

802.2(d)

[REDACTED]

March 8, 1999

VIA FACSIMILE AND FIRST CLASS MAIL

Ms. Nancy Ovuka
Premerger Notification Office
Federal Trade Commission
Sixth Street & Pennsylvania Avenue, N.W.
Washington, D.C. 20580

1999 MAR 10 10 35 AM
FACSIMILE UNIT

Re: Confirmation of Exempt Status Under
Premerger Notification Requirements

Dear Ms. Ovuka:

As we discussed on March 5, 1999, I am writing to confirm that a proposed transaction involving the acquisition of a real estate business and its assets (including the transfer of real property and residential homes being produced for sale), having a total value of approximately \$16 million, is exempt from the filing requirements set forth in Title II of the Hart-Scott-Rodino Act of 1976 (the "Act"). As I indicated in our telephone conversation, based upon our review of the exemptions set forth in Section 802.2 of Title 16 of the Code of Federal Regulations ("C.F.R."), it is our understanding that several exemptions apply to this transaction. Therefore, the parties to the proposed transaction would not be required under the Act to file a premerger notification report form with the Federal Trade Commission's ("FTC") Premerger Notification Office.

Specifically, we discussed and you confirmed that the exemption for "office and residential property" set forth in § 802.2(d) applies to exempt the transaction here as a significant portion of the assets constituting the transaction involves "residential" property. In addition, we discussed and you confirmed that the exemption for "new facilities" set forth in § 802.2(a) is potentially applicable to the transaction as a significant portion of the assets constitutes residential homes that have not yet produced income and are being or were constructed by the acquired business for sale to third parties. The exclusion of the residential property or the new facilities would result in an acquisition valued at less than \$15 million and, therefore, the size of the transaction requirement of the Act would not be met.

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Nancy Ovuka
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Please let me know promptly if you believe the analysis which we discussed by telephone and which I have further described herein is not accurate. Thank you for your assistance in this matter.

Sincerely,

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