROKERAGES, LENDERS AND ADMINISTRATORS ACT, 2006, S.O. 2006,
c. 29 and SECTION 101 OF THE COURTS OF JUSTICE ACT, R.S.O. 1990 c. C.43**

OML DISTRIBUTION ORDER

THIS MOTION, made by FAAN Mortgage Administrators Inc., in its capacity as Court-appointed trustee (in such capacity, the “Trustee”), of all of the assets, undertakings and properties of Building & Development Mortgages Canada Inc. (“BDMC”) pursuant to section 37 of the *Mortgage Brokerages, Lenders and Administrators Act, 2006*, S.O. 2006, c. 29, as amended, and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended, for an Order, *inter alia*:
(i) authorizing the Trustee to make a distribution of 85% of the Realized Property received in

respect of the OML Sale Transaction (as defined in the Twentieth Report) on a *pari passu* basis to all remaining OML Investors in accordance with the approach described in the Twentieth Report and pursuant to the terms of the Realized Property Order, as amended; (ii) approves the Twentieth Report and the Trustee's activities described therein, and (iii) seals Confidential Appendix "1" to the Twentieth Report until further Order of this Court, was heard this day by videoconference in Toronto, in accordance with the changes to the operations of the Commercial List in light of the COVID-19 pandemic;

ON READING the Twentieth Report of the Trustee dated October 2, 2020 (the "**Twentieth Report**"), and on hearing the submissions of counsel for the Trustee, Chaitons LLP, in its capacity as Representative Counsel, and such other counsel as were present, no one appearing for any other person on the service list, as appears from the affidavit of service of Justine Erickson sworn October 5, 2020, filed;

SERVICE AND INTERPRETATION

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion, the Motion Record, and the Twentieth Report is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.
2. **THIS COURT ORDERS** that all capitalized terms used but not defined herein shall have the meanings given to them in the Twentieth Report.

OLD MARKET LANE REALIZED PROPERTY

3. **THIS COURT ORDERS** that all proceeds received or receivable by the Trustee from the OML Sale Transaction are and shall be deemed to be "Realized Property" as defined in the Order of this Court dated June 26, 2018.
4. **THIS COURT ORDERS** that the Trustee shall make a distribution in an aggregate amount equal to 85% of the Realized Property received from the OML Sale Transaction on a *pari passu* basis to all remaining OML Investors in accordance with the *Pari Passu* Approach described in the Twentieth Report, and in accordance with paragraph 3(b) of the Order of this Court dated

October 30, 2018, as amended by Orders of this Court dated November 28, 2018 and December 20, 2018.

APPROVAL OF TWENTIETH REPORT AND ACTIVITIES

5. **THIS COURT ORDERS** that the Twentieth Report and the Trustee's activities described therein are hereby approved.

SEALING

6. **THIS COURT ORDERS** that Confidential Appendix "1" of the Twentieth Report shall be sealed, kept confidential and not form part of the public record, but rather shall be placed, separate and apart from all other contents of the Court file, in a sealed envelope attached to a notice that sets out the title of these proceedings and a statement that the contents are subject to a sealing order and shall only be opened upon further Order of the Court.

OTHER

7. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Trustee and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Trustee, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Trustee and its agents in carrying out the terms of this Order.



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OCT 16 2020

PER / PAR: 

THE SUPERINTENDENT OF FINANCIAL SERVICES

- and -

**BUILDING & DEVELOPMENT MORTGAGES CANADA
INC.**

Applicant

Respondent

Court File No. CV-18-596204-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

Proceedings commenced at Toronto

OML DISTRIBUTION ORDER

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in its capacity as Court-appointed Trustee of
Building & Development Mortgages Canada Inc.