

802.2(d)

802.4

L.L.P.

ATTORNEYS AND COUNSELORS

September 29, 1999

Via Federal Express

Federal Trade Commission  
Room 303  
6th St. & Pa. Avenue, N.W.  
Washington, D.C. 20580

Dear Mr. Smith:

This letter is in response to our telephone conversation of August 17, 1999, in which you requested clarification regarding the existence of an exemption under the Horizontal Merger Act of 1976 ("HSR Act") and the regulations promulgated thereunder ("HSR

based upon a detailed written request.

To summarize our conversation, I expressed to you my belief that the Transaction would qualify for an exemption under Sections 802.2(d) and 802.4 of the HSR Regulations, on the basis that the assets of the acquired company consisted principally of residential properties held for sale, lots under development, and lots and real property held for development. However, I was uncertain as to the treatment of the cash, receivables, goodwill, model home furniture, office equipment and transportation equipment of the acquired company, which, depending on its treatment and valuation,

Accordingly, the purpose of this letter is to set forth for you the factual basis upon which I believe the Transaction qualifies for exemption under the HSR Regulations, and to receive your verbal

\$100 million. The remaining 20% of the voting securities of the Target are publicly held. The acquiring person ("Acquiror") is a foreign entity that has consolidated assets in excess of \$10 million. The Acquiror will purchase 70 to 80% of the voting securities of Target from Parent for cash in excess of \$15 million.

A description and dollar amount of the consolidated assets of the Target are set forth on Appendix A to this letter. Fair market values for assets that may be "incidental" to exempt assets

are also set forth on Appendix A. The fair market values reflected on Appendix A are good faith estimates by officers of the Target. I have not included fair market values for assets that are exempt

Based upon the information in Appendix A, and in light of our conversation as described above, the assets listed under the caption "Current Assets" on Appendix A, are exempt under Section 802.2(d), as they consist either of residential properties held for sale, residential lots held for development and sale, unimproved real estate held for residential development and sale, proceeds from the sale of residential properties, or prepaid expenses associated with the business of developing residential property.

Similarly, the asset reflected on the balance sheet under the caption "Goodwill" is exempt under Section 802.2(d), as such asset was derived from the acquisition of residential development assets and businesses acquired by the Target.

The "Model Home Furniture", "Mortgage Receivable", "Deposits" and "Deferred Tax Asset" listed under the caption "Fixed Assets" on Appendix A are also exempt under Section 802.2(d), as all of such assets are directly related to the purchase and sale of residential properties.

The remaining assets are an office building, its furniture, fixtures and equipment, automobiles for key employees and minority investments in affiliated title and mortgage companies.

the exempt assets as to be exempt as well.

assets" and "investment") is, in the aggregate, \$614,455. Assuming that such assets fail the "nexus"

802.2 and 802.4 of the FTC regulations.

If you agree, disagree, or need more information to reach a conclusion regarding whether or not the Transaction is exempt from the notification requirements of the HSR Act, please call the undersigned at your earliest convenience.

Thank you for your assistance in this matter. I look forward to hearing from you.

[Redacted signature block]

[Redacted text]

**APPENDIX A**

Consolidated Assets of Target at June 30, 1999  
(After elimination of intercompany accounts; amounts in dollars)

Type of Asset	Amount (\$)	Fair Market Value (\$)	Description of Asset
<i>Current Assets</i>			
Cash	7,780,797	same	Cash generated by new residential home sales
Accts Rec. Title Co.	3,812,310	same	Funds held in escrow pending closing of new residential home sales
Earnest Money & Notes Receivable	385,000	same	Earnest money/notes paid in connection with new residential home sales
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			such as land sales, worker's compensation insurance dividend, etc.
Commission Advance	757,339	same	Commission advances to real estate agents
Prepaid Expenses	1,372,277	same	Prepaid expenses associated with new residential development
Inventory - Lots	49,646,310	n/a	Developed residential lots at cost
Inventory - WIP	166,481,196	n/a	New residences under construction, at cost
Real Estate Inventories	7,051,665	n/a	Developed residential lots and land held for new residential development, at cost
<i>Fixed Assets</i>			
Land and Building	1,378,609*	n/a	Office building used in residential home building business
Furniture, Fixtures & Equipment	2,763,300*	1,234,600	Office building furniture, fixtures and equipment
Model Home Furniture	4,289,600*	2,908,100	Furniture in model homes used to sell new residences
Transportation Equipment	471,900*	243,900	Automobiles for Key Employees
<i>Other Assets</i>			
Mortgages Receivable	10,837	same	Note secured by real estate

\* Cost, prior to depreciation