

[REDACTED]

(212) 474-1921

[REDACTED]

February 4, 1992

Informal Interpretation of HSR Regulations

Dear Ms. Ovuka:

I am writing to memorialize our conversation and the advice you gave me on the telephone on January 21, 1992.

Our conversation concerned whether an acquisition of [REDACTED] by a real estate investment trust is reportable under the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (the "Act"). Our client, [REDACTED] a [REDACTED] qualifies as a real estate investment trust as defined in the Internal Revenue Code, 26 U.S.C. § 856 ("REIT"). CPI has net assets and annual revenues in excess of \$100,000,000. It has executed a letter of intent pursuant to which it intends to acquire all the fee interest in a [REDACTED] from a U.S. entity that has net assets and annual revenues in excess of \$10,000,000. The purchase price is expected to be in excess of \$15,000,000. In years past, [REDACTED] has understood that, under the Act and the regulations promulgated thereunder, it was required to file a premerger notification form and to observe the applicable waiting period before consummating an acquisition under similar circumstances and, accordingly, has filed premerger notification forms in such circumstances.

In our telephone conversation you advised me that, based on a fuller understanding of the operation of REITs,

the staff of the Premerger Notification Office now takes the position that acquisitions of [REDACTED] by REITs are exempt from HSR filing requirements under Section 7A(c)(1) of the Act (acquisitions of goods or realty transferred in the ordinary course of business). You further advised me that the staff had given that advice to another private law firm in late December 1990. You also advised me that the acquisition would not be reportable if made by a limited partnership controlled by a REIT (that is, if a REIT was the ultimate parent entity of the acquiring person).

If the foregoing does not correctly summarize your advice (or the advice you would give based on the facts set forth in the second paragraph of this letter), please call me at your earliest convenience at the telephone number shown above. [REDACTED] intends fully to comply with any applicable requirements of the Act, and any required filing must be made promptly for the closing to take place by March 16, 1992.

Sincerely yours,

[REDACTED]

Nancy M. Ovuka, Esq.,
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