

COMMONWEALTH OF AUSTRALIA
Trade Practices Act 1974 – subsection 93(1)
EXCLUSIVE DEALING: NOTIFICATION

To the Australian Competition and Consumer Commission:
Notice is hereby given, in accordance with subsection 93(1) of the Trade Practices Act 1974, of particulars of conduct or of proposed conduct of a kind referred to in subsection 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 engages or proposes to engage.

(PLEASE READ DIRECTIONS AND NOTICE ON BACK OF FORM)

1. (a) Name of person giving notice:
Marshall Baker Homes Pty Ltd ACN 113 294 643
- (b) Short description of business carried on by that person:
Builder
- (c) Address in Australia for service of documents on that person:

2. (a) Description of the goods or services in relation to the supply or acquisition of which the notice relates:
Building of houses upon lots in the Waterways Residential Development
- (b) Description of the conduct or proposed conduct:
Sale of 13 lots in a medium density stage of the Waterways Residential Development to be known as Artesian by The Waterways Residential Development Pty Ltd ACN 004 413 183 on the condition that the purchaser of the lot enters into a building contract with Marshall Baker Homes Pty Ltd ACN 113 294 643 for the construction of a house on the lot.

3. (a) Class or classes of persons to which the conduct relates:
Purchasers of lots in the 'Artesian' stage of the Waterways Residential Development
- (b) Number of those persons:
 - (i) At present time:
0
 - (ii) Estimated within the next year:
13
- (c) Where number of persons stated in item 3(b)(i) is less than 50, their names and addresses:
n/a

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

Robert Gregory, Partner, Maddocks, 140 William Street, Melbourne, Victoria 3000

Dated **18 Oct** 2006

Signed by/on behalf of the person giving the notice:

(Signature)

(Full name)

Ashir Singh
(Description)

Director



DIRECTIONS

1. If there is insufficient space on this form for the required information, the information is to be shown on separate sheets, numbered 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 subsection 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 provided with the notice.
5. In item 3(a), describe the nature of the business carried on by the person 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 the 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 subsection 47(6) or (7), or paragraph 47(8)(c) or (9)(d), of the *Trade Practice 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 subsection 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 subsection 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.

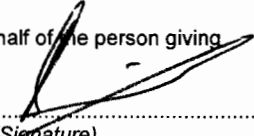
If this notification is in respect of conduct of a kind referred to in subsection 47(2), (3), (4) or (5), or paragraph 47(8)(a) or (b) or (9)(a), (b) or (c) of the Act, it comes into force when it is given.

ANNEXURE

1. Marshall Baker Homes Pty Ltd ACN 113 294 643 (**Marshall Baker**) is a registered builder in Victoria.
2. The Waterways Residential Development Pty Ltd ACN 004 413 183 (**Waterways**) is the owner and developer of a residential property subdivision development. The Waterways development comprises approximately 700 lots and is located in the South Eastern suburbs of Melbourne (Cnr Governor & Springvale Rds, Waterways 3125). The development incorporates 46 ha of wetlands, a 12 ha freshwater lake and over 20 ha of parklands.
3. This notification relates only to a single stage of the development that Waterways is now developing as a 13 lot medium density precinct, to be known as "Artesian".
4. Artesian is an integrated house & land precinct which has been planned and designed, to meet planning and other regulatory requirements, and with all housing ~~designs specified to meet the precinct's environmental, aesthetic and lifestyle parameters.~~ The design for each housing unit is specified and the purchaser may not deviate from the pre-planned designs.
5. In order to ensure a uniform high quality of design and construction of the houses within the Artesian stage, Waterways has selected Marshall Baker Homes Pty Ltd ACN 113 294 643 to build each house in accordance with the approved design guidelines.
6. Waterways proposes to sell each of the 13 lots in the Artesian stage of the Waterways Development subject to a special condition that the purchaser enter into a contract with Marshall Baker Homes Pty Ltd for the construction of a house on the lot in accordance with the design guidelines.
7. Marshall Baker submits that the public benefit of the conduct clearly outweighs any public detriment caused by the lessening of competition which is likely to result from the conduct (if any) as:
 - 7.1 the condition only applies to 13 out of approximately 700 lots within the Waterways Development;
 - 7.2 the condition is intended to ensure that the Artesian stage of the Waterways development is built to a high and uniform quality and aesthetic standard, which will tend to preserve and increase the value of the lots purchased; and
 - 7.3 purchasers may chose to purchase other lots within the Waterways Development or other developments in South Eastern Melbourne and enter into contracts with the builder of their choice.

Dated 18 Jul 2006

Signed by/on behalf of the person giving the notice:


(Signature)

Ashir Singh
(Full name)

Director
(Description)

FORM G

Regulation 9

COMMONWEALTH OF AUSTRALIA
Trade Practices Act 1974 – subsection 93(1)
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(PLEASE READ DIRECTIONS AND NOTICE ON BACK OF FORM)

1. (a) Name of person giving notice:
The Waterways Residential Development Pty Ltd ACN 004 413 183
- (b) Short description of business carried on by that person:
Developer of the Waterways Residential Development in Waterways, Victoria 3125
- (c) Address in Australia for service of documents on that person:
8 Collins Street, Melbourne, Victoria, 3000
2. (a) Description of the goods or services in relation to the supply or acquisition of which the notice relates:
Sale of lots in the Waterways Residential Development
- (b) Description of the conduct or proposed conduct:
Sale of 13 lots in a medium density stage of the Waterways Residential Development to be known as Artesian on the condition that the purchaser of the lot enters into a building contract with Marshall Baker Homes Pty Ltd ACN 113 294 643 for the construction of a house on the lot.
3. (a) Class or classes of persons to which the conduct relates:
Purchasers of lots in the 'Artesian' stage of the Waterways Residential Development
- (b) Number of those persons:
 - (i) At present time:
0
 - (ii) Estimated within the next year:
13
- (c) Where number of persons stated in item 3(b)(i) is less than 50, their names and addresses:
n/a
4. Name and address of person authorised by the person giving this notice to provide additional information in relation to this notice:
Robert Gregory, Partner, Maddocks, 140 William Street, Melbourne, Victoria 3000

Dated 18/12/ 2006

Signed by/on behalf of the person giving the notice:

(Signature)

(Full name)

(Description)

**Ian M. Kiefel
Director**



DIRECTIONS

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5. In item 3(a), describe the nature of the business carried on by the person 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 the notice is likely to deal in the course of engaging in the conduct at any time during the next year.

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ANNEXURE

1. The Waterways Residential Development Pty Ltd ACN 004 413 183 (**Waterways**) is the owner and developer of a residential property subdivision development. The Waterways development comprises approximately 700 lots and is located in the South Eastern suburbs of Melbourne (Cnr Governor & Springvale Rds, Waterways 3125). The development incorporates 46 ha of wetlands, a 12 ha freshwater lake and over 20 ha of parklands.
2. This notification relates only to a single stage of the development that Waterways is now developing as a 13 lot medium density precinct, to be known as "Artesian".
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6. Waterways submits that the public benefit of the conduct clearly outweighs any public detriment caused by the lessening of competition which is likely to result from the conduct (if any) as:
 - 6.1 the condition only applies to 13 out of approximately 700 lots within the Waterways Development;
 - 6.2 the condition is intended to ensure that the Artesian stage of the Waterways development is built to a high and uniform quality and aesthetic standard, which will tend to preserve and increase the value of the lots purchased; and
 - 6.3 purchasers may chose to purchase other lots within the Waterways Development or other developments in South Eastern Melbourne and enter into contracts with the builder of their choice.

Dated 18 / 12 / 20 0 6

Signed by/on behalf of the person giving
the notice:

.....
(Signature)

.....
(Full name)

Ian M. Kiefel
Director

.....
(Description)