

LYNCH MEYER

MEMBER OF THE KENNEDY STRANG LEGAL GROUP

FILE No:

DOC:

MARS/PRISM:

Ref: SMA:582807
Direct Line: 8236 7681
Fax: 8223 4348
sappleyard@lynchmeyer.com.au

27 July 2007

The General Manager
Adjudication Branch
Australian Competition and Consumer Commission
PO Box 1199
CANBERRA ACT 2602

Dear Sir

Exclusive Dealing Notification

We act on behalf of the South Australian Housing Trust.

Our client is developing a project for community titled residential land and new dwellings as part of its affordable housing project at Gilles Plains, South Australia.

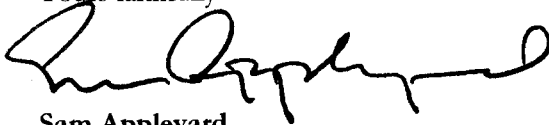
With this letter our client gives notice of proposed conduct of a kind referred to in section 47(6) of the *Trade Practices Act (the Act)*, in accordance with sub-section 93(1) of the Act.

Annexed, please find:

- application fee in the sum of \$100.00; and
- our client's notification and supporting submission.

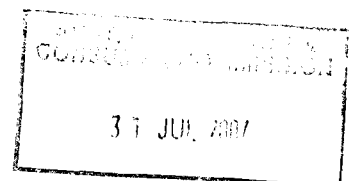
Should you have any queries, please contact the writer as you require.

Yours faithfully



Sam Appleyard
Partner
Lynch Meyer

Encs



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COMMONWEALTH OF AUSTRALIA

Trade Practices Act 1974 - Subsection 93(1)

Form G

Exclusive Dealing: Notification

N93078

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), (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:-**
South Australian Housing Trust ABN 17 545 435 789.
- (b) **Short description of business carried on by that person:-**
A project for the development and marketing of community titled residential land and new dwellings, as part of the South Australian Housing Trust's affordable housing project at the Corner of Grant Avenue, McKinlay Avenue and Bracken Avenue, Gilles Plains, South Australia.
- (c) **Address in Australia for service of documents on that person:-**
C/- Stuart McRae Appleyard
Lynch Meyer Lawyers
190 Flinders Street
ADELAIDE SA 5000
2. (a) **Description of the goods or services in relation to the supply or acquisition of which this notice relates:-**
Contracts for the sale of two storey residential allotments consisting of (townhouse and mews residences) on land bounded by Grant Avenue, McKinlay Avenue and Brachen Avenue at Gilles Plains, South Australia.
- (b) **Description of the conduct or proposed conduct:-**
Refer annexure A.
3. (a) **Class or classes of persons to which the conduct relates:**
Purchasers of residential allotments within the above land.
- (b) **Number of those persons:-**
 - (i) At present time – Conduct has not commenced
 - (ii) Estimated within the next year – up to 24 - Purchasers of 24 two storey townhouse and mews residential dwellings
- (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:-**
Mr Stuart McRae Appleyard, Lynch Meyer Lawyers, 190 Flinders Street, Adelaide SA 5000

Dated the 27th day of July 2007

Signed by/on behalf of the persons giving this notice

Signature

STUART McRAE APPLEYARD

Full Name

Lynch Meyer Lawyers

on behalf of the South Australian Housing Trust

ATTACHMENT A

1. The South Australian Housing Trust ("the Trust") is the registered proprietor of Allotment 53 in DP65192, being the land comprised in Certificate of Title Register Book Volume 5927 Folio 152 bounded by Grant Avenue, McKinlay Avenue and Bracken Avenue, Gilles Plains, South Australia containing approximately 4550 square metres ("the Land").
2. The Trust is developing the Land and sought tenders from developers in relation to the development of the Land as part of a pilot affordable housing project.
3. It is the Trust's intention that the redevelopment of the Land as part of the redevelopment of a larger area known as "the Wandana Redevelopment" at Gilles Plains will reinvigorate and beautify the neighbourhood, by incorporating Housing Trust homes, landscapes, reserves, and public spaces within the redevelopment. The Trust also intends to provide recreational spaces for the wider community to improve the amenity of the area.
4. The Trust has accepted a tender from Rossdale Homes Pty Ltd ACN 485 753 134 ("the Developer") to develop the Land in accordance with the Trust's requirements as a community title development incorporating 24 residences with the following characteristics:
 - 4.1. Eight (8) 3 bedroom 2 storey townhouses, each with a two car lock up garage – overlooking a reserve;
 - 4.2. Eight (8) 3 bedroom 2 storey townhouses, each with a two car lock up garage/carport – facing McKinlay Avenue; and
 - 4.3. Eight (8) 2 bedroom/study mews residences, each with a one car lock up garage("affordable housing").
5. The Developer has expertise in building and developing urban housing projects throughout Australia.
6. The Trust and the Developer have agreed that they will form an unincorporated joint venture and combine their resources to develop the Land, market it and sell it to the public and divide the sale proceeds between them in accordance with the terms set out in a Joint Venture Agreement made on 13 July 2006.
7. The Trust has been granted provisional development approval by the Development Assessment Commission (Development Number 040/1832/05 Variation 1) to construct the two storey community titled residential dwellings (consisting of townhouse and mews residences) with associated service infrastructure and improvements on the Land.
8. It is intended that the Project be built in 5 stages over a 3 year period with approximately 5 dwellings to be constructed in each stage.

Design Guidelines

9. The Wandana Redevelopment area currently has a high proportion of Housing Trust homes. It is the Trust's intention that some public housing will be incorporated in the Wandana Redevelopment. However, with design guidelines in place and a move away from entire streets or large pockets of Trust homes, the Trust intends that the new homes in the redevelopment, will blend seamlessly into the streetscapes, benefiting tenants and neighbouring residents alike.
10. The Trust's key design guidelines for the Wandana Redevelopment include:
 - 10.1. an emphasis on blending new homes into the streetscape;
 - 10.2. an emphasis on greener housing;
 - 10.3. smarter passive design;
 - 10.4. solar hot water services;
 - 10.5. energy efficient appliances;
 - 10.6. water saving showerheads; and
 - 10.7. other features that will not only make the new homes more energy efficient but will save residents money in power and water bills, now and in the future.

11. The Trust will create the allotments in accordance with the Community Titles Act.
12. The Community Titles Act allows a developer to stage its developments and effect sales of allotments created under that Act, or completed improvements, being lots and dwellings, as demand allows.
13. The development approval obtained by the Trust with the relevant planning authority provides that the Trust erect, or procure the erection of the dwellings in accordance with designs approved by the Development Authority.

Notified Conduct

14. The Trust proposes that sales of the Land in the development may be by way of:
 - 14.1 a sale by the Trust to a purchaser of community title land and a completed dwelling with settlement occurring after completion of the dwelling by the Developer, or
 - 14.2 for purchasers who want to secure a contract at an earlier stage, the Trust will enter into a Contract for the sale of a lot of community title land with a condition that the purchaser enter into a building contract for completion of the dwelling with the Developer contemporaneously.
15. The second method of contracting, requiring a purchaser of a dwelling to contract with the Developer to erect improvements, is likely to breach Section 47(6) of the Trade Practices Act, being conduct commonly known as third line forcing.
16. The Trust considers that Land sales should be in the nature of allocated house/Land packages for construction and marketing in order to:
 - 16.1 ensure the Trust is able to control the continuity of design and construction of new dwellings in accordance with its development approval and the provisions of the Community Plan and the expectations of parties who have previously bought in the development;
 - 16.2 ensure the Trust is able to control the environmental and social objectives of this development and the Wandana Redevelopment;
 - 16.3 enable the Trust to ensure compliance by the Developer with the environmental and social objectives of the Wandana Redevelopment; and
 - 16.4 to maintain an affordable quality product in the range for the designated markets indicated by consulting advice and research and the social responsibilities of the Trust.
17. The limitation on the number of Builders is market driven.
18. The Trust considered the cost of building the dwellings in the tender process for the development of the Land. The Trust considers that due to the competitive nature of the tender process, and due to the fact that the Developer will be building all of the buildings on the Land the cost of the Developer building the dwellings will be competitive, will align with the environmental and social objectives of the Trust in relation to the Land and with the Wandana Redevelopment generally.

Likely Public Benefit

19. The Trust:
 - 19.1 considers the facts advanced in respect of this Notification demonstrate substantial public benefit arising from the redevelopment as proposed;
 - 19.2 considers the requirement that purchasers must choose the Developer as the builder nominated by the project for allotments sold in a packaged arrangement for house and land have no or minimal impact on competition and choice in that market; and
 - 19.3 submit that the likely public benefit will outweigh any detriment likely to result from the conduct.