

Sec. 1(a)\*

[REDACTED]

[REDACTED]

[REDACTED]

December 14, 1990

This material may be subject to the confidentiality provisions of Section 7A (h) of the Glass-Steagall Act which restricts release under the Freedom of Information Act.

Ms. Nancy M. Ovuka  
Compliance Specialist  
Federal Trade Commission  
Pre-Merger Notification Office  
Room 301  
Sixth Street and Pennsylvania Avenue N.W.  
Washington, D. C. 20580

Hart-Scott-Rodino Anti-Trust Improvements Act of 1976  
Pre-Merger Notification and Waiting Period Requirements

Dear Mr. Ovuka:

Pursuant to our telephone conversation on December 5, 1990, this letter constitutes our request that the Pre-Merger Notification Office of the Federal Trade Commission concur in our determination that the sale by [REDACTED] general partnership to [REDACTED]

[REDACTED] are exempt from the Hart-Scott-Rodino Anti-Trust Improvements Act of 1976 Pre-Merger Notification Requirements by virtue of the exemption contained in 15 USC §18a(c)(1), exempting acquisitions which are acquisitions of goods or realty transferred in the ordinary course of business.

1. Description of the Project. The [REDACTED] project is an approximately 674 acre master planned residential golf course community with secured access, located in the unincorporated area of [REDACTED]. The Master Plan for [REDACTED] provides for the development of approximately 1,212 single family homes, a championship 18 hole Jack Nicklaus signature golf course designed by Jack Nicklaus ("Golf Course"), and an approximately 47,000 square foot golf clubhouse ("Clubhouse") (the Golf Course and the Clubhouse shall [REDACTED] facilities).

The primary feature of the [REDACTED] project is the Jack Nicklaus Signature Golf Course and the 47,000 square foot Clubhouse. As the master developer of [REDACTED] will

\* Conclusion correct, but not for reasons cited. Exempt as incidental to sale of [REDACTED] & [REDACTED]

Ms. Nancy M. Ovuka  
Page 2  
December 14, 1990

construct and develop the Golf Course, the Clubhouse and all other ~~club~~ facilities located within the project, and will also construct approximately 1,312 homesites within [REDACTED]. The Golf Course was substantially completed and open for play on August 8, 1990. The Clubhouse is currently under construction and the projected date for completion is February 15, 1991. As of the date of this letter, 1,060 homesites have been sold and approximately 252 are currently held by [REDACTED] and will be sold by [REDACTED] in the future.

2. Membership Program. The original intention of [REDACTED] was to form a nonprofit mutual benefit corporation and to offer [REDACTED]

During the latter part of 1989, [REDACTED] elected to convert the Equity Membership Program to a nonequity membership program ("Nonequity Membership Program"). Pursuant to the new Nonequity Membership Program, [REDACTED] is offering both golf and social [REDACTED] memberships. [REDACTED] The members do not have

are merely purchasing a lifetime membership which entitles each member and his family the right to utilize and enjoy all of the Club Facilities. Following the conversion by [REDACTED] from the Equity

immediately began its search to locate a suitable purchaser for the Club Facilities.

On or about July, 1990, [REDACTED] began offering and selling memberships in [REDACTED] pursuant to the Nonequity Membership Program. Under the terms of the Nonequity Membership Program, 500 golf memberships will be offered and sold to

memberships is \$42,500. Accepted applicants are required to pay to [REDACTED] an initial deposit of \$5,000 and the balance of the

by the members. The initial deposit payable by accepted applicants is refundable under certain circumstances including,

of the Club Facilities on or before December 31, 1990, the [REDACTED]

Ms. Nancy M. Ovuka  
Page 3  
December 14, 1990

business relocation, financial reversal, marital dissolution or physical illness or disability of an accepted applicant for membership in the Club. In addition to the membership fee, members are required to pay monthly dues in the sum of \$375 per month and a monthly food and beverage minimum of \$50 per month. However, prior to the date upon which the Clubhouse is completed and available for use by the members, no monthly food and beverage payments are required and those persons desiring to

who had elected to commence paying monthly dues of \$250 per month in order to utilize the Golf Course.

3. Summary of the Transaction. Since the inception of the [redacted] project, it has been the intention of [redacted] to

entered into negotiations with prospective purchasers regarding the sale of the Club Facilities. On September 28, 1990 (approximately one and one-half months after the Golf Course was substantially completed and open for use by the members), [redacted] received from [redacted] a letter of intent and an offer to purchase the

to herein as the "Assets". Since that date, [redacted] and [redacted]

now been agreed upon by the parties and the scheduled closing date for this transaction is December 21, 1990. A summary of the

[redacted] is a [redacted] corporation, in good standing under the laws of [redacted]. The majority shareholder of [redacted] is [redacted], a [redacted] corporation.

[redacted] is a [redacted] general partnership in good standing. [redacted] was originally formed in May, 1987, and the

Ms. Nancy M. Ovuka  
Page 4  
December 14, 1990

[REDACTED] a [REDACTED] corporation, [REDACTED]  
[REDACTED] limited partnership. [REDACTED] is the sole shareholder  
of [REDACTED]. The shareholders of

[REDACTED] the  
sole shareholder of [REDACTED] is

Following the acquisition of the Assets by [REDACTED] from [REDACTED]  
[REDACTED] will manage the Club Facilities on behalf of [REDACTED]  
for a period of three years. [REDACTED] will not have any  
proprietary voting or other interest in the Club Facilities and

which exempts transactions that are acquisitions of goods in

802.1(b), which provides that:

(b) Certain Acquisition of Assets. No acquisition of the goods or realty of an entity (except for entities described in Paragraph (a) of this Section) shall be made "in the ordinary course of business" within the meaning of Section 7A(c)(1), if, as a result thereof, the acquiring person will hold all or substantially all the assets of that entity or an operating division thereof.

As described above, the purchase of the Assets by [REDACTED] from [REDACTED] does not constitute the purchase by [REDACTED] of all or substantially all the assets of [REDACTED]. Following the consummation of the transaction described above, [REDACTED] will continue to hold approximately 252 homesites in [REDACTED] which will be marketed and sold by [REDACTED] in the future.

Ms. Nancy M. Ovuka  
Page 5  
December 14, 1990

will not be purchasing and acquiring all or substantially all of

Since November 1980 [redacted] has been engaged in

substantially completed and open for use by the members, [redacted]  
received a letter of intent and an offer to purchase the [redacted]

derived from the limited operation of the Golf Course during this  
time period, we do not believe that the relatively insignificant  
amount of revenues derived by [redacted] mitigates the consistent and  
ongoing intention of [redacted] to market and sell the Assets as soon as

Notification Requirements of the Hart-Scott-Rodino Anti-Trust  
Improvements Act, by virtue of 15 U.S.C. § 1801-1813

Thank you for your prompt attention to this very  
important matter. Should you require any further information or  
documentation, please do not hesitate to contact me.

Very truly yours,

[redacted signature block]

[redacted]