

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:)	Chapter 11
)	
BUILDING MATERIALS HOLDING CORPORATION,¹)	Case No. 09-12074 (KJC)
)	
Reorganized Debtor.)	Ref. Docket Nos. 956 and 1886
)	

**CERTIFICATION OF COUNSEL REGARDING STIPULATION
RESOLVING THE REQUEST OF D.R. HORTON, INC.
FOR RELIEF FROM THE PLAN INJUNCTION**

On November 19, 2009, the Court entered that certain Order, Pursuant to Sections 105 and 362 of the Bankruptcy Code and Bankruptcy Rule 9019, Authorizing the Debtors to Implement Omnibus Procedures for Modifying the Automatic Stay as It Relates to Certain Prepetition Litigation [Docket No. 956] (the “Procedures Order”). In accordance with the Procedures Order, on May 19, 2011, the Reorganized Debtor and the Subsidiary Debtors filed that certain *Notice of Stipulation Resolving the Request of D.R. Horton, Inc. for Relief from the Plan Injunction* [Docket No. 1886] (the “Notice”) with respect to that certain Stipulation Resolving the Request of D.R. Horton, Inc. for Relief from the Plan Injunction (the “Stipulation”).² Pursuant to the Procedures Order, the objection deadline for the Notice and the Stipulation was July 5, 2011 at 4:00 p.m. (ET).

¹ The Reorganized Debtor in this proceeding, along with the last four digits of its tax identification number, is as follows: Building Materials Holding Corporation (4269), with a mailing address of 720 Park Boulevard, Suite 200, Boise, Idaho 83712. On June 16, 2009, the following affiliates of the Reorganized Debtor also filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code: BMC West Corporation; SelectBuild Construction, Inc.; SelectBuild Northern California, Inc.; Illinois Framing, Inc.; C Construction, Inc.; TWF Construction, Inc.; H.N.R. Framing Systems, Inc.; SelectBuild Southern California, Inc.; SelectBuild Nevada, Inc.; SelectBuild Arizona, LLC; and SelectBuild Illinois (collectively, the “Subsidiary Debtors”). On June 28, 2011, the Court entered that certain Final Decree Closing Subsidiary Cases and Amending Caption of Remaining Case [Docket No. 1896], thereby closing the chapter 11 cases of the Subsidiary Debtors and ordering that all motions, contested matters, and adversary proceedings that remained open as of the date thereof, or that are opened thereafter, with respect to the Reorganized Debtor and the Subsidiary Debtors shall be administered under the Reorganized Debtor’s 11 chapter case.

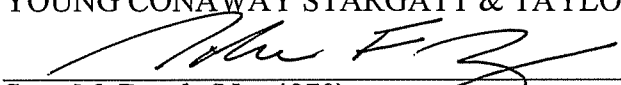
² To the extent there is any inconsistency between the summary provided herein and the actual terms and conditions of the Stipulation, the latter shall control. Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Stipulation.

D.R. Horton, Inc., defined as the "Claimant" in the Stipulation, tendered defense and indemnification in that certain lawsuit filed in the State of Oregon, Washington County Circuit Court, Case No. 111997CV, referred to as *Peters et al vs. D.R. Horton, Inc.* (as may subsequently be amended to add additional anticipated homeowner claimants, the "Action"), to BMC West Corporation ("BMC West"), one of the Subsidiary Debtors, regarding alleged construction defects in numerous single family homes located in a certain project commonly referred to as Heron Ridge. Under the Stipulation, the Claimant will be permitted to prosecute and/or settle this claim against BMC West in the Action so long as it limits any recovery to applicable insurance proceeds from the Policies, subject to those certain conditions set forth in the Stipulation to protect the Debtors and their estates from any administrative expense given the uncertainty surrounding the provisions of the Policies.

The undersigned hereby certifies that, as of the date hereof, he has received no answer, objection or other responsive pleading to the Notice or the Stipulation. Attached hereto as Exhibit 1 is a proposed form of order (the "Proposed Order") approving the Stipulation. The Reorganized Debtor respectfully requests the Court to enter the Proposed Order without further notice or a hearing at the earliest convenience of the Court.

Dated: Wilmington, Delaware
July 7, 2011

YOUNG CONAWAY STARGATT & TAYLOR, LLP


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ATTORNEYS FOR REORGANIZED DEBTORS

EXHIBIT 1

Order

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:)	
)	Chapter 11
BUILDING MATERIALS HOLDING CORPORATION,¹)	Case No. 09-12074 (KJC)
)	Ref. Docket Nos. 956, 1886 and _____
Reorganized Debtor.)	
)	

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

Upon consideration of the *Certification of Counsel Regarding Stipulation Resolving the Request of D.R. Horton, Inc. for Relief from the Plan Injunction* (the “Certification of Counsel”);² and the Court having found, based on the statements made in the Certification of Counsel, that notice of the Stipulation was provided in accordance with the Procedures Order; and good and sufficient cause appearing therefor, it is hereby ORDERED that:

1. The Stipulation, a copy of which is attached hereto as Exhibit A, is hereby approved, and the terms and conditions of the Stipulation are incorporated into this Order by reference as if fully set forth herein.

¹ The Reorganized Debtor in this proceeding, along with the last four digits of its tax identification number, is as follows: Building Materials Holding Corporation (4269), with a mailing address of 720 Park Boulevard, Suite 200, Boise, Idaho 83712.

² Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Certification of Counsel.

2. This Court shall retain jurisdiction with respect to all matters arising from or related to the implementation of this Order.

Dated: July ____, 2011
Wilmington, Delaware

Kevin J. Carey
Chief United States Bankruptcy Judge

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. 09-1 2074 (KJC)
Reorganized Debtors.	Jointly Administered

STIPULATION RESOLVING THE REQUEST OF D.R. HORTON, INC.
FOR RELIEF FROM THE PLAN INJUNCTION

D.R. Horton, Inc. ("*Claimant*") and Building Materials Holding Corporation and its affiliates, the reorganized debtors 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* "). The Debtors' cases are being jointly administered pursuant to rule 10 15(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 in the Portland, Oregon market for which Debtor's Portland, Oregon installed framing services group provided materials and subcontracted framing labor;

WHEREAS, on December 17, 2009, the Court entered an *Order Confirming Joint Plan of Reorganization for the Debtors Under Chapter 11 of the Bankruptcy Code Amended December 14, 2009 (With Technical Modifications)* [Docket No. 1182] (the "*Confirmation Order*") confirming the Debtors'

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
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joint plan of reorganization (the "*Plan*"), On January 4, 2010 (the "*Effective Date*"), the Debtors' Plan became effective;

WHEREAS, from the Petition Date until the Effective Date, the automatic stay imposed by 11 U.S.C. § 362 generally prevented persons or entities from bringing or continuing any actions against the Debtors on account of prepetition claims, and from and after the Effective Date the injunction imposed by the Plan and Confirmation Order (the "*Plan Injunction*") generally prevents persons or entities from bringing or continuing any actions against the Debtors on account of prepetition claims

WHEREAS Claimant has requested that Debtor agree to lift the Plan Injunction to allow Claimant to proceed to recover certain insurance proceeds that may be recoverable by Claimant in connection with a lawsuit filed in the State of Oregon, Washington County Circuit Court, Case No. 111997CV referred to as Peters et al vs. D.R. Horton, Inc., as may subsequently be amended to add additional anticipated homeowner claimants (the "Action").

WHEREAS, the Claimant asserts it is entitled to recover from the following insurance policies (collectively, the "Policies") issued to the Debtors by National Union Fire Insurance Company (the "Insurer"): GL4806023 11-11-2003 to 11-11-2004, and GL5548769 11-11-04 to 11-11-05.

WHEREAS, the Debtors are willing to stipulate to relief from the Plan Injunction in favor of the Claimant for the sole purpose of allowing the Claimant to proceed with the Action 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 Plan Injunction (and the automatic stay, to the extent applicable) being granted in favor of the Claimant for the sole purpose of allowing the Claimant to proceed with the Action and to enforce any settlement or judgment in Claimant's favor from the available liability insurance proceeds of the Policies.

2. The Claimant acknowledges and agrees that the Debtors are making no representations concerning the availability of insurance under the Policies and that the Insurer has all available defenses under the Policies, including with respect to defenses, if any, that arise as the result of the Debtors entering into this stipulation with the Claimant. The Parties hereby agree that if any judgment or settlement obtained by the Claimant against the Debtor in the Action is not satisfied by the Policies, Claimant shall be entitled to seek payment of the unpaid portion of the settlement or judgment from any other applicable insurance policies not specifically referenced herein. The Claimant further acknowledges and agrees that the Debtors retain all defenses they may have with respect to the Action.

3. 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 specified Action, provided, however, the Claimant shall retain a claim to the extent necessary to obtain insurance proceeds from the Policies.

4. 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 of 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.

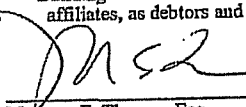
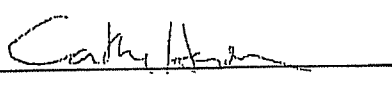
5. Each party shall bear its own attorneys' fees and costs with respect to the execution and delivery of this Stipulation. Each of the undersigned are duly authorized and empowered to execute this Stipulation.

6. 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.

7. 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
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11. 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  Madreen E. Thomas, Esq. 902 Coledale Ct. White Lake, MI 48386 Dated: <u>6-16-11</u>	For D.R. Horton Inc.  Dated: <u>6-15-11</u>
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