



## PRIVILEGED AND CONFIDENTIAL

April 5, 1989

Mr. Patrick Sharp Compliance Specialist The invested may be subtook to the contact may be subtook on to unit that in of the Congress Act MELLING TO TOTAL AND MICOR SHE MELON TRENTING TO DESCRIPTION AND FIGURE TO A COMMENTAGE AND

Room 303 Washington, D.C. 20580

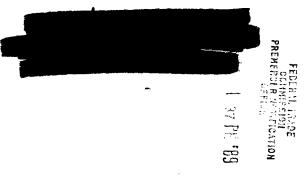
Re: HSR Requirements for Specific Realty Acquisitions

Dear Mr. Sharp:

The enclosed attachments were written for the purpose of summarizing your responses to my telephone inquiries of Friday,

Please advise me of any comments you may have regarding this summary. Thank you for your kind attention to my questions.

Very truly yours,



Re: Summary of Inquiry with Respect to HSR Requirements for Specific Asset Acquisitions

(In Summary of our conversation of March 31, 1989)
Provided that the Acts commerce, size of the person, and size of
the transaction tests are satisfied, a Hart-Scott-Rodino (HSR)

11:

1) The <u>purchase price</u> (if determined) or <u>fair market value</u> of the <u>assets</u> (whichever is greater) exceeds \$15 million

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(The acquired person with respect to asset acquisitions is the ultimate parent entity of the person filing notification.)

thresholds. asset purchases

Assuming the threshold tests are satisfied, the general rule with respect to the transfer  $\rho_f$  the classes of assets listed

A. Foreclosure Property - A creditors' acquisition of

or a dept work-out, if made in a bonafide credit transaction

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respect to the transfer of any business is, a fifting is required if the purchase price or fair market value of the business exceeds \$15 million.

C. Agricultural Lands - The transfer of any land which in the

transaction test.

D. Mineral Rights - the transfer of land upon which lies minerals or timber is reportable, whether or not the land wrong. If timber land has been harvested in the past it is reportable. Otherwise it is not reportable. Land with mineral rights is still raw land - not reportable.

has ever been excavated. The premise upon which the FTC determines reportability is that with respect to such transfers, the mineral properties have a value independent from the land itself based on the income potential of the minerals. The transfer of the right to the income in such

whole, the value of the receivables as assets does not require a filing. This gray area requires consultation with

F. Mixed-Use Office Buildings - The transfer of buildings which function strictly as office space is exempt. The fair market value of the space utilized by hotels, restaurants,

or of a company whether

TFM.

dollars, the transfer of the office building is reportable. The tests that are used to determine the applicability of

1) Square Footage Evaluation - The person filing determines the total square footage of the office have my building including the mixed-use property, and the fair strawde market value or purchase price of each square foot. If lines as

the most recent year. The most recently prepared balance sheet should be used to determine the revenues. If more than \$15 million dollars, in the most recent wear were derived by the business correting within the

bullding being transferred, a fiffing is required.

The flexibility of the size of the transaction test with regard to the transfer of mixed-use properties may conceivably result in manipulation of the true values of the properties so as to avoid filing, a violation of Section 801.90 of the Act. Due to this fact, the FTC recommends

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that persons subject to the act verify their filing status

except that, the transfer of condominiums may require a filing. The terms of such transfer should be discussed with an FTC official before a final decision as to the applicability of the Act is made.

being reported

It is a good!

idea to call

idea to the

possibility of

Filing,

called

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