

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

THE HONOURABLE

MR. JUSTICE MORAWETZ

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THURSDAY, THE 28TH

DAY OF JUNE, 2012



WYMAN MACKINNON

Plaintiff

- and -

ONTARIO MUNICIPAL EMPLOYEES RETIREMENT BOARD, BOREALIS CAPITAL CORPORATION, BOREALIS REAL ESTATE MANAGEMENT INC., IAN COLLIER, R. MICHAEL LATIMER and MICHAEL NOBREGA

Defendants

ORDER

THIS MOTION for:

- (a) A declaration that the settlement between the plaintiff and defendants is fair, reasonable, and in the best interests of all persons who have a present, future, contingent or unascertained interest in the Ontario Municipal Employees Retirement System Fund (the "OMERS Fund") or may be affected by this proceeding (collectively the "represented persons");
- (b) An order approving the settlements pursuant to rule 10.01(3) of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194;
- (c) A declaration that the settlement agreement forms part of this order and is binding upon the representative plaintiff, upon all of the represented persons and upon the defendants;
- (d) An order that this action be dismissed without costs;

- (e) Such further and other relief as to this Honourable Court may seem just.

was heard this day at Toronto.

UPON hearing from counsel for all parties, and upon their consent to this Order, this Honourable Court finding that the terms of the Order of Justice Morawetz dated April 30, 2012 (and varied by Order of Justice Morawetz dated May 15, 2012) having been complied with.

AND UPON there being no objections received:

1. **THIS COURT DECLARES** that the settlement between the plaintiff and defendants is fair, reasonable, and in the best interests of all persons who have a present, future, contingent or unascertained interest in the Ontario Municipal Employees Retirement System Fund (the "OMERS Fund") or may be affected by this proceeding (collectively the "represented persons");
2. **THIS COURT HEREBY APPROVES** the settlements pursuant to rule 10.01(3) of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194;
3. **THIS COURT DECLARES** that the settlement agreement forms part of this order and is binding upon the representative plaintiff, upon all of the represented persons and upon the defendants;
4. **THIS COURT ORDERS** that the defendant Ontario Municipal Employees Retirement Board pay to the plaintiff, or as he may direct, costs in the amount of \$1,115,534.69 inclusive of all applicable taxes; and

5. **THIS COURT ORDERS** that this action be dismissed without costs.



ENTERED AT / INSCRIT À TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO.:



JUN 28 2012

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

PROCEEDING COMMENCED AT TORONTO

ORDER

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Borealis Real Estate Management Inc.