

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

B E T W E E N:

EMERALD CASTLE DEVELOPMENTS INC.

Applicant

- and -

FAAN MORTGAGE ADMINISTRATORS INC., in its capacity as the Court-Appointed Trustee  
of BUILDING & DEVELOPMENT MORTGAGES CANADA INC. formerly known as  
CENTRO MORTGAGE INC., and OLYMPIA TRUST COMPANY

Respondents

APPLICATION UNDER SECTION 37 OF THE *MORTGAGE BROKERAGES, LENDERS AND ADMINISTRATORS ACT*, 2006, S.O. 2006, C. 29; SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990 c. C. 43, and *Rule 14.05(3)(d) of the RULES OF CIVIL PROCEDURE*, R.S.O. 1990, Reg. 194, as amended

**Written Interrogatories for the Trustee**

1. With regard to paragraph 9 of the Seventeenth Report of the Trustee (“the **17<sup>th</sup> Report**”), please advise of the reasons, along with all facts and evidence the Trustee is relying on in support thereof, as to why the Trustee disagrees with Emerald Castle’s position in this application as set out in paragraph 8 of the 17<sup>th</sup> Report?
2. With regard to paragraph 9 of the 17<sup>th</sup> Report, please advise of the basis of your understanding, along with full particulars thereof, as to why Representative Counsel disagrees with Emerald Castle’s position in this application as set out in paragraph 8 of the 17<sup>th</sup> Report?
3. Assuming for this question alone that the Waterfall and End of Term Event provisions at sections 7.2 and 14 of the Loan Agreement govern and are enforceable, does the Trustee take any issue with any of the amounts set out in the waterfall calculation contained at Tab K to the application record, at pages 190 and 191? If so, please provide full particulars regarding the same.
4. With reference to paragraph 34 of the 17<sup>th</sup> Report:

- a. Do you have any information to dispute that the Trustee has been in possession of both the general ledger of Emerald Castle and the Fortress side letter since May of 2019?
  - b. Has Emerald Castle ever refused to provide any documentation requested by the Trustee? If yes, please provide the full particulars regarding the same.
  - c. Has the Trustee ever advised Emerald Castle that it was unable to verify that all of the proceeds of the Loan advanced were not accounted for or that the proceeds had not been applied in accordance with the Loan Agreement and Fortress side letter?
5. Was the information contained in the Trustee's Motion Record dated October 31, 2019 in respect of the Castlemore Settlement Approval Order accurate as at October 31, 2019? If not, please provide full particulars.
  6. Since October 31, 2019, has the Trustee learned that any of the information contained in its motion record referred to in the preceding question is inaccurate or incorrect? If so, please provide full particulars.
  7. When did the Trustee receive the BDMC records referred to in paragraph 29 of the 17<sup>th</sup> Report?
  8. When did the Trustee receive the BDMC records referred to in paragraph 31 of the 17<sup>th</sup> Report?
  9. When did the Trustee receive the BDMC records referred to in paragraph 32 of the 17<sup>th</sup> Report?
  10. When did the Trustee receive the Emerald Castle records referred to in paragraph 36 of the 17<sup>th</sup> Report?

The Applicant reserves its rights to ask any follow up questions arising from the answers provided by the Trustee to the foregoing questions.

**June 1, 2020**

**FRIEDMAN LAW  
PROFESSIONAL CORPORATION**  
150 Ferrand Drive, Suite 800  
Toronto, Ontario M3C 3E5

William Friedman –LSO #18420U  
Judy Hamilton – LSO #39475S

Tel: 416-496-3340  
Fax: 416-497-3809

Lawyers for the Applicant

**EMERALD CASTLE DEVELOPEMNTS INC.**

Applicant

and

**FAAN MORTGAGE ADMINISTRATORS INC. ET AL.**

Respondents

Court File No.: CV-20-00637238-00CL

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Proceeding commenced at Toronto

**WRITTEN INTERROGATORIES**

**FRIEDMAN LAW PROFESSIONAL  
CORPORATION**

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Toronto, Ontario M3C 3E5

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Lawyers for the Applicant