

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:)	Chapter 11
)	
BUILDING MATERIALS HOLDING CORPORATION, <i>et al.</i> , ¹)	Case No. 09-12074 (KJC)
)	
Reorganized Debtors.)	Jointly Administered
)	Ref. Docket Nos. 956, 1443, and 1472

**ORDER APPROVING STIPULATION RESOLVING THE REQUEST OF
D.R. HORTON, INC. FOR RELIEF FROM THE AUTOMATIC STAY**

Upon consideration of the *Certification of Counsel Regarding Stipulation Resolving the Request of D.R. Horton, Inc. for Relief from the Automatic Stay* (the "Certification of Counsel"); and the Court having found, based on the statements made in the Certification of Counsel, that notice of the Stipulation (as defined in the Certification of Counsel) was provided in accordance with the Procedures Order (as defined in the Certification of Counsel); and good and sufficient cause appearing therefore, it is hereby ORDERED that;

1. The Stipulation, a copy of which is attached hereto as Exhibit A, is hereby approved.
2. This Court shall retain jurisdiction with respect to all matters arising from or related to the implementation of this Order.

Dated: March 16, 2010
Wilmington, Delaware


Kevin J. Carey
Chief United States Bankruptcy Judge

¹ The Reorganized Debtors, along with the last four digits of each Reorganized Debtor's tax identification number, are as follows: Building Materials Holding Corporation (4269), BMC West Corporation (0454), SelectBuild Construction, Inc. (1340), SelectBuild Northern California, Inc. (7579), Illinois Framing, Inc. (4451), C Construction, Inc. (8206), TWF Construction, Inc. (3334), H.N.R. Framing Systems, Inc. (4329), SelectBuild Southern California, Inc. (9378), SelectBuild Nevada, Inc. (8912), SelectBuild Arizona, LLC (0036), and SelectBuild Illinois, LLC (0792). The mailing address for the Reorganized Debtors is 720 Park Boulevard, Suite 200, Boise, Idaho 83712.

EXHIBIT A

Stipulation

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

IN RE:)	Chapter 11
BUILDING MATERIALS HOLDING CORPORATION, <i>et al.</i> , ¹)	Case No. 09-12074 (KJC)
Debtors.)	Jointly Administered

STIPULATION RESOLVING THE REQUEST OF D.R. HORTON, INC.
FOR RELIEF FROM THE AUTOMATIC STAY

D.R. Horton, Inc., ("*Claimant*") and Building Materials Holding Corporation and its affiliates, the debtors and debtors in possession in the above-referenced cases (collectively, the "*Debtors*," and together with the Claimant, the "*Parties*") hereby respectfully stipulate and agree as follows:

RECITALS

WHEREAS, on June 16, 2009 (the "*Petition Date*"), each of the Debtors filed with the United States Bankruptcy Court for the District of Delaware (the "*Court*") voluntary petitions for relief under title 11 of the United States Code (the "*Bankruptcy Code*"). Each Debtor is continuing to operate its business and manage its properties as a debtor in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. The Debtors' cases are being jointly administered pursuant to rule 1015(b) of the Federal Rules of Bankruptcy Procedure;

WHEREAS, on August 27, 2009, the Claimant filed Proof of Claim Number 2457 (the "*Claim*") covering several lawsuits and claims involving homes sold by Claimant's

¹ The Debtors, along with the last four digits of each Debtor's tax identification number, are as follows: Building Materials Holding Corporation (4269), BMC West Corporation (0454), SelectBuild Construction, Inc. (1340), SelectBuild Northern California, Inc. (7579), Illinois Framing, Inc. (4451), C Construction, Inc. (8206), TWF Construction, Inc. (3334), H.N.R. Framing Systems, Inc. (4329), SelectBuild Southern California, Inc. (9378), SelectBuild Nevada, Inc. (8912), SelectBuild Arizona, LLC (0036), and SelectBuild Illinois, LLC (0792). The mailing address for the Debtors is 720 Park Boulevard, Suite 200, Boise, Idaho 83712.

Portland, Oregon market for which Debtor's Portland Oregon installed framing services group provided materials and subcontracted framing labor. These lawsuits and claims are described on the attached Exhibit A (the "*Actions*").

WHEREAS, on December 7, 2009, the Debtors filed the Joint Plan of Reorganization for the Debtors under Chapter 11 of the Bankruptcy Code (the "*Plan*").

WHEREAS, on December 17, 2009, the Court entered an order approving the Plan (the "*Confirmation Order*") and the Plan became effective January 4, 2010.

WHEREAS Claimant has requested that Debtor agree to lift the Automatic Stay and injunction under section 9.1.2 of the Plan to allow Claimant to proceed to recover certain insurance proceeds that may be recoverable by Claimant in connection with the Actions.

WHEREAS, for each Action, the Claimant asserts it is entitled to recover from the insurance policies described on Exhibit A (the "*Policies*");

WHEREAS, the Debtors are willing to stipulate to relief from the automatic stay and the injunction pursuant to section 9.1.2. of the Plan in favor of the Claimant for the sole purpose of allowing the Claimant to proceed with the Actions and to enforce any settlement or judgment in Claimant's favor from the available liability insurance proceeds of the Policies.

NOW THEREFORE, subject to the approval of the Court, in order to avoid the costs, risks and inconveniences of litigation, it is hereby stipulated and agreed as follows:

1. The Parties hereby acknowledge and agree to relief from the automatic stay being granted in favor of the Claimant for the sole purpose of allowing the Claimant to proceed with the Actions and to enforce any settlement or judgment in Claimant's favor from the available liability insurance proceeds of the Policies. Immediately after the stay is lifted, Claimant agrees to voluntarily provide Debtor's local counsel the opportunity to review and copy all discovery responses, documents, deposition testimony and other evidence in its

possession, received from any current or former party, current or former party's expert, or non party in response to a subpoena, during the time period the claim against Debtor was stayed.

2. Except as set forth in paragraph 3 below, the Parties hereby acknowledge and agree that this Stipulation shall fully and finally resolve, and the Claimant waives and releases, any direct, pre-petition, post-petition, administrative, or other claim against the Debtors of any kind or nature, arising out of or related to the Actions, provided, however, the Claimant shall retain a claim to the extent necessary to obtain insurance proceeds from the Policies.

3. Claimant shall amend its Claim as set forth in Exhibit A (the "Amended Claim") but shall only be entitled to recover on the Amended Claim in the event the settlements or judgments obtained against the Debtor in the Actions are not fully satisfied by the Policies.

4. Claimant and Debtor have also agreed to resolve all claims asserted by the Parties in the arbitration proceedings filed by Debtor against Claimant with the Arbitration Service of Portland (Case No. 080829) as follows (i) Claimant shall pay to Debtor the sum of \$84,515.68 within 10 days of the approval of this Stipulation in full satisfaction of Debtor's claims. Claimant shall be entitled to retain \$84,515.69 of the funds it is currently holding in full satisfaction of its counterclaim for back charges and its claims for costs and attorney fees. Debtor hereby waives any claim for voidable preference with regard to funds withheld by or paid to Claimant within 90 days prior to the Petition Date.

5. The Parties hereby acknowledge and agree that this Stipulation is entered into solely for the convenience of the Parties and neither this Stipulation nor the fact of its execution will constitute any admission or acknowledgment or liability or wrongdoing on the part of any of the Parties. The Parties will not offer this Stipulation or the fact of its execution into evidence in any proceeding other than a proceeding to approve or enforce this Stipulation or any of its terms.

6. Each party shall bear its own attorneys' fees and costs with respect to the execution and delivery of this Stipulation. Each of the undersigned are duly authorized and empowered to execute this Stipulation.

7. This Stipulation is governed by and shall be construed in accordance with the law of the State of Delaware, without regard to its conflict of laws provisions. The Court shall retain exclusive jurisdiction to resolve any disputes or controversies arising from or related to this Stipulation.

8. All of the recitals set forth above are incorporated by reference as if fully set forth herein. This Stipulation constitutes the complete express agreement of the Parties hereto concerning the subject matter hereof, and no modification or amendment to this Stipulation shall be valid unless it is in writing, signed by the Party or Parties to be charged and approved by the Court.

9. It is acknowledged that each Party has participated in and jointly consented to the drafting of this Stipulation and that any claimed ambiguity shall not be construed for or against either Party on account of such drafting.

10. This Stipulation may be executed in counterparts, any of which may be transmitted by facsimile or electronic mail, and each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

11. This Stipulation is subject to approval of the Court, and the Parties agree to present the Stipulation promptly to the Court for approval. If the Court does not approve this Stipulation, the Parties will revert to their pre-Stipulation positions, without any prejudice whatsoever from having entered into this Stipulation.

12. This Stipulation shall become effective immediately upon entry of an order approving the Stipulation.

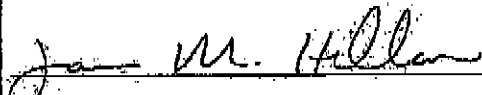
For
Building Materials Holding Corporation and its
affiliates, as debtors and debtors in possession



Maureen E. Thomas, Esq.
982 Coledale Ct.
White Lake, MI 48386

Dated: 2-23-10

For
D.R. Horton Inc.



JAMES M. HILLAS, ESQ.
DUNN CARNEY ALLEN HIGGINS & TONGUE, LLP
851 SW 6TH AVE., SUITE 1500
PORTLAND, OR 97204

Dated: FEBRUARY 18, 2010

Exhibit #

B-1B (Official Form 10) (12/08)

Amended

UNITED STATES BANKRUPTCY COURT		District of Delaware	PROOF OF CLAIM # 2477
Name of Debtor BMC West Corporation		Case Number 09-12076	
NOTE: This form should not be used to make a claim for an administrative expense arising after the commencement of the case. A request for payment of an administrative expense may be filed pursuant to 11 U.S.C. § 503.			
Name of Creditor (the person or other entity to whom the debtor owes money or property) D R Horton, Inc - Portland		<input type="checkbox"/> Check this box to indicate that this claim amends a previously filed claim	
Name and address where notices should be sent c/o James M Hillas, Attorney, Dunn Carney Allen Higgins & Tongue 851 SW 6th Ave, #1500, Portland, OR 97204		Court Claim Number (if known)	
Telephone number (503) 224-6440		Filed on	
Name and address where payment should be sent (if different from above)		<input type="checkbox"/> Check this box if you are the debtor or trustee in this case	
FILED - 0247 1180-DISTRICT OF DELAWARE BUILDING MATERIALS HOLDING CORPORATION, ET AL. 09-12076 (GJC)		<input type="checkbox"/> Check this box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars	
Telephone number		<input type="checkbox"/> Check this box if you are the debtor or trustee in this case	
1. Amount of Claim as of Date Case Filed \$ <u>211,400.00</u> - See attached		5. Amount of Claim Entitled to Priority under 11 U.S.C. § 507(a). If any portion of your claim falls in one of the following categories, check the box and state the amount	
If all or part of your claim is secured, complete item 4 below, however, if all of your claim is unsecured, do not complete item 4		Specify the priority of the claim	
If all or part of your claim is entitled to priority, complete item 5		<input type="checkbox"/> Domestic support obligations under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B)	
<input type="checkbox"/> Check this box if claim includes interest or other charges in addition to the principal amount of claim. Attach itemized statement of interest or charges		<input type="checkbox"/> Wages, salaries, or commissions (up to \$10,950*) earned within 180 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier - 11 U.S.C. § 507(a)(4)	
2. Basis for Claim <u>goods and services</u> (See instruction #2 on reverse side)		<input type="checkbox"/> Contributions to an employee benefit plan - 11 U.S.C. § 507(a)(5)	
3. Last four digits of any number by which creditor identifies debtor		Up to \$2,425* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use - 11 U.S.C. § 507(a)(7)	
3a. Debtor may have scheduled account as _____ (See instruction #3a on reverse side)		<input type="checkbox"/> Taxes or penalties owed to governmental units - 11 U.S.C. § 507(a)(8)	
4. Secured Claim (See instruction #4 on reverse side) Check the appropriate box if your claim is secured by a lien on property or a right of setoff and provide the requested information		<input type="checkbox"/> Other - Specify applicable paragraph of 11 U.S.C. § 507(a)(____)	
Nature of property or right of setoff <input type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other		Amount entitled to priority \$ _____	
Describe		*Amounts are subject to adjustment on 4/1/10 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment	
Value of Property \$ _____ Annual Interest Rate _____ %			
Amount of arrearage and other charges as of time case filed included in secured claim, if any \$ _____			
Basis for perfection _____			
Amount of Secured Claim \$ _____ Amount Unsecured \$ _____			
6. Credits The amount of all payments on this claim has been credited for the purpose of making this proof of claim			
7. Documents Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages and security agreements. You may also attach a summary. Attach redacted copies of documents providing evidence of perfection of a security interest. You may also attach a summary. (See instruction 7 and definition of 'redacted' on reverse side)			
DO NOT SEND ORIGINAL DOCUMENTS ATTACHED DOCUMENTS MAY BE DESTROYED AFTER SCANNING			
If the documents are not available, please explain			
Date 08/27/2009	Signature The person filing this claim must sign it. Sign and print name and title, if any, of the creditor or other person authorized to file this claim and state address and telephone number if different from the notice address above. Attach copy of power of attorney, if any.		FOR COURT USE ONLY
	<u>James M. Hillas</u>		



Penalty for presenting fraudulent claim: Fine of up to \$500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 152 and 3571

08-31-09P02:00 RCVD

Case Caption	Policies	Amended Claim Maximum
Autumn Meadows Owners Association v. D.R. Horton, Inc. - Portland, et al./D.R. Horton, Inc. - Portland v. BMC West Corp. et al Washington County Circuit Court Case No. C083002CV	Royal Insurance Company Policy No. P2TV463132 (11-11-2001 to 11-11-2002) Royal Insurance Company Policy No. P2TV463132 - 0002 (11-11-2002 to 11-11-2003)	\$175,000
Steve and Crystal McInfire v. D.R. Horton, Inc. - Portland/D.R. Horton, Inc. - Portland v. 16-07-27456	National Union Fire Insurance Company Policy No. GL5548769 (11-11-2004 to 11-11-2005)	\$84,842.43
D.R. Horton, Inc. - Portland v. BMC West Corp. (Millers Landing)	Royal Insurance Company Policy No. P2TV463132 (11-11-2001 to 11-11-2002)	\$1,929.00
BMC West Corporation v. D.R. Horton, Inc. - Portland, Arbitration Service of Portland, Inc. Case No. 080829	not insured	\$0 settled
Trolley Barn Commons Homeowners Association v. D.R. Horton, Inc. - Portland et al., Multnomah County Circuit Court Case No. 0904-04851	ACE American Insurance Company Policy No. XSLG2170250A (11-11-2006 to 11-11-2007)	\$1,000,000
Oaks at Springbrook Homeowners Association v. D.R. Horton, Inc. - Portland et al., Yamhill County Circuit Court Case No. CV090163	Royal Insurance Company Policy No. P2TV463132 (11-11-2001 to 11-11-2002) Royal Insurance Company Policy No. P2TV463132 - 0002 (11-11-2002 to 11-11-2003) National Union Fire Insurance Company Policy No. GL4806023 (11-11-2004 to 11-11-2005) National Union Fire Insurance Company Policy No. GL5548769 (11-11-2004 to 11-11-2005) ACE American Insurance Company Policy No. HD0G18072889 (11-11-2005 to 11-11-2006)	\$1,000,000
Murray Ridge Owners Association v. D.R. Horton, Inc. - Portland, Washington County Circuit Case No. C081740CV	D R Horton claim assigned to Murray Ridge Owners Association. Injunction remains, subject to pending motion to lift filed by Murray Ridge Owners Association.	\$0
D.R. Horton, Inc. back charges	not insured	\$0 settled
TOTAL		\$2,261,771.43