



## **FAIR TRADING COMMISSION**

### **Report on Investigation into Complaints against Housing Developers regarding “Gated Communities”**

The Staff of the Fair Trading Commission received numerous complaints from persons who bought units in developments which were described in advertisements as “gated communities”. These persons stated that, at the time of purchasing their units, they understood the meaning of “gated community” to be one that is properly protected on all sides and has only one entrance and exit. In most cases, they said that the developers provided instead an entrance to the development, with a guard house only.

We launched an investigation into the matter to determine whether a breach of section 37 of the Fair Competition Act (FCA), was committed in any of the cases. The Section speaks to misleading advertising. Pursuant to the investigation, we conducted research into whether there are any regulations and/or industry standards which establish a definite meaning of “gated community”, and which would assist us in coming to a decision as to whether the complainants were in fact misled.

#### **Research results**

Our research revealed that there is no universal definition of a ‘gated community’; as a result, the term lends itself to a multitude of interpretations. Locally also there is no legislative standard of what is meant by a “gated community”. KSAC’s Assistant City Engineer advised us that, in practice, as long as the premises are private; access is controlled; and there is a clear demarcation of the premises, it will be deemed a “gated community”, even if there is no fencing or wall around it.

Without any statutory or generally accepted meaning of the term, the Staff is unable to determine that a breach of the FCA was committed in these cases. We did recommend to the developers against which complaints were made, that to avoid further complaints and to show good faith, they should provide potential purchasers with an accurate description of the extent to which, and by what means access to the “gated” community will be restricted. Essentially however, the complainants are left without recourse.

The Staff of the FTC has a keen interest in these complaints as more and more housing developments are being advertised as “gated communities”. Given that there are no legislated standards in this area, we brought the matter to the attention of KSAC, the Real Developers Association, Ministry of Water & Housing and the Real Estate Board to determine whether they have some ideas as to steps which can be taken to address the issue. We propose to hold a meeting with the interested parties to discuss the matter with a view to arriving at a workable solution.

July 2006