

[REDACTED]  
Industrial land" such as an income producing F.W./  
warehouse would not be [REDACTED] exempt even if it be  
as being sold [REDACTED] to a developer  
[REDACTED] property. The raw land is exempt & could be deleted from  
the overall transaction to determine if the \$15MM size  
of transaction test March 19, 1992 is met.

VIA FACSIMILE

Victor Cohen, Esq.  
Pre-Merger Notification Office  
Federal Trade Commission  
Sixth and Pennsylvania Avenue, N.W.  
Washington, D.C. 20580

Dear Mr. Cohen:

We represent a corporation ("Seller") which for many years has been in the business of owning and developing commercial real property, primarily industrial and raw land parcels. The Seller has properties in most of the United States, as well as some in Canada. The Seller has been in the process of winding down its business for the last few years, and is currently entering into a transaction whereby it will sell a number of parcels to a [REDACTED] corporation ("Buyer"). The Buyer also owns, develops and manages real property throughout the United States. The parcels that will be covered by this transaction are located in 15 different states and three provinces in Canada. It is intended that, as a result of the transaction, the Seller will no longer hold commercial real property.

An essential element of the transaction includes both parties' desire to sell most of the parcels to other third parties prior to the closing date. In order to accomplish this, the parties have agreed that all of the parcels will be auctioned at public auction and that the Buyer will be obligated to purchase those that remain unsold on the closing date. The Buyer will receive a discount on the purchase price of those remaining parcels for making this commitment. The parties' intended result is to widely distribute the parcels among third party purchasers, so that only a few will end up in the hands of the Buyer.

SENT [REDACTED]

Victor Cohen, Esq.  
March 19, 1992  
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The question before us is whether the sale of whichever parcels remain after the public auctions may be considered a sale of real estate in the ordinary course of business under Rule 802.1. We believe that it should be so characterized, inasmuch as the buyer and the seller both are entities in the business of owning and developing real estate. We would appreciate your views on this question.

Please call me after you have had an opportunity to review this matter.

Very truly yours,  
[REDACTED]