

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.

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Civil Action No. 18-cv-5587

Hon. John Z. Lee

Magistrate Judge Young B. Kim

**OBJECTION OF CERTAIN LENDERS TO  
MEMORANDUM OPINION AND ORDER DATED MAY 2, 2019**

Federal Home Loan Mortgage Company (“Freddie Mac”); Midland Loan Services, a division of PNC Bank, National Association (“Midland”); UBS AG, BMO Harris Bank N.A. (“BMO”); BC57, LLC; Citibank N.A., as Trustee for the Registered Holders of Wells Fargo Commercial Mortgage Securities, Inc., Multifamily Mortgage Pass-Through Certificates, Series 2018-SB48; 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 2017-SB30; 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 2017-SB41; 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; WilmingtonTrust, National Association, as Trustee for the Registered Holders of

Wells Fargo Commercial Mortgage Trust 2014-LC16, Commercial Mortgage Pass-Through Certificates, Series 2014-LC16; and FannieMae (collectively “Certain Lenders”) by their undersigned counsel, file this limited *Objection to Memorandum Opinion and Order Dated May 2, 2019* (“*Objection*”) pursuant to Fed. R. Civ. P. 72(a), and in support thereof, state as follows:

### **INTRODUCTION**

Certain Lenders are seeking review of portions of the *Memorandum Opinion and Order* dated May 2, 2019 issued by Magistrate Judge Young B. Kim (the “*May 2 Order*”) (R 352). The *May 2 Order* addresses the *Receiver’s Second Motion for Court Approval of the Process for Public Sale of Real Property by Sealed Bid* (R 228).

### **DISCUSSION**

Certain Lenders have filed this *Objection* based on the deadline imposed under Fed. R. Civ. P. 72(a). Rule 72(a) does not provide sufficient time for Certain Lenders to seek further direction from Judge Kim on certain of the issues regarding the sale process and not specifically addressed in the *May 2 Order* or the resolution of which could conflict with the terms of the *May 2 Order*. For example, while the *May 2 Order* authorizes the lenders to submit credit bids, it does not set forth the manner, timing and methodology for placing credit bids. In addition, in certain instances, the *May 2 Order* requires the lenders to provide letters of credit in connection with credit bids, but the timing and manner of providing such letters of credit still needs to be worked out. Certain Lenders, along with the other lenders, have begun and intend to further engage in discussions with the Receiver regarding these issues with the hope that this *Objection* can be resolved based on those discussions. Therefore, Certain Lenders request that this Court not act on this *Objection* pending their efforts to seek clarification from the Receiver regarding the sale process. If a resolution is not reached, Certain Lenders would then notice this *Objection* for

hearing and respectfully seek leave of the Court to more fully address any outstanding issues with respect to the May 2 Order.

**CONCLUSION**

For the foregoing reasons, *Certain* Lenders object to or seek clarification of the *May 2 Order* and request that this Court hold this objection in abeyance until *Certain* Lenders and the Receiver are able to more fully discuss the outstanding issues regarding the sale process procedures set forth in the *May 2 Order* and grant such other relief as the Court deems equitable and just.

Respectfully Submitted,

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Date: May 16, 2019

**CERTIFICATE OF SERVICE**

I hereby certify that on May 16, 2019, I provided service of the foregoing *Objection of Certain Lenders to Memorandum Opinion and Order Dated May 2, 2019*, via ECF filing to all counsel of record, and via electronic mail or U.S. mail to the following individuals and entities:

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