

[REDACTED]

Nancy Ovuka  
Premerger Notification Office  
Sixth & Pennsylvania Avenue, N.W.  
Washington, D.C. 20580

Re: Premerger Notification Requirements under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended (the "Act")

Dear Nancy:

Pursuant to our telephone conversation on Wednesday, December 21, 1994, this will confirm your advice that a notification report form would not be required to be filed pursuant to the Act under the circumstances outlined below:

1. We are representing the seller in a transaction in which a shopping center will be sold for a purchase price in excess of \$15 million.

2. The parties to the transaction would meet the "size of the parties" test under the Act.

3. The purchaser is a public retirement and pension fund created by State statute and governed by a board that is defined by State statute to include the following members:

- (a) a superintendent of public instruction; *yes*
- (b) the auditor of State; *yes*
- (c) the attorney general; *yes*
- (d) 5 members of the system that are elected at a system-wide election; and
- (e) a retired member who is elected by a vote of all retired members.

*not as a committee*

[Redacted]

[Redacted]

*Do we want to take on the state courts?*

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4. As a matter of state law, the system is not regarded as a "corporation" and there exists case law in the state courts that identifies the system as a "state agency."

Based on the foregoing facts, you advised me that the parties would not be required to file notification and report forms with the FTC pursuant to Section 7A(c)(4) of the Act and Section 801.1(a)(2) of the rules and regulations promulgated under the Act.

If you have any questions or comments regarding the foregoing, please call me at the above-referenced telephone number.

Very truly yours

[Redacted signature]

[Redacted]

cc:

[Redacted]

*Its not crystal clear, but seems to be O.K.*

*RS concurs*