

802.2(d)

[REDACTED]

April 30, 1999

CONFIDENTIAL

VIA FACSIMILE (202) 326-2624

Nancy Ovuka, Esq.  
FEDERAL TRADE COMMISSION  
Bureau of Competition

[REDACTED]

Re: Exemption from Filing Requirements Under the Hart-Scott-Rodino Antitrust Improvements Act of 1976 pursuant to Rule 802.2(d)

Dear Ms. Ovuka:

we were inquiring with respect to two acquisitions by a subsidiary of [REDACTED] from two different ultimate parent entities of a number of rental facilities used for both assisted living and independent living for senior citizens.

Each transaction includes complexes with housing for seniors, with and without assisted living services. In the complexes which have both assisted living services and senior living units for which such services are not provided, the residents are charged rent plus an additional monthly sum for assisted living services.

Section 802.2 of the Federal Trade Commission's ("FTC") rules and regulations on the Hart-Scott-Rodino Act exempts from reporting certain real estate acquisitions, including the purchase of residential property. (16 C.F.R. § 802.2(d)(2)) A related rule states that if the

[REDACTED]  
living services are a "business" and that the parties in good faith need to value that business.

[REDACTED]

[REDACTED]

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One method of valuation that the FTC has accepted is to determine the revenues from <sup>the actual</sup> assisted living services, calculate the percentage of those revenues that are used to <sup>for</sup> apply that percentage to the purchase price. In our situation, with one exception, the additional fee for assisted living is readily available for all complexes because, as noted above, <sup>but</sup>

has not been separated from the rent in the ordinary course of business. To determine the portion <sup>non-</sup> attributable to assisted living services in that complex, we estimated the cost <sup>of</sup>

regularly payment in a similar complex that showed an additional <sup>of</sup>

Applying the percentage of revenues received for assisted living services to the purchase price on the above basis, the portion of the purchase price paid for the assisted living "business"

transaction test is not met and the transactions are not reportable.

Please call [REDACTED] confirm that this letter accurately reflects our conversation and that our methodology for determining the exemption from filing for the two

Very truly yours,

[REDACTED]

cc: Mr. [REDACTED]

[REDACTED]