

L A W Y E R S

20 December 2001

BY EXPRESS POST

Mr Tim Grimwade
Acting General Manager of Adjudication Branch
Australian Competition and Consumer Commission
PO Box 1199
DICKSON ACT 2602

Contact
Cam Truong (03) 9672 3550
Email: Cam_Truong@corrs.com.au

Partner
Stephen Kroker

Our reference
SCK/CT/MEDA0537-6494114

N90957



Dear Sir

**VINTAGE DEVELOPMENTS PTY LTD
THIRD LINE FORCING NOTIFICATION**

We act for Vintage Developments Pty Ltd (“Vintage Developments”) and enclose:

- a notification for Vintage Developments in accordance with Section 93(1) of the *Trade Practices Act 1974*, concerning the proposed supply or offering to supply residential blocks of land for purchase (either vacant or as part of house and land packages) within an integrated residential community in the Hunter Valley known as the “The Vintage” (“Residential Lots”) to purchasers on the condition that these purchasers acquire membership services from the operator of the Vintage Golf Club (which incorporates the Vintage Golf Course and club facilities);
- submission in support of the notification; and
- a cheque for \$100 in payment of the applicable statutory lodgement fees.

Vintage Developments is the current owner of the Vintage Golf Club but intends selling it to another party in the near future.

20 December 2001
Australian Competition and Consumer Commission
VINTAGE DEVELOPMENTS PTY LTD
THIRD LINE FORCING NOTIFICATION

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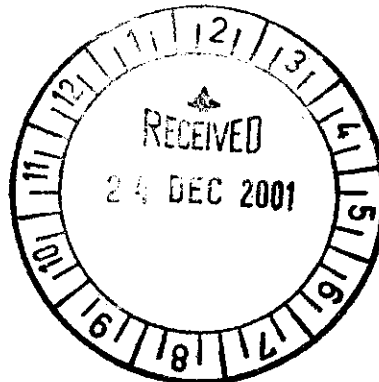
If you require any further information, please contact me on (03) 9672 3494 or
Cam Truong on (03) 9672 3550.

Yours faithfully
CORRS CHAMBERS WESTGARTH



Stephen Kroker
Partner

encl



FORM G

Regulation 9

COMMONWEALTH OF AUSTRALIA

Trade Practices Act 1974 - Sub-section 93(1)

EXCLUSIVE DEALING

NOTIFICATION

To the Australian Competition and Consumer Commission:

Notice is hereby given, in accordance with sub-section 93(1) of the *Trade Practices Act 1974*, of particulars of conduct or of proposed conduct of a kind referred to in sub-section 47(2), (3), (4), (5), (6) or (7), or paragraph 47(8)(a), (b) or (c) or (9)(a), (b), (c) or (d) of that Act in which the person giving notice engaged or proposes to engage.

(PLEASE READ DIRECTIONS AND NOTICE ON BACK OF FORM)

- 1 (a) Name of person giving notice
- Vintage Developments Pty Ltd ABN 60 067 567 006 ("**Vintage Developments**")
- (b) Short description of business carried on by that person
- Subdivider, estate developer and seller of residential land.
- (c) Address in Australia for service of documents on that person
- c/- Corrs Chambers Westgarth
600 Bourke Street
MELBOURNE VIC 3000
Reference: Stephen Kroker
- 2 (a) Description of the goods or services in relation to the supply or acquisition of which this notice relates
- Residential blocks of land (either vacant or as part of house and land packages) within an integrated residential community in the Hunter Valley known as the "The Vintage" ("**Residential Lots**"), to be sold by Vintage Developments.
- (b) Description of the conduct or proposed conduct
- Supplying or offering to supply Residential Lots on the condition that the person supplied or offered supply will acquire membership services from the operator of the Vintage Golf Club.

(See Direction 4 on the back of this Form)

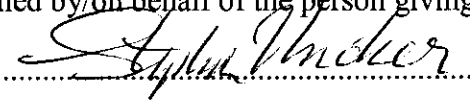
- 3 (a) Class or classes of persons to which the conduct relates
Vintage Developments, potential operators of the Vintage Golf Club, and all potential purchasers of Residential Lots.
- (b) Number of those persons -
- (i) At the present time
All actual and potential purchasers of Residential Lots.
- (ii) Estimated within the next year
70
- (c) Where number of persons stated in item 3(b)(i) is less than 50, their names and addresses
Not applicable.

4 Name and address of person authorised by the person giving this notice to provide additional information in relation to this notice

Stephen Kroker
Partner
CORRS CHAMBERS WESTGARTH
600 Bourke Street
MELBOURNE VIC 3000

Dated. 20 December, 2001

Signed by/on behalf of the person giving this notice



(Signature)

STEPHEN CHARLES KROKER

(Full Name)

PARTNER, CORRS CHAMBERS WESTGARTH

(Description)

DIRECTIONS

- 1 If there is insufficient space on this form for the required information, the information is to be shown on separate sheets, numbers consecutively and signed by or on behalf of the person giving the notice.
- 2 If the notice is given by or on behalf of a corporation, the name of the corporation is to be inserted in item 1(a), not the name of the person signing the notice, and the notice is to be signed by a person authorised by the corporation to do so.
- 3 In item 1(b), describe that part of the business of the person giving the notice in the course of which the conduct is engaged in.
- 4 If particulars of a condition or of a reason of the type referred to in sub-section 47(2), (3), (4), (5), (6), (7), (8) or (9) of the *Trade Practices Act* 1974 have been reduced in whole or in part to writing, a copy of the writing is to be furnished with the notice.
- 5 In item 3(a), describe the nature of the business carried on by the persons referred to in that item.
- 6 In item 3(b)(ii), state an estimate of the highest number of persons with whom the person giving notice is likely to deal in the course of engaging in the conduct at any time during the next year.

NOTICE

If this notification is in respect of conduct of a kind referred to in sub-section 47(6) or (7) or paragraph 47(8)(c) or (9)(d) of the *Trade Practices Act* 1974 ("the Act"), it comes into force at the end of the period prescribed for the purposes of subsection 93(7A) of the Act ("the prescribed period") unless the Commission gives a notice under sub-section 93A(2) of the Act within the prescribed period, or this notification is withdrawn.

The prescribed period is 21 days (if this notification is given on or before 30 June 1996) or 14 days (if this notification is given after 30 June 1996), starting on the day when this notification is given.

If the Commission gives a notice under sub-section 93A(2) of the Act within the prescribed period, this notification will not come into force unless the Commission, after completing the procedures in section 93A of the Act, decides not to give a notice under subsection 93(3A) of the Act. The notification comes into force when that decision is made.

If this notification is in respect of conduct of a kind referred to in subsection 47(2), (3), (4) or (5), or paragraph 47(8)(a) or (b) or (9)(a), (b) or (c), of the Act, it comes into force when it is given.

VINTAGE DEVELOPMENTS PTY LTD

SUBMISSION TO THE AUSTRALIAN COMPETITION AND CONSUMER COMMISSION REGARDING THIRD LINE FORCING NOTIFICATION

1 INTRODUCTION

- 1.1 Vintage Developments Pty Ltd ABN 60 067 567 006 (“**Vintage Developments**”) of 8 Hunter Street, Sydney, New South Wales, is a subdivider, estate developer and seller of residential land, for use by urban communities.
- 1.2 Vintage Developments is proposing to offer residential blocks of land for purchase (either vacant or as part of house and land) within an integrated residential community in the Hunter Valley known as the “The Vintage” (“**Residential Lots**”).
- 1.3 Vintage Developments wishes to supply or offer to supply Residential Lots to purchasers and prospective purchasers on the condition that purchasers acquire membership services from the operator of the Vintage Golf Club (which incorporates the Vintage Golf Course and club facilities) (Vintage Developments is the current owner of the Vintage Golf Club but intends selling it in the near future).
- 1.4 It is currently envisaged that such purchasers and prospective purchasers will be required to acquire leisure membership services. Leisure membership requires the payment of an annual fee (currently proposed to be \$440) and annual minimum spending on food and beverage at the Vintage Golf Club (currently proposed to be \$440) which entitles members to use of the swimming pool, fitness facility and tennis courts (and access to the golf course for a daily green fee) throughout a calendar year. Leisure members are also entitled to activate golf playing privileges (which exempt members from paying green fees) by paying additional annual fees, but are not required to do so.
- 1.5 Supplying or offering to supply the Residential Lots on the above condition may involve Vintage Developments engaging in conduct which contravenes the prohibition against third line forcing in sub-sections 47(6) and (7) of the Trade Practices Act 1974 (“**Act**”).

2 PUBLIC BENEFITS

- 2.1 Vintage Developments submits that the following public benefits will result from the proposed conduct:
 - purchasers of Residential Lots will be entitled to access a range of high standard leisure membership services for an annual fee that is lower than the price charged for comparable leisure services and facilities elsewhere;
 - purchasers of Residential Lots are entitled to upgrade their membership rights to include golf playing privileges without incurring significant joining fees commonly charged at comparable championship golf courses;
 - the leisure membership rights which attach to Residential Lots would add to the property value and perceived worth of owning a Residential Lot;
 - the combination of the Residential Lots and the membership rights attached to each Lot would help create a sense of community and pride among the residents;

- the proposed Residential Lots and developing community would facilitate significant economic development in the Hunter Valley with positive flow on effects to local investment, employment and infrastructure, and therefore represents a general benefit to the public; and
- the proposal would result in economies of scale and advertising cost savings through the joint promotion of the Residential Lots and leisure membership/golf membership services available at The Vintage.

3 ANY PUBLIC DETRIMENT?

The only apparent detriment (if any) which may result from the proposed Residential Lots is that purchasers and prospective purchasers will be required to acquire leisure membership services which they may or may not wish to use.

4 RELEVANT MARKETS

4.1 Vintage Developments submits that the relevant markets are:

- the markets for the supply of residential blocks of land; and
- the markets for the supply of leisure and recreational services (which would include golf, swimming, health and fitness facilities, and tennis facilities).

4.2 Within these markets:

- Vintage Developments develops residential land and supplies residential lots to prospective purchasers (and currently also supplies leisure and recreational services); and
- future operators of the Vintage Golf Club will supply leisure and recreational services.

4.3 Given the highly competitive nature of both these markets and the modest market position occupied by Vintage Developments and future owners of the Vintage Golf Club within these markets, supplying or offering to supply Residential Lots on the proposed condition will not lessen competition in these markets, or any other markets. Indeed, Vintage Developments submits that its proposed conduct will promote competition in the relevant markets, especially the markets for the supply of residential properties through Vintage Developments differentiating itself from other residential developments.

5 CONCLUSION

5.1 To avoid any risk of contravening the prohibition against third line forcing, Vintage Developments is lodging a notification with the Commission in accordance with subsection 93(1) of the Act.

5.2 Vintage Developments submits that the likely benefit to the public from the proposed Residential Lots will clearly outweigh any possible detriment to the public resulting from it, in accordance with the statutory test set out in section 93(3A) of the Act.