

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

M. DIANE KOKEN :  
Insurance Commissioner of the :  
Commonwealth of Pennsylvania, :  
 :  
Plaintiff, :  
 :  
v. :  
 :  
RELIANCE INSURANCE COMPANY, :  
 :  
Defendant. :  
\_\_\_\_\_ :

DOCKET NO. 269 MD 2001

ORDER

AND NOW this \_\_\_ day of \_\_\_\_\_, 2003, this Court having considered the  
Petition of M. Diane Koken, Insurance Commissioner of the Commonwealth of  
Pennsylvania, in her official capacity as Liquidator ("Liquidator") of Reliance Insurance  
Company ("Reliance"), for Approval of Sale of Virginia Tax Map 93, Parcels 13 and 5, and  
Tax Map 93((6)), Parcel 18, Loudoun County, Virginia ("Parcels") to Toll Brothers Realty  
Trust, and considering that the purchase price is consistent with the appraised value of said  
property, the Petition is GRANTED. The Agreement of Sale marked as Exhibit A and  
attached to the Petition relating to the sale of the Parcels is hereby APPROVED; and the  
Liquidator is authorized to take any and all actions necessary to execute, deliver, perform,  
and consummate the Agreement and any related documents.

RECEIVED AND FILED  
PHILADELPHIA  
COMMONWEALTH COURT  
OF PENNSYLVANIA  
FEB 13 2 45 PM '03

\_\_\_\_\_  
Hon. James Gardner Colins, President Judge

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

M. DIANE KOKEN :  
Insurance Commissioner of the :  
Commonwealth of Pennsylvania, :  
Plaintiff, :  
v. :  
RELIANCE INSURANCE COMPANY, :  
Defendant. :

DOCKET NO. 269 MDZ001

RECEIVED AND FILED  
PHILADELPHIA  
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**PETITION FOR APPROVAL OF SALE OF  
TAX MAP 93, PARCELS 13 AND 5; AND TAX MAP 93((6)), PARCEL 18,  
LOUDOUN COUNTY, VIRGINIA**

Petitioner M. Diane Koken, Insurance Commissioner of the Commonwealth of Pennsylvania (the "Commissioner"), in her official capacity as Liquidator (the "Liquidator") of Reliance Insurance Company ("Reliance"), respectfully requests that this Court enter an order authorizing the Liquidator to transfer real property held by Reliance and approving the Agreement of Sale between Reliance and Toll Brothers' Realty Trust ("TB Realty Trust") (the "Agreement"). Pursuant to the Agreement, if approved by the Court, Reliance intends to convey to TB Realty Trust real property consisting of approximately 211.81 acres as described below and in the Agreement (the "Property"). A copy of the executed Agreement is attached as Exhibit A.

In support of this Petition, the Liquidator avers the following:

1. On October 3, 2001, this Court found Reliance insolvent and appointed the Commissioner as Liquidator of Reliance pursuant to Article V of the Insurance Department

Act of 1921, 40 P.S. § 221.1 et seq. (hereinafter, the "Act").

2. The Act confers broad powers on the Liquidator to dispose of the assets of Reliance in order to maximize the value of the insolvent insurer's estate for eventual distribution to the Company's policyholders and creditors. See 40 P.S. § 221.23.

3. At the time of its declared insolvency, Reliance's assets included several parcels of real property in Loudoun County, Virginia, including the Property described in the Agreement. See Exhibit A.

4. The Property that is the subject of this Agreement is designated as Virginia Tax Map 93, Parcels 13 and 5, and Tax Map 93((6)), Parcel 18, Loudoun County ("County"), Virginia.

5. The Property was purchased in 1987 as part of Reliance's acquisition of 409 acres for a purchase price approximating \$26,634,439.00, or \$1.49 per square foot. Of the 409 acres acquired, 112.5 acres were zoned residential, and 296.5 acres were zoned commercial. At \$1.49 per square foot, the 112.5 acres of residential land had an underlying pro rata cost of approximately \$7,301,745. During the course of obtaining various governmental approvals, approximately 41.5 residential acres were designated and/or dedicated as flood plain, community recreational space, or for roadway improvements. Of the remaining 71 net acres of residential land, 50 acres were sold in four transactions between 1999 and 2001 for approximately \$5,014,000. The sale of the remaining 21.01 residential acres, was approved by this Court in 2002 for a minimum sale price of \$17,956,800. This sale closed in December, 2002. The transaction proposed herein calls for the sale of 211.81 acres of the 296.5 acres of commercially zoned property acquired in 1987. The balance of the commercially zoned property not being sold to TB Realty Trust was

required to be set aside and/or dedicated as flood plain, right-of-way and/or for toll road use during the development approval process. Moreover, only 167.2 net acres of the 211.81 acres to be sold to TB Realty Trust will be developable by them pursuant to the applicable development approvals.

6. The Parties have completed their negotiations, and TB Realty Trust has executed the Agreement attached at Exhibit A.

7. Cassidy and Pinkard ("Broker") represented Reliance as its broker in connection with the marketing and sale of the Property.

8. In its efforts to market the Property, Cassidy and Pinkard conducted a national marketing effort and sent information packages regarding the Property to approximately two hundred potential buyers. Twelve (12) potential buyers responded, and were sent a full offering memorandum, form of letter of intent, and additional information regarding the Property. Eight (8) of those potential buyers made qualifying offers on the Property, on the terms specified by Reliance. TB Realty Trust's offer was the highest and best offer from that group.

#### **SUMMARY OF THE TERMS OF THE AGREEMENT**

9. The Agreement is expressly contingent upon approval of this Court as set forth in Section 10.1(b) of the Agreement.

10. Pursuant to Paragraph 3.1 of the Agreement, the purchase price to be paid by TB Realty Trust for the Property is Sixteen Million, Five Hundred Eleven Thousand Dollars (\$16,511,000.00) ("Purchase Price").

11. Pursuant to Paragraph 4.1 of the Agreement, TB Realty Trust will pay an initial deposit of Two Hundred Fifty Thousand Dollars (\$250,000.00) into escrow within two (2) business days of the effective date of this Agreement.

12. Pursuant to Paragraphs 5.1 of the Agreement, TB Realty Trust has agreed to accept the property in an "as-is" condition.

13. Pursuant to Paragraphs 5.2 - 5.3 of the Agreement, Reliance's only obligation relative to the condition of the property would be to spend up to \$100,000 to cure any code or other violation that may be issued by any governmental entity after the effective date of the Agreement, and until the date of closing.

14. Pursuant to Paragraph 14.1 of the Agreement, TB Realty Trust has sixty (60) days from the effective date of this Agreement to perform its due diligence, and to terminate the Agreement if it discovers any condition that it deems unacceptable.

15. Pursuant to Paragraphs 4.2 and 14.1, if TB Realty Trust does not terminate the Agreement within that sixty (60) day period, TB Realty Trust is to then provide substitute escrow in the amount of One Million, Two Hundred Fifty Thousand Dollars (\$1,250,000) at that time.

16. Pursuant to Paragraph 9.2 of the Agreement, Reliance's closing expenses are limited to its cost of preparing the Deed, its payment of Virginia's Grantor Tax, and its attorneys' fees.

17. Pursuant to Paragraph 13.1 of the Agreement, Reliance is also obligated to pay Cassidy and Pinkard a Broker's fee. This fee is established by Reliance's brokerage

agreement with Cassidy and Pinkard at approximately 3.12%, representing a blend of 5% for the first \$1,000,000 and 3% for the remaining \$15,511,000 of the purchase price.

18. Based on the \$16,511,000 purchase price, the Broker's fee payable by Reliance at closing would total approximately \$515,330.

19. Reliance currently has certain surety bonds and cash escrows ("Bonds") totaling approximately \$1,676,144 posted with Loudoun County, Virginia, and the Loudoun County Sanitation Authority related to certain improvements that are required by the approved development plans for the Property.

20. Pursuant to Paragraph 15 of the Agreement, TB Realty Trust will assume Reliance's obligation to complete those improvements, and is to deposit \$1,676,144 in escrow to secure those obligations. Paragraph 15 also requires that within 90 days of closing TB Realty Trust execute new Bond Agreements with Loudoun County, Virginia and the Loudoun County Sanitation Authority, and that it then release Reliance from all liability in connection with the Bonds. At that time, the Bonds are to be released and any cash escrows are to be refunded to Reliance.

**THE TRANSACTION IS IN  
THE BEST INTEREST OF THE ESTATE**

21. The Liquidator has taken steps to determine whether the Purchase Price constitutes fair value to Reliance for the Property. See 40 P.S. § 221.23(7), (9) (authorizing the Liquidator to sell assets of the insurer on fair and reasonable terms). After reviewing the terms of the transaction and obtaining independent, professional advice as to the fair market value of the Property, the Liquidator is satisfied that this transaction will yield fair value to Reliance.

22. The Liquidator obtained the advice of Robert G. Johnson, MAI of JMSP, Inc. located in Herndon, Virginia who prepared an appraisal report. Mr. Johnson's report indicates a fair market value for the Property that is less than the Purchase Price. A copy of this appraisal report is attached as Exhibit B.

23. The Liquidator believes that the terms of this transaction are fair to Reliance and are in the best interests of the insurer's estate, its policyholders, claimants and the general public. See 40 P.S. § 221.1(c); see also 40 P.S. § 221.23(7)(9) (authorizing the Liquidator to "conduct public and private sales of property of the insurer" and to "acquire, hypothecate, encumber, lease, improve, sell, transfer, abandon or otherwise dispose of or deal with, any property of the insurer at its market value or upon terms and conditions as are fair and reasonable.") (emphasis added).

24. The Liquidator further believes that the sale of the Property will help her in achieving the objectives of liquidation under the Act, 40 P.S. § 221.1 et seq. This transaction will assist the Liquidator in marshalling the insurer's assets to minimize and apportion equitably any unavoidable loss to policyholders, claimants and creditors resulting from Reliance's insolvency and hazardous financial condition. See 40 P.S. § 221.1(c).

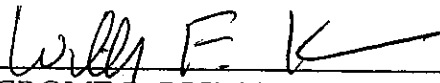
25. The Liquidator believes that TB Realty Trust is financially able to consummate this transaction. Toll Brothers, Inc., is a Huntingdon Valley, PA based, publicly traded corporation, which is well known as an experienced, national real estate developer. A copy of Toll Brothers, Inc.'s Form 10-K, for its fiscal year ended October 31, 2002, is attached at Exhibit C. At page 19 of the 10-K, it is indicated that Toll Brothers, Inc. effectively owns one-third of TB Realty Trust, that it has invested \$7.5 million dollars in TB Realty Trust, and

that it provides development, finance and management services to TB Realty Trust. The 10-K also indicates that the Pennsylvania State Employees Retirement System and certain senior executives and directors of Toll Brothers, Inc. are the other investors in TB Realty Trust. Moreover, the 10-K indicates that there are obligations by each group of investors in TB Realty Trust to contribute an additional \$9.3 million if required. The liquidator believes, based on Toll Brothers, Inc.'s experience in real estate development and the magnitude of Toll Brothers, Inc.'s investment, combined with the commitments by all investors to contribute additional funds, that TB Realty Trust is capable of completing this transaction.

26. Accordingly, the Liquidator respectfully requests that this Court (1) approve the terms of the Agreement; and (2) authorize the Liquidator to take all actions necessary to perform under the Agreement and to consummate the transaction pursuant to her authority under the Act.

WHEREFORE, the Liquidator respectfully requests that this Court grant the Petition, enter an Order in the form attached hereto, and order such other relief as this Court deems necessary and appropriate.

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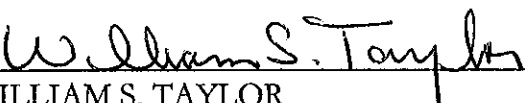
Attorneys for Plaintiff  
M. Diane Koken, Insurance Commissioner of the  
Commonwealth of Pennsylvania, in her official capacity  
as Liquidator of Reliance Insurance Company

Dated: February 13 2003

VERIFICATION

I, WILLIAM S. TAYLOR, Deputy Insurance Commissioner of the Pennsylvania Insurance Department, Office of Liquidations, Rehabilitations and Special Funds, am authorized by M. Diane Koken, Insurance Commissioner of the Commonwealth of Pennsylvania, pursuant to 40 P.S. § 221.23, to act on her behalf in her capacity as the Liquidator of Reliance Insurance Company. I hereby verify that the facts set forth in the foregoing Petition are true and correct to the best of my knowledge, information and belief.

I understand that this Verification is made subject to the penalties of 18 P.S. § 4904 relating to unsworn falsification to authorities.

  
WILLIAM S. TAYLOR  
Deputy Insurance Commissioner of the  
Pennsylvania Insurance Department

**CERTIFICATE OF SERVICE**

I, **WILLIAM F. KERR**, hereby certify that on or about this day a true and correct copy of the foregoing Petition was served on all persons listed on the attached Master Service List by U.S. Mail, postage prepaid.

  
\_\_\_\_\_  
**WILLIAM F. KERR**

Dated: February 13 2003

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v.

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