



S02436052

ASIC

Australian Securities & Investments Commission

Infringement notice

section 12GXA of the *Australian Securities and Investments Commission Act 2001*

Day of issue:

8th October 2013

Unique identification code: B661581

TO: SMSF Property Advisers Pty Ltd
ACN 147 162 294
25 Armagh Street
CLAYFIELD QLD 4011

1. ASIC issues this infringement notice (the **notice**) under section 12GXA of the *Australian Securities and Investments Commission Act 2001* (the **ASIC Act**).
2. ASIC has reasonable grounds to believe that SMSF Property Advisers Pty Ltd (**SMSF Property Advisers**) has contravened section 12DB(1)(e) of the ASIC Act which is an infringement notice provision as follows:
 - (a) On or about 29 August 2013, SMSF Property Advisers contravened section 12DB(1)(e) of the ASIC Act by, in trade or commerce, in connection with the supply or possible supply of financial services, or in connection with the promotion by any means of the supply or use of financial services, making a false or misleading representation that services have sponsorship, approval, performance characteristics, uses or benefits.
 - (b) In particular SMSF Property Advisers made the following representations on its webpage <http://smsfproperty.net.au>:
 - (i) "SMSF Property Advisers has a pipeline of managed property investments through Australian Securities and Investments Commission approved schemes."¹
 - (ii) "By partnering with many other SMSF investors in an ASIC approved managed fund our clients receive the significant benefits of a development project achieved without carrying any bank debt."²
 - (iii) "Using an Australian Securities and Investments Commission (ASIC) approved structure, we give our clients access to developer profit margins, relatively short turn-around investment returns, and developments without debt."³

¹ <http://www.smsfproperty.net.au/what-we-do/managed-investments/> (as at 29 August 2013)

² <http://www.smsfproperty.net.au/what-we-do/managed-investments/> (as at 29 August 2013)

³ <http://www.smsfproperty.net.au/home-2/> (as at 29 August 2013)

Penalty under this notice

3. The penalty payable under this notice is \$10,200.
This penalty is payable to ASIC on behalf of the Commonwealth.
This penalty can be paid using one of the methods detailed in the enclosed invoice.

Consequences of complying with this notice

4. If SMSF Property Advisers pays the penalty stated in this notice within the time for payment mentioned below then (unless this notice is subsequently withdrawn and any penalty paid refunded):
 - (a) no proceedings (whether criminal or civil) will be brought against SMSF Property Advisers by the Commonwealth or ASIC for the alleged contravention of the infringement notice provision or an offence constituted by the same conduct; and
 - (b) SMSF Property Advisers will not be regarded as having contravened the infringement notice provision or having been convicted of an offence constituted by the same conduct.

Consequences of failing to comply with this notice

5. If SMSF Property Advisers does not pay the penalty specified in this notice within the time for payment mentioned below, and the notice is not withdrawn, the Commonwealth or ASIC may bring proceedings under Subdivision G of Division 2 of Part 2 of the ASIC Act (whether criminal or civil) against it for the alleged contravention of the infringement notice provision.
6. The maximum pecuniary penalty that a court may order SMSF Property Advisers to pay for the alleged contravention is \$1.7 million.

Time for payment

7. The time for payment is:
 - (a) within 28 days beginning on the day after the day on which the notice is issued to SMSF Property Advisers; or
 - (b) if ASIC extends, by notice in writing the compliance period for this notice, within that further period allowed.

Applying for more time to pay the penalty under this notice

8. ASIC may extend the compliance period for this infringement notice if ASIC is satisfied that it is appropriate to do so. The extension must not be for longer than 28 days.
9. If SMSF Property Advisers wishes to apply for an extension of time to pay the penalty specified in this notice, it should do so in writing within 28 days after the day the notice was issued to it (see paragraph 15).

Applying to have this notice withdrawn

10. Within 28 days beginning on the day after the day on which this notice is issued, SMSF Property Advisers may apply to ASIC in writing to have this notice withdrawn.

11. Evidence or information that SMSF Property Advisers or its representative gives to ASIC in the course of applying for this notice to be withdrawn is not admissible in evidence against SMSF Property Advisers or its representative in any proceedings (other than proceedings for an offence based on the evidence or information being false or misleading).

Withdrawal of this notice

12. ASIC may, by written notice given to SMSF Property Advisers, withdraw this infringement notice if ASIC is satisfied that it is appropriate to do so, whether or not SMSF Property Advisers has applied to have this notice withdrawn.
13. A withdrawal notice must be given to SMSF Property Advisers within the time for payment of this infringement notice to be effective, that is, within 28 days beginning on the day after this infringement notice was issued.
14. If the withdrawal notice is given after SMSF Property Advisers has paid the penalty specified in this infringement notice, ASIC will refund the amount paid by SMSF Property Advisers under the infringement notice.

Requirements for applications

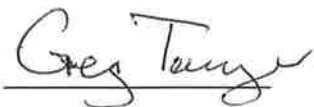
15. An application to have this notice withdrawn, or for more time to pay the penalty under this notice:
 - (a) must be in writing; and
 - (b) must include the unique identification code set out at the top of this notice; and
 - (c) must include SMSF Property Advisers' reasons for making the application; and
 - (d) may be made by forwarding the application to ASIC at the address in paragraph 16.
16. You may contact ASIC in relation to this notice by contacting:

contact: **Brooke Stewart**

by mail: **Australian Securities and Investments Commission**
GPO Box 9827
Melbourne VIC 3000

or by facsimile: **03 9280 3444**

or by email: **brooke.stewart@asic.gov.au**



Signature of delegate issuing the notice

Greg Tanzer
as a delegate of the Australian Securities and Investments Commission