

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

UNITED STATES SECURITIES AND  
EXCHANGE COMMISSION,

Plaintiff,

v.

EQUITYBUILD, INC., EQUITYBUILD  
FINANCE, LLC, JEROME H. COHEN, and  
SHAUN D. COHEN,

Defendants.

Case No. 1:18-cv-5587

Hon. John Z. Lee

**ORDER APPROVING DISTRIBUTION OF PROCEEDS  
OF THE SALES OF 6749-59 S MERRILL AND 7110-16 S CORNELL**

WHEREAS, this matter came before the Court on the Joint Motion filed by the Receiver and U.S. Bank National Association, as Trustee for the registered Holders of J.P. Morgan Chase Commercial Mortgage Securities Corp., Multifamily Mortgage Pass-Through Certificates, Series 2018-SB50 (“U.S. Bank, as Trustee”) to Approve Distributions of Proceeds of the Sales of 6749-59 S Merrill and 7110-16 S Cornell (Dkt. 1272) (the “Motion”);

WHEREAS, pursuant to the Court’s order entered July 18, 2022, objections to the relief requested in the Motion were due by July 29, 2022 (Dkt. 1274);

WHEREAS, no objections have been filed;

WHEREAS, the properties located at 6749-59 S Merrill (Property 65) and 7110-16 S Cornell (Property 66) (collectively, the “Subject Properties”) are each subject to a claim submitted by U.S. Bank, as Trustee in connection with the Court’s approved claims process (Dkt. 349, 574), and from no other claimant (Dkt. 1280, Ex. 5 at 65).

WHEREAS, pursuant to the Court's order entered April 1, 2020 (Dkt. 680), the Receiver sold the property located at 6749-59 S Merrill for \$1,480,000.00 free and clear of the mortgage assigned to U.S. Bank, as Trustee, and the net proceeds of sale in the amount of \$1,384,437.44 were deposited into a separate interest-bearing account held by the Receiver, and additional deposits have been made into the account corresponding to the Receiver's second restoration motion (Dkt. 796) (\$11,426.32), post-sale reconciliation of the property manager's account (\$8,274.78), an adjustment relating to insurance premiums (\$24.75), and monthly interest (totaling \$8,049.24);

WHEREAS, the balance in the separate account for 6749-59 S Merrill is currently \$1,412,212.53;

WHEREAS, pursuant to the Court's order entered April 1, 2020 (Dkt. 680), the Receiver sold the property located at 7110-16 S Cornell for \$1,240,000.00 free and clear of the mortgage assigned to U.S. Bank, as Trustee, and the net proceeds of sale in the amount of \$1,145,576.16 were deposited into a separate interest-bearing account held by the Receiver, and additional deposits have been made into the account corresponding to post-sale reconciliation of the property manager's account (\$20,521.93) and monthly interest (totaling \$5,837.61).

WHEREAS, the balance in the separate account for 7110-16 S Cornell is currently \$1,171,935.70;

WHEREAS, U.S. Bank, as Trustee, has agreed subject to the entry of this Order, to withdraw its objections with respect to the Subject Properties to the Receiver's lien entered by the Court (Dkt. 1030) and to the Receiver's pending fee allocation motion (Dkt. 1107);

WHEREAS, the Receiver and U.S. Bank, as Trustee, have agreed that the distributions approved in this Order resolve all disputes between them with respect to the Subject Properties; and

WHEREAS, U.S. Bank, as Trustee, has agreed that it will not seek appeal from any rulings associated with the Subject Properties.

NOW, THEREFORE, the Court, having considered the Motion and the record of this receivership case and being otherwise duly advised in the premises, hereby finds and ORDERS:

1. The Motion is GRANTED.
2. The agreed distribution plan proposed in the Motion is reasonable, fair and equitable.
3. The Court approves the Receiver's transfer of an additional \$240.00, representing the 6749-59 S Merrill property's pro rata share of certain insurance premium refunds to the account, which will bring the amount available for distribution from the 6749-59 S Merrill account to \$1,412,452.53.
4. The Court approves the portion of the attorneys' fees set forth in the Receiver's 13th, 14th, and 15th fee applications (Dkt. 1087, 1186, 1256) that the Receiver has allocated to the Subject Properties, and the Court further approves attorney's fees incurred during the second quarter of 2022 in the amounts of \$8,774.74 allocated to 6749-59 S Merrill and \$8,349.54 allocated to 7110-16 S Cornell.
5. No later than five (5) business days after entry of this order, the Receiver shall disburse the following amounts:
  - a) \$1,327,822.95 plus any additional accrued interest on the Receiver's separate account for the property to U.S. Bank, as Trustee, or its designee, in satisfaction

of its claim against 6749-59 S Merrill. U.S. Bank, as Trustee, will retain the right to assert an unsecured claim in the amount of \$92,177.05 less any additional interest distributed, which represents the difference between the amount of this distribution and the unpaid principal balance of its \$1,420,000.00 loan secured by the property.

- b) \$1,042,960.86 plus any additional accrued interest on the Receiver's separate account for the property to U.S. Bank, as Trustee, or its designee, in satisfaction of its claim against 7110-16 S Cornell. U.S. Bank, as Trustee, will retain the right to assert an unsecured claim in the amount of \$177,039.14 less any additional interest distributed, which represents the difference between the amount of this distribution and the unpaid principal balance of its \$1,220,000.00 loan secured by the property.
- c) \$84,584.58 to Rachlis, Duff & Peel, LLC in satisfaction of the receiver's lien on 6749-59 S Merrill;
- d) \$87,046.34 to Rachlis, Duff & Peel, LLC in satisfaction of the receiver's lien on 7110-16 S Merrill;
- e) \$41,883.50 to the Receiver's operating account for the net amount reimbursable from 7110-16 S Cornell for insurance premiums paid less insurance refunds received; and
- f) \$90.00 to the Receiver's operating account for the allocated shares of 6749-59 S Merrill and 7110-16 S Cornell for newspaper publication associated with property sales.

6. The Receiver's right and ability to object to U.S. Bank, as Trustee's claims for the deficiency between the amounts of the distributions pursuant to this Order and the unpaid principal balance of the loans secured by the Subject Properties shall not be limited, and nothing in this Order limits the Receiver's ability to propose a fair and equitable distribution plan with respect to unsecured claims against the Receivership Estate, including without limitation a plan that recommends that U.S. Bank, as Trustee, receive no further amounts with respect to its unsecured claims for the deficiency amounts referenced herein.

Entered: 8/9/22

A handwritten signature in black ink, appearing to read "John Z. Lee", with a long horizontal flourish extending to the right.

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John Z. Lee

United States District Court Judge