

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION
OF THE FEDERAL TRADE COMMISSION ACT

Docket 8886. Complaint, May 8, 1972—Decisions, May 3, 1974*

Consent order requiring a Tysons Corner, Va., developer of a northern Va. regional shopping center, among other things to cease entering into or enforcing agreements which limit the merchandise, services, or price ranges of prospective tenants or

*For case as to City Stores Company, see 85 F.T.C.

tenants; control or allow other tenants to control the advertising of other tenants; or involves any connection with price fixing.

Consent orders requiring two major tenants of Tysons Corner Regional Shopping Center, one headquartered in St. Louis, Mo., and the other in Washington, D.C., among other things to cease entering into or enforcing leases which exclude competitors, fix retail prices, eliminate discount selling and otherwise restrain trade.

Appearances

For the Commission: *Barbara B. Wiggs, Anthony L. Joseph, David I. Wilson and Sandra K. Casber.*

For the respondents: *H. Max Ammerman*, Washington, D.C. for Tysons Corner Regional Shopping Center. *Surrey, Karasik and Morse*, Washington, D.C. for Woodward and Lothrop, Inc. *George W. Wise*, of *Hogan & Hartson*, Washington, D.C. for The May Department Stores Company.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act (15 U.S.C. Section 41 *et seq.*) and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that the corporations and the partnership named as respondents in the caption hereof, and more particularly designated and described hereinafter, have violated and are now violating the provisions of Section 5 of the Federal Trade Commission Act, as amended, and it appearing to the Commission that a proceeding by it in respect thereof is in the public interest, hereby issues its complaint, stating the following:

PARAGRAPH 1. For the purpose of this complaint the following definitions shall apply:

a) The term "regional shopping center" means a planned development of retail outlets serving the general public in an approximately defined trading area and containing one or more major tenants.

b) The term "major tenant" means a department store providing primary drawing power for a regional shopping center.

c) The term "satellite tenant" means any commercial occupant of a shopping center not a major tenant.

d) The term "trading area" means the geographical bounds within which tenants of a regional shopping center derive the predominance of their customers.

e) The term "corporate respondent" means each of the corporations named herein and their respective officers, agents, representatives, employees, successors or assigns.

PAR. 2. Respondent, Tysons Corner Regional Shopping Center, [hereinafter referred to as Tysons Corner] is a partnership composed of Theodore N. Lerner, H. Max Ammerman and the Gudelsky Company,

with its principal office and place of business in Tysons Corner, Va. The business of the partnership includes the development and operation of a regional shopping center located at Tysons Corner, Va.

Tysons Corner is one of the nation's largest regional shopping centers with over 100 retail stores and 1.2 million square feet of floor space. It has three major tenants occupying approximately 450,000 square feet of its gross floor space. The stores which comprise Tysons Corner carry a wide variety of major brand items, and sold to consumers millions of dollars worth of wearing apparel and accessories, household linens and dry goods, home furnishings, housewares, appliances and other merchandise in 1969.

Tysons Corner is located in a triangular area bound by three major highways in Fairfax County, Va. It serves and dominates a retail trading area with one of greater metropolitan Washington, D.C.'s highest population and income growth rates. Tysons Corner is located approximately 9 miles northwest of downtown Washington, D.C. and approximately 4 miles from its nearest competition, the Seven Corners Shopping Center. Prior to the development of Tysons Corner, the only shopping facilities available to residents in the Tysons Corner trading area were community shopping centers and neighborhood stores.

PAR. 3. Respondent City Stores Company* [hereinafter referred to as City Stores] is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its principal office and place of business located at 500 Fifth Avenue, New York, N.Y. Respondent operates and controls its subsidiaries from its principal office and place of business.

City Stores and its subsidiaries are engaged in the operation of chain retail stores, including department stores. In 1969, City Stores was one of the nation's largest department store concerns, with sales in excess of \$380 million operating leading department stores in nine metropolitan areas.

In the Washington, D.C. metropolitan area, City Stores owns, operates, directs and controls the Lansburgh's department store chain, a subsidiary with its principal office and place of business at 420 Seventh Street, N.W., Washington, D.C.

Lansburgh's is one of the leading department store operations in the Washington area. It has four stores with an approximate total of 600,000 square feet of floor space. A warehouse for the Lansburgh's stores is maintained at 10 T Street, S.W., Washington, D.C. In fiscal 1969, Lansburgh's estimated sales were \$32 million. In recent years Lansburgh's has entered both the Langley Park and Tysons Corner

*For case as to City Stores Company, see 85 F.T.C. ____.

regional shopping centers. Lansburgh's occupies approximately 138,000 square feet of floor space in Tysons Corner as a major tenant.

PAR. 4. Respondent The May Department Stores Company [hereinafter referred to as May Company] is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its principal office and place of business at Sixth & Olive Streets, St. Louis, Mo. May Company is engaged in the operation of department stores.

In 1969, May Company was approximately ninth in sales volume among the nation's department store operators, with fiscal 1969 sales in excess of \$1.13 billion. May Company operates over 86 department stores in many parts of the country. In the Washington, D.C. metropolitan area, May Company operates Hecht Company, [hereinafter referred to as Hecht's], a wholly-owned subsidiary incorporated under the laws of the State of Maryland, with its principal office and place of business at "F" and Seventh Street, N.W., Washington, D.C. Hecht's is a leading operator of department stores in the Washington, D.C. metropolitan area.

The Hecht Company operates nine department stores in the Washington, D.C. metropolitan area and has over 1.52 million square feet of floor space. Hecht's operates one or more warehouses for the nine stores in the Washington, D.C. metropolitan area, one of which is located at 1173 E. University Boulevard, Langley Park, Md. In fiscal 1969 Hecht's estimated sales were \$80.6 million.

In recent years, Hecht's has entered several regional shopping centers in the Washington, D.C. area. Hecht's presently operates department stores in the following regional shopping centers: Prince Georges Plaza, Landmark, Marlow Heights, Montgomery Mall, Tysons Corner and Parkington. Hecht's occupies approximately 150,000 square feet of floor space in Tysons Corner as a major tenant.

PAR. 5. Respondent, Woodward and Lothrop, Inc. [hereinafter referred to as Woodward] is a corporation organized, existing and doing business under and by virtue of the laws of the District of Columbia, with its principal office and place of business at "F" and Tenth Streets, N.W., Washington, D.C.

Woodward operates one of the largest department store chains in the Washington, D.C. area, with twelve department stores and over 1.39 million square feet of floor space. Woodward also owns and operates three warehouses in the Washington area, one of which is in Virginia. In 1969, Woodward's sales exceeded \$126 million dollars.

In recent years, Woodward has entered the following regional shopping centers: Landmark, Seven Corners, Iverson Mall, Prince George Plaza, Wheaton Plaza and Tysons Corner. Woodward occupies approx-

imately 150,000 square feet of floor space in Tysons Corner as a major tenant.

PAR. 6. In the course and conduct of their businesses at Tysons Corner, Woodward, Hecht's and Lansburgh's are extensively engaged in the shipment, purchase for resale and sale of goods across state lines. Such goods have been and are advertised and offered for sale by respondents in newspapers circulated among and between the several states and the District of Columbia. Moreover, respondents have caused and are now causing a continuous flow of customer services and customers across the District of Columbia, Maryland and Virginia lines. There is now and has been since the opening of Tysons Corner a constant and substantial flow of said goods and services "in commerce" as that term is defined in the Federal Trade Commission Act.

In the course and conduct of its business, Tysons Corner extensively uses the United States mail in the development and operation of the shopping center. Tysons Corner has disseminated, and caused the dissemination, of certain advertisements and promotional materials concerning the shopping center, by various news media in commerce, as "commerce" is defined in the Federal Trade Commission Act, for the purpose of soliciting prospective tenants located in and among the various states including the District of Columbia. Tysons Corner has been, and is now engaged in interstate lease negotiations and transactions with its tenants and prospective tenants. There is a continuous flow of customers across state lines to transact business at Tysons Corner. The continued viability of Tysons Corner depends upon interstate commerce.

PAR. 7. The movement of population, and particularly the higher income segment of the population, from the central city to the suburbs has precipitated the growth of shopping centers in suburban areas. In 1960, there were approximately 4,500 shopping centers in the United States; their number now exceeds 13,100 and is projected to reach 21,000 by 1980. In 1970, retail sales in shopping centers amounted to \$118 billion and accounted for approximately 33.2 percent of all United States retail sales. Retail sales in shopping centers is projected to reach approximately \$200 billion by 1980.

Regional shopping centers are the most economically significant type of shopping center. They are displacing and replacing the central downtown business district in the retail distribution of goods and services. They reproduce to a substantial extent the retail facilities once available only in downtown business districts and are particularly favored by consumers. Department store operators including the corporate respondents herein, have recognized the potential business opportunities presented by the expanding suburban markets and have, in

recent years, concentrated their efforts in such suburban markets and on establishing themselves in regional shopping centers.

PAR. 8. Except to the extent that competition has been hindered, frustrated and eliminated as set forth in this complaint, corporate respondents, in the course and conduct of their businesses of leasing or otherwise obtaining locations for their department stores and of offering for sale and selling household goods, home furnishings, apparels and services, have been and are in substantial competition with each other and with other corporations, individuals and partnerships in the retail sale of the same or comparable brands of merchandise carried and sold by respondents.

PAR. 9. In 1964-65, Tysons Corner entered into negotiations with May Company and Woodward looking toward the execution of leases by May Company and Woodward covering the leasing of floor space to each of them for the establishment of department stores in Tysons Corner. During the course of such negotiations, May Company and Woodward jointly and severally induced Tysons Corner to agree with them to the inclusion of certain provisions in their respective leases. Such lease provisions, more fully described hereinafter, authorized May Company and Woodward severally to control and determine, without limitation, the admission to Tysons Corner of those seeking to occupy space therein and to impose and control conditions affecting tenants in Tysons Corner.

On December 6, 1965, May Company executed in California its lease with Tysons Corner containing the aforesaid provisions. Shortly thereafter, on December 21, 1965, Woodward executed a lease identical in all respects material to this complaint, in the District of Columbia with Tysons Corner.

On June 13, 1967, City Stores, with the knowledge, consent and agreement of May Company and Woodward, executed a lease identical in all respects material to this complaint in the State of Maryland with Tysons Corner.

COUNT I

PAR. 10. In the course and conduct of their businesses, respondents are and have been engaged in unfair methods of competition in commerce, in that they have caused the inclusion or enforcement of lease provisions which suppress, restrict, hinder, lessen, prevent and foreclose competition in the resale and distribution at retail of goods and services in the Tysons Corner trading area.

The leases and lease provisions referred to in Paragraph 9 above, which said respondents have entered into, enforced, and maintained, confer on the corporate respondents the following rights, powers and privileges:

- a) The right, individually, to disapprove other tenant leases;
- b) The right, individually, to limit the floor space available to other tenants;
- c) The power, individually, to require other tenants to join an approved "merchant association;" and
- d) The power, individually, to exercise continuing control over the conduct of other business operations.

PAR. 11. The aforesaid lease provisions, and the rights, powers and privileges conferred thereby on the corporate respondents as major tenants of Tysons Corner have had and continue to have the tendency to restrain trade and commerce in the retail trading area served by Tysons Corner. Included among such restraints are the following

- a) Fixing, controlling and maintaining retail prices;
- b) Allowing the corporate respondents to choose their competitors and to exclude actual and potential competitors;
- c) Eliminating discount advertising and discount selling;
- d) Denying the public the benefit of price competition;
- e) Boycotting potential tenant entrants to the shopping center;
- f) Restricting, hindering and coercing the developer in his choice of potential tenants in shopping centers.

PAR. 12. The negotiations, agreements, understandings, leases and lease provisions referred to above constitute an agreement, combination and conspiracy among respondents in restraint of trade and an unfair method of competition in commerce within the intent and meaning of Section 5 of the Federal Trade Commission Act.

COUNT II

The allegations of Paragraphs 1 through 9 are incorporated by reference in Count II as if fully set forth therein.

PAR. 13. In the course and conduct of their individual businesses, the individual corporate respondents named in this complaint have and are engaged in unfair methods of competition in that each has caused the inclusion or enforcement of lease provisions which suppress, restrict, hinder, lessen, prevent and foreclose competition in the resale and distribution at retail of goods and services in the Tysons Corner trading area.

The leases and lease provisions referred to in Paragraph 9 confer on the individual corporate respondents the following rights, powers and privileges which said individual respondents have entered into, enforced, and maintained:

- a) The right, individually, to disapprove other tenant leases;
- b) The right, individually, to limit the floor space available to other tenants;

c) The power, individually, to require other tenants to join an approved, "merchant association;" and

d) The power, individually, to exercise continuing control over the conduct of other business operations.

PAR. 14. The aforesaid lease provisions, and the rights, powers and privileges conferred thereby on the corporate respondents as major tenants of Tysons Corner have had and continue to have the tendency to restrain trade and commerce in the retail trading area served by Tysons Corner. Included among such restraints are the following:

a) Fixing, controlling and maintaining retail prices;

b) Allowing the corporate respondents to choose their competitors and to exclude actual and potential competitors;

c) Eliminating discount advertising and discount selling;

d) Denying the public the benefit of price competition;

e) Boycotting potential tenant entrants to the shopping center;

f) Restricting, hindering and coercing the choice of the developer in his choice of potential tenants in shopping centers.

PAR. 15. The inclusion and enforcement of the lease provisions referred to above, by each respondent, individually, constitutes a restraint of trade and an unfair method of competition in commerce within the intent and meaning of Section 5 of the Federal Trade Commission Act.

COUNT III

The allegations of Paragraphs 1 through 9 are incorporated by reference in Count III as if fully set forth therein.

PAR. 16. In the course and conduct of its business, respondent Tysons Corner is and has engaged in unfair methods of competition in that it has unfairly and unlawfully inserted restrictive provisions in satellite tenant leases which tend to maintain, control, fix and establish the retail selling price of goods and services in the Tysons Corner trading area.

Said acts, practices, and methods of competition, and the adverse competitive effects resulting therefrom constitute an unfair method of competition in commerce within the intent and meaning of Section 5 of the Federal Trade Commission Act.

DECISION AND ORDER

AS TO TYSONS CORNER REGIONAL SHOPPING CENTER

The Federal Trade Commission having issued a complaint which charges respondent Tysons Corner Regional Shopping Center, a partnership, with violating the Federal Trade Commission Act; and

The respondent and H. Max Ammerman and Theodore N. Lerner,

and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondent and H. Max Ammerman and Theodore N. Lerner of all the jurisdictional facts set forth in the aforesaid complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission that the law has been violated as alleged in such complaint, and waivers and other provisions as required by the Commission's rules; and

The Commission having thereafter accepted the executed consent agreement and placed such agreement on the public record for a period of thirty (30) days, and having duly considered the comments filed thereafter pursuant to Section 2.34(b) of its Rules, now in further conformity with the procedure prescribed in Section 2.34(b) of its Rules, the Commission hereby makes the following jurisdictional findings and enters the following order:

1. Respondent Tysons Corner Regional Shopping Center is a partnership composed of Theodore N. Lerner, Annette M. Lerner, H. Max Ammerman, Josephine F. Ammerman, and the Gudelsky Company, with its principal place of business in Wheaton, Md. The business of the partnership includes the development and operation of a regional shopping center located at Tysons Corner, Va.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent and H. Max Ammerman and Theodore N. Lerner, and the proceeding is in the public interest.

ORDER

I.

For purposes of this order the following definitions shall apply:

A. The term "respondents" refers to Tysons Corner Regional Shopping Center, a partnership, and its partners, officers, agents, representatives, employees, successors, and assigns, in their capacities as such, and H. Max Ammerman and Theodore N. Lerner individually to the extent hereinafter specified. The term "respondents" refers to any or all of the respondents.

B. The term "shopping center" refers to a planned development of retail outlets, managed as a unit in relation to a trade area which the development is intended to serve, and providing on-site parking in some definite relationship to the types and sizes of stores in the development.

C. The term "tenant" refers to any occupant or potential occupant of retail space in any of respondents' shopping centers, whether as a lessee or owner of such space.

D. The term "retailer" refers to a tenant which sells merchandise or services to the public.

E. The terms "range of prices" and "price range" refer to such descriptive words as "popular priced," "medium priced," "high priced," "merchandise ranging in price from \$90 to \$190," and "the sale of merchandise at prices less than \$15."

F. The term "price line" refers to descriptive words identifying a particular retailer as an example of a category of merchants selling merchandise within a generally identifiable range of prices.

II.

Shopping centers with respect to which each respondent is bound by this order shall be, in addition to Tysons Corner Regional Shopping Center, any shopping center constructed after the issuance of this order in which such respondent actively participates in leasing, negotiating leases, or enforcing leases, or in establishing leasing policies or leasing practices of such shopping center, including any standard form of leasing contract and substantial modifications thereto.

III.

A. *It is ordered*, That respondents cease and desist from making, carrying out, or enforcing, directly or indirectly, an agreement or provision of an agreement which:

1. specifies that any retailer in any of respondents' shopping centers shall or shall not sell merchandise or services at any particular price or within any range of prices;
2. specifies that any retailer in any of respondents' shopping centers shall or shall not sell designated price lines of merchandise;
3. specifies that any retailer in any of respondents' shopping centers shall not be a discounteer or sell merchandise or services at discount prices;
4. specifies the content of or prohibits any type of advertising by a retailer, other than advertising within any of respondents' shopping centers, except that respondents may require a tenant to include the name, insignia, or other identifying mark of any of respondents' shopping centers in advertising pertaining to the tenant's store in any of respondents' shopping centers; or
5. prohibits price advertising within any of respondents' shopping centers or controls advertising within any of respondents' shopping centers in such a way as to make it difficult for consumers to discern advertised prices from the common area of such shopping centers, *Provided*, That, in all other respects, respondents may

make, carry out, and enforce reasonable standards for advertising within any of respondents' shopping centers.

B. *It is further ordered*, That respondent Tysons Corner Regional Shopping Center will within thirty (30) days after service of this order mail a copy of Letter "A," attached hereto, to all tenants of Tysons Corner Regional Shopping Center whose leases make reference in the use clauses to the price or quality of the merchandise or services to be sold.

C. *It is further ordered*, That respondents cease and desist from entering into any agreement with any tenant that said tenant may:

1. specify or control or may require any of respondents to specify or control prices, price ranges, or price lines of merchandise or services sold by any other retailer;
2. control or may require any of respondents to control discounting by any other retailer; or
3. exclude any retailer from any of respondents' shopping centers by reason of such retailer's discount selling or discount advertising.

D. *It is further ordered*, That respondents advise the Commission in writing within sixty (60) days of any occasion that:

1. a tenant disapproves the admission into any of respondents' shopping centers of any other retailer;
2. a tenant refuses to approve the renewal of another retailer's lease in any of respondents' shopping centers;
3. a tenant approves the admission of another retailer into any of respondents' shopping centers subject to conditions imposed by the tenant relating to the pricing, price ranges, price lines, trade names, store names, trademarks, brands or lines of merchandise, or the discounting practices or methods of such other retailer; or
4. a tenant enters into an agreement with any respondent to become a tenant in any of respondents' shopping centers on condition that any respondent refuse to renew the lease of another retailer.

IV.

It is further ordered, That respondents shall:

A. within thirty (30) days after service of this order upon respondents, notify each tenant with which any of them have a lease of this order by providing each such tenant with a copy thereof by registered or certified mail;

B. within sixty (60) days after service of this order upon respondents, file with the Commission a report showing the manner

and form in which they have complied and are complying with each and every specific provision of this order; and

C. notify the Commission at least thirty (30) days prior to any change in the form of business organization of Tysons Corner Regional Shopping Center, such as dissolution, incorporation, assignment, or sale, or any other change in the partnership which may affect compliance obligations arising out of this order.

LETTER "A"

[On Official Tysons Corner Regional Shopping Center Stationery]

Gentlemen:

Tysons Corner Regional Shopping Center has consented to the issuance by the Federal Trade Commission of an Order which, among other things, prohibits Tysons Corner from specifying that its tenants shall or shall not sell merchandise or services at any particular price or within any range of prices, and that its tenants shall or shall not sell designated price lines of merchandise. A copy of the Order is enclosed.

Your lease describes the merchandise or services you are to sell in terms such as "popular priced," "medium priced," "high priced," "medium to better quality," or the like. Please be advised that such language is intended only as a description of the general quality of the merchandise or services you sell. It is not intended and will not be enforced to affect the retail selling price of your merchandise or services. Pursuant to the terms of the Order you are free to set the prices for your merchandise and services and are not required to adhere to any particular price, range of prices, or price lines expressed or implied in your lease or in any other agreement with the shopping center.

This letter shall not operate as a waiver of any rights which Tysons Corner may now have to require you, except as your lease otherwise provides, to sell merchandise or services at a general quality level or levels.

Sincerely,

Theodore N. Lerner,
Partner,
Tysons Corner Regional Shopping Center

COMBINED ORDER AS TO THE MAY DEPARTMENT STORES
COMPANY AND WOODWARD AND LOTHROP, INC.

I

For purposes of these orders, the following definitions shall apply:

A. The term "respondent" refers to the May Department Stores Company and Woodward and Lothrop, Incorporated, their operating divisions, their subsidiaries, and their respective officers, agents, representatives, employees, successors or assignees.

B. The term "shopping center" refers to a group of retail outlets in the United States of America, planned, developed and managed as a unit and containing (1) a total floor area designed for retail occupancy of 200,000 square feet or more, of which at least 50,000 square feet is for occupancy by tenants other than respondent, (2)

at least two tenants other than respondent, (3) at least one major tenant, and (4) on-site parking.

C. The term "tenant" refers to any occupant or potential occupant of retail space in a shopping center which occupancy is for the sale of merchandise or services to the public, whether said occupant leases or owns said space, but the term does not refer to an occupant of space within the store occupied by respondent, which occupant operates a department for respondent pursuant to a license from respondent.

D. The term "major tenant" refers to a tenant providing primary drawing power in a shopping center. A tenant which occupies at least 500,000 square feet of floor area will be deemed to provide primary drawing power.

II

A. *It is ordered*, That respondents, in their capacity as tenants in a shopping center, cease and desist from making, carrying out or enforcing, directly or indirectly, an agreement or provision of any agreement, whether applicable to the shopping center or to any expansion thereof, which:

1. grants respondents the right to approve or disapprove the entry into a shopping center of any other tenant;
2. grants respondents the right to approve or disapprove the amount of floor space that any other tenant may occupy in a shopping center;
3. prohibits the admission into a shopping center of any particular tenant or class of tenants, including, for purposes of illustration:
 - (a) other department stores,
 - (b) junior department stores,
 - (c) discount stores, or
 - (d) catalogue stores;
4. limits the types or brands of merchandise or services which any other tenant in a shopping center may offer for sale;
5. specifies that any other tenant in a shopping center shall or shall not sell its merchandise or services at any particular price or within any range of prices;
6. grants respondents the right to approve or disapprove the location in a shopping center of any other tenant;
7. specifies or prohibits any type of advertising by other tenants, other than advertising within a shopping center; or
8. prohibits price advertising within a shopping center by other tenants or controls advertising within a center by other tenants in such a way as to make it difficult for customers to discern adver-

tised prices from the common area of such shopping center.

B. *It is further ordered*, That respondents, in their capacity as tenants in a shopping center, shall not enter into or carry out any conspiracy, combination or arrangement with any other tenant to exclude any tenant from a shopping center or to achieve the other results which respondents are prohibited by Paragraph II A of this order from undertaking by themselves.

III

A. *It is further ordered*, That this order shall not prohibit respondents from including a provision in a reciprocal easement agreement or lease with respect to a shopping center, which provision identifies in designated buildings respondents and those other major tenants which contemporaneously enter into such reciprocal easement agreement or lease with respect to such shopping center.

B. *It is further ordered*, That this order shall not prohibit respondents from negotiating to include, including, carrying out or enforcing an agreement or provision in any agreement which:

1. requires that in respect of the selection of other tenants in the shopping center by the developer the following objective shall be considered—maintaining a balanced and diversified grouping of retail stores, merchandise and services;

2. prohibits occupancy of space in a shopping center by clearly objectionable types of tenants, including, for purposes of illustration, shops selling pornographic materials;

3. prohibits occupancy of space in a shopping center immediately proximate to respondents by types of tenants that create undue noise, litter or odor, including, for purposes of illustration, carry-out food shops;

4. requires that reasonable standards of appearance, signs, maintenance and housekeeping be maintained in a shopping center; or

5. establishes a layout of a shopping center which layout may (a) designate respondents' store, (b) set forth the location, size and height of all buildings, but not the amount of floor space that any other tenant may occupy in the shopping center, and (c) locate parking areas, roadways, utilities, entrances, exits, walkways, malls, landscaped areas and other common areas.

IV

It is further ordered, That respondents shall:

- A. within thirty (30) days after service of this order upon re-

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spondents, distribute a copy of this order to each of their operating divisions;

B. within thirty (30) days after service of this order upon respondents, notify each developer of shopping centers in which respondents are tenants, of this order by providing each such developer with a copy thereof by registered certified mail;

C. within sixty (60) days after service of this order upon respondents, file with the Commission a report showing the manner and form in which they have complied and are complying with each and every specific provision of this order; and

D. notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondents such as dissolution, assignment or sale resulting in the emergence of successor corporations, the creation or dissolution of subsidiaries, or any other change in the corporations which may affect compliance obligations arising out of these orders.

IN THE MATTER OF

PEPSICO, INC.