



August 16, 1991

FEDERAL EXPRESS

Mr. Patrick Sharpe  
Compliance Specialist  
Premerger Notification Office  
Bureau of Competition, Room 303  
Federal Trade Commission  
Washington, D.C. 20580

APR 19 8 23 AM '91

NOTICE OF RECEIPT

Dear Mr. Sharpe:

I am writing to confirm your oral advice last week that premerger notification is not required in connection with the transaction summarized below. As [redacted] and I explained to you, the transaction under consideration involves the sale of certain health care facilities by a corporation which currently owns and operates them (the "Seller"). The facilities will be acquired from the Seller by a real estate investment trust which invests in income producing health care related real estate (the "REIT"). The REIT will immediately lease the facilities to a recently organized corporation (the "Tenant"), which will operate the facilities for its own account and pay rent to the REIT. As we described, the lease will provide for an initial term of fifteen years and options to extend the lease for up to an additional twenty-five years. The lease will also provide the Tenant a purchase option at the end of the lease term to acquire the facilities at the greater of 95% of the then fair market value or 130% of the REIT's adjusted purchase price.

*Handwritten notes:*  
Correct

*Handwritten initials:*  
A/E

You have advised that, as the sale to the REIT is in the ordinary course of the REIT's business, provided that the lease constitutes a bona fide lease, and not a vehicle to retain a disguised security interest, premerger notification is not required in connection with the above described transaction. In connection with the determination as to whether the lease is a bona fide lease, you indicated that the most important criterion was whether the lease term lasted for substantially the entire useful life of the property. I noted to you that the form of the lease will be a so-called "triple net lease", requiring the Tenant to maintain the facilities. I am informed that with proper

maintenance the useful life of health care facilities such as those which will be subject to the lease can be indefinite and certainly should well exceed fifty years. It would, therefore, appear that you would consider the lease to be a "bona fide" lease and that, accordingly, premerger notification will not be required in connection with this transaction.

After you have had an opportunity to review this letter, please call me at [REDACTED] if I have misstated your advice, with any questions or to further discuss the necessity for premerger notification in connection with the transaction described in this letter.

Very truly yours,  
[REDACTED]

[REDACTED]

called [REDACTED] 3-20-91  
I concur with this letter  
after confirming that the  
REIT is subject to IRS  
tax limitations.

(RS) concurs

HL