

THE SECURITIES ACT

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Order No. 4143

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Section 20

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May 28, 2003

## LANESBOROUGH REAL ESTATE INVESTMENT TRUST

### WHEREAS:

(A) Lanesborough Real Estate Investment Trust ("LREIT") has applied to The Manitoba Securities Commission (the "Commission") for an order pursuant to subsection 20(1) of *The Securities Act*, R.S.M. 1988, c. S50 (the "Act"), exempting from sections 6 and 37 of the Act, trades in securities in connection with LREIT's proposed offering (the "Offering") of trust units (the "Units") in the capital stock of LREIT for an aggregate minimum of \$2,000,000 up to an aggregate maximum of \$5,000,000 at a price per Unit to be determined at a later date based on the trading price of the Units at that time (in accordance with the rules of the TSX Venture Exchange (the "TSXV")).

(B) LREIT has represented to the Commission that:

1. LREIT is an unincorporated, closed-end real estate investment trust created on April 23, 2002 by a declaration of trust under, and governed by, the laws of the Province of Manitoba. It is listed on the TSXV and is a reporting issuer (or the equivalent thereof) in British Columbia, Alberta, Saskatchewan, Manitoba and the Northwest Territories. To the best knowledge of LREIT, it is not in default of any of the requirements of the Act or the securities acts of any of the above jurisdictions. The head office of LREIT is located in Winnipeg, Manitoba.

2. LREIT's authorized capital consists of an unlimited number of Units. Of the authorized capital of LREIT, 775,000 Units are issued and outstanding as of this date. LREIT also has \$3,000,000 worth of Senior Secured Series A Convertible Debentures (the "Series A Debentures") and \$1,000,000 worth of Senior Subordinated Series B Convertible Debentures (the "Series B Debentures") outstanding, which were issued on August 30, 2002. Each Series A Debenture has a term of 5 years and is convertible into Units at the option of the holder at a price of: (i) \$5.00 per Unit during the third year from the date of issue; (ii) \$5.50 per Unit in the fourth year from the date of issue; and (iii) \$6.00 during the fifth year from the date of issue. Each Series B Debenture has a term of three years and is convertible into Units at the option of the holder at a price of: (i) \$4.00 per Unit during the first year from the date of issue; (ii) \$4.50 per Unit during the second year from the date of issue; and (iii) \$5.00 per Unit during the third year from the date of issue. Additionally, the Series B Debentures are convertible at maturity, at the option of LREIT, into Units based on a conversion price equal to the lesser of \$5.00 per Unit and the average closing price of the Units on the TSXV during the preceding 20 day trading period.

3. The objectives of LREIT are (i) to provide Unitholders with stable and growing cash distributions, payable quarterly and, to the maximum extent commercially and reasonably, possible, tax deferred, from investments in retail, industrial and office properties located across Canada; and (ii) to maximize Unit value through on-going active management of LREIT's assets, the acquisition of additional properties or interests therein and the financing of new developments.
4. The proceeds of the Offering are proposed to be used by LREIT to acquire additional properties (not yet identified). LREIT believes further acquisitions of properties within LREIT's investment guidelines will enhance LREIT's ability to achieve its stated objectives.
5. The Offering is being made pursuant to an offering memorandum (the "OM") to be completed in accordance with the form requirements of the existing Multilateral Instrument 45-103 – Capital Raising Exemptions ("MI 45-103") and the proposed amendments to Multilateral Instrument 45-103 – Capital Raising Exemptions (the "Proposed New MI 45-103").
6. The Offering is for an aggregate minimum of \$2,000,000 up to an aggregate maximum of \$5,000,000 at a price per Unit to be determined at a later date based on the trading price of the Units at that time (in accordance with TSXV rules).
7. It is anticipated that the Offering will be completed on an exempt basis in the Provinces of British Columbia and Alberta in reliance upon the "offering memorandum exemption" provided for in section 4.1 of MI 45-103, in the Province of Ontario in reliance upon the "accredited investor exemption" provided for in section 2.3 of Ontario Securities Commission Rule 45-501 – Exempt Distributions and in the Province of Saskatchewan in reliance on the \$150,000 exemption provided for in sections 39(1)(e) and 81(1)(d) of *The Securities Act, 1988* (Saskatchewan).
8. It is further anticipated that the Offering will be completed on an exempt basis in the Northwest Territories in reliance upon an order of the Northwest Territories Registrar of Securities permitting LREIT to use the "offering memorandum exemption" provided for in the Proposed New MI 45-103. An application for an order of the Northwest Territories Registrar of Securities is being applied for concurrently herewith.
9. The Units will be offered to persons resident in or otherwise subject to the securities legislation of, the Provinces of British Columbia and Alberta in reliance upon the exemption from the registration and prospectus requirements of the securities legislation of such Provinces afforded to LREIT under the OM Exemption.
10. The Units will be offered to persons resident in or otherwise subject to the securities legislation of the Province of Ontario in reliance upon the exemption

from the registration and prospectus requirements of the securities legislation of Ontario afforded LREIT under the "accredited investor exemption" provided for in section 2.3 of Rule 45-501.

11. The Units will be offered to persons resident in or otherwise subject to the securities legislation of the Province of Saskatchewan in reliance upon the exemption from the registration and prospectus requirements of the securities legislation of Saskatchewan afforded LREIT under the \$150,000 exemption provided for in sections 39(1)(e) and 81(1)(d) of *The Securities Act, 1988* (Saskatchewan).

12. The Units may be offered to persons resident in or otherwise subject to the securities legislation of the Northwest Territories in reliance upon an order of the Northwest Territories Registrar of Securities permitting LREIT to use the "offering memorandum exemption" contained in the Proposed New MI 45-103.

13. In order to rely on the OM Exemption, LREIT is required to prepare and distribute to potential purchasers of the Units in the Provinces of British Columbia and Alberta an offering memorandum in accordance with the requirements of MI 45-103.

14. As MI 45-103 has been adopted as a rule only in the Provinces of British Columbia and Alberta, the exemptions available thereunder are not available to LREIT in the Province of Manitoba.

15. Pursuant to the Offering, LREIT wishes to issue Units to residents of Manitoba on substantially the same basis as it is being made in British Columbia and Alberta.

16. In Manitoba a subscriber will have to be either an "eligible investor", or else subscribing for securities worth CDN\$10,000 or less, as provided in the OM Exemption.

(C) The Commission is of the opinion that it would not be prejudicial to the public interest to grant the order requested.

IT IS ORDERED:

**1. THAT**, pursuant to subsection 20(1) of the Act, trades in the Units under the Offering are exempt from sections 6 and 37 of the Act, provided that:

(a) LREIT shall prepare and file the OM with the Commission on or before the 10<sup>th</sup> day after each distribution under the OM or update of the OM.

(b) The OM shall contain a statement to the effect that the Offering is being conducted in the Province of Manitoba pursuant to this Order and as such the protections normally available under the Act are not available in this instance.

(c) The OM shall contain contractual rights of action as described in s. 4.3 of Proposed New MI 45-103.

(d) Each purchaser resident in or otherwise subject to the securities laws of Manitoba purchases the security as principal and at the same time or before the purchaser signs the agreement to purchase the security:

(i) LREIT delivers to the purchaser a copy of the OM and a copy of the Order;

(ii) LREIT obtains a signed risk acknowledgement from the purchaser in compliance with section 4.5(1) of Proposed New MI 45-103; and

(iii) unless the purchaser is an eligible investor (as that term is defined in Proposed New MI 45-103), the maximum subscription for purchasers resident in or otherwise subject to the securities legislation of the Province of Manitoba will be CDN\$10,000.

(e) LREIT retains the signed risk acknowledgement referred to in clause 1(d)(ii) above for eight years after the completion of the Offering.

(f) All consideration received from the purchaser in connection with a trade in the Units is held in trust until midnight on the 2nd business day after the purchaser signs the agreement to purchase the securities.

(g) LREIT returns all consideration to a purchaser promptly if that purchaser exercises the right to cancel the agreement to purchase the security by delivering a notice to LREIT not later than midnight on the 2nd business day after the purchaser signs the agreement to purchase the security.

(h) The Offering is completed within 180 days from the date of this Order.

(i) LREIT files a Form 45-103F4 report as contemplated by Proposed New MI 45-103 with the Commission on or before the 10th day after the completion of the Offering.

**2. THAT** the fee for this Order shall be \$1,000.00.

**BY ORDER OF THE COMMISSION**

**Deputy Director – Legal**

