



THE SECURITIES ACT (SINGLE COMMERCIAL PROPERTY COMPANIES) EXEMPTION NOTICE 1991

PURSUANT to the Securities Act 1978, the Securities Commission gives the following notice.

NOTICE

1. Title and commencement—(1) This notice may be cited as the Securities Act (Single Commercial Property Companies) Exemption Notice 1991.

(2) This notice shall come into force on the day after the date of its notification in the *Gazette*.

2. Interpretation—(1) In this notice, unless the context otherwise requires,—

“The Act” means the Securities Act 1978:

“Specified issuer” means a person named in the Schedule to this notice.

(2) Any term or expression which is not defined in this notice, but which is defined in the Act, has the meaning given to it by the Act.

3. Certain persons exempted from section 33 (2) of the Securities Act 1978—(1) Subject to subclause (2) of this clause, every specified issuer, and every person acting on its behalf, is exempted from compliance with the provisions of section 33 (2) of the Act in respect of any offer of debt securities of which it is the issuer.

(2) The exemption granted by subclause (1) of this clause is subject to the following terms and conditions:

- (a) That the only business of the specified issuer is the acquisition and ownership of a single real estate property:
- (b) That the offer of debt securities is made in conjunction with, and is contained in the same registered prospectus as, an offer of equity securities:
- (c) That it is a condition of the offer of the equity securities that the subscriber is also allotted the debt securities:
- (d) That the specified issuer does not allot the debt securities to any person unless it also allots equity securities to that person:
- (e) That the number of debt securities allotted to any person in relation to the number of equity securities allotted to that person is the

same in relation to all persons to whom equity securities and debt securities are allotted:

- (f) That the only differences between the rights and obligations attaching to any equity securities allotted to or held by the promoter otherwise than in accordance with the registered prospectus and the rights and obligations attaching to equity securities to which the registered prospectus relates that are offered for subscription are—
 - (i) That equity securities held by the promoter do not carry voting rights; and
 - (ii) That the promoter is not required, by virtue of holding the equity securities, to make any loan to the specified issuer:
- (g) That the rights attaching to both equity securities and debt securities to which the prospectus relates on a winding up of the specified issuer are the same:
- (h) That if any equity securities are allotted to or held by the promoter otherwise than in accordance with the registered prospectus,—
 - (i) Those securities do not carry the right to vote; and
 - (ii) The registered prospectus states that the securities have been allotted to or are held by the promoter, that the securities do not carry the right to vote, and also states whether or not the promoter is required by virtue of holding the securities to make any loan to the specified issuer:
- (i) That all the rights, liabilities, and conditions attaching to the equity securities are contained in the articles of association of the specified issuer and those articles prohibit any variation of those rights, liabilities, and conditions or the substitution of other rights, liabilities, or conditions for any of them except with the agreement of all the holders of those securities carrying the right to vote:
- (j) That a copy of an agreement to be entered into by all subscribers for equity securities, and the promoter, is attached to the registered prospectus, which agreement—
 - (i) Contains an acknowledgement that every subscriber has been supplied with a copy of the provisions of the articles that relate to the rights, liabilities, and conditions attaching to the equity securities and has read and understood those provisions; and
 - (ii) Provides that the provisions of the articles that relate to the rights, liabilities, and conditions attaching to the equity securities and the requirement referred to in paragraph (m) of this subclause cannot be varied or substituted except with the agreement of all the holders of those securities carrying the right to vote; and
 - (iii) Provides that the agreement becomes binding on a subscriber for equity securities when the securities subscribed for are allotted to that person; and
 - (iv) Provides that the agreement is binding on all the holders of equity securities; and
 - (v) Provides that no equity securities and no interest in or rights relating to equity securities may be sold or disposed of unless the person to whom the equity securities or the interest or

rights are sold or disposed of has first entered into a deed of adherence to the agreement:

- (k) That the registered prospectus states that no application for equity securities or debt securities can be made unless the agreement referred to in paragraph (j) of this subclause has been signed by the applicant and the agreement as so signed accompanies every application for the securities:
- (l) That no equity securities or debt securities are allotted to a subscriber unless the subscriber has signed the agreement and the agreement as so signed accompanies the application for the securities:
- (m) That the articles of association contain a requirement that the financial statements of the specified issuer are audited each year by an auditor appointed under the Companies Act 1955:
- (n) That no person from whom the specified issuer acquires any real property or who has an interest in any real property acquired by the specified issuer is—
 - (i) The holder of equity securities in or a director of the specified issuer; or
 - (ii) Related to or associated with the holder of equity securities in or a director of the specified issuer; or
 - (iii) The promoter or the holder of equity securities in or a director of the promoter; or
 - (iv) Related to or associated with the promoter or the holder of equity securities in or a director of the promoter.

SCHEDULE

Basilica Properties Limited
Carmont Properties Limited
Linchurch Properties Limited

Dated at Wellington this 4th day of December 1991.

The Common Seal of the Securities Commission was hereunto affixed in the presence of:

[L.S.]

B. H. SMITH,
Member.

EXPLANATORY NOTE

This note is not part of the notice, but is intended to indicate its general effect.

This notice exempts, subject to conditions, named issuers from compliance with the trustee and trust deed requirements of the Securities Act 1978 in the case of certain offers of debt securities. The conditions of the exemption include the conditions that the only business of an issuer is the acquisition and ownership of a single commercial property, that offers of debt securities are required to be made in conjunction with offers of equity securities, and that persons who subscribe for debt securities must also subscribe for equity securities.

Issued under the authority of the Acts and Regulations Publication Act 1989.

Date of notification in *Gazette*: 5 December 1991.

This notice is administered in the Securities Commission.