

- 52 -

of this Section 8.08; and

(3) any security holder who has been a bona fide holder of mortgage securities for at least six (6) months may, on behalf of himself and all others similarly situated, petition any court of competent jurisdiction for the removal of such Trustee, and the appointment of a successor, if such Trustee fails, after written request therefor by such holder, to comply with the provisions of subparagraph (1).

(b) For purposes of paragraph (a), the Trustee shall be deemed to have a conflicting interest if;

(1) such Trustee is trustee under another mortgage under which any other securities, or certificates of interest or participation in any other securities, of the Company upon the mortgage securities are outstanding unless (A) such other mortgage is a collateral trust mortgage under which the only collateral consists of mortgage securities, or (B) the Company has no substantial unmortgaged assets and is engaged primarily in the business of owning, or of owning and developing and/or operating, real estate, and this Indenture and such other mortgage are secured by wholly separate and distinct parcels of real estate: Provided, that excluded from the operation of this subparagraph are any other mortgage or mortgages which shall have been qualified with the United States Securities and Exchange Commission pursuant to the provisions of the Trust Indenture Act of nineteen hundred thirty-nine, as from time to time amended and in force;

(2) such Trustee or any of its directors or executive officers is an obligor upon the mortgage securities or an underwriter for such an obligor;

(3) such Trustee directly or indirectly controls or is directly or indirectly controlled by or is under direct or indirect common control with the Company or an underwriter for the Company;

(4) such Trustee or any of its directors or executive officers is a director, officer, partner, employee, appointee, or representative of the Company, or of an underwriter (other than the Trustee itself) for the Company who is currently engaged in the business of underwriting, except that (A) one individual may be a director and/or an executive