

October 17, 1996

RE: Real Property Transfer Tax  
FLR-964682-021

Dear \_\_\_\_\_ :

This is in response to your request, dated August 7, 1996, for a ruling on behalf of \_\_\_\_\_ (the "Corporation"), regarding the application of the New York City Real Property Transfer Tax (the "RPTT") to the transaction described below.

#### FACTS

The facts presented are as follows:

The Corporation owned two adjacent apartments in the \_\_\_\_\_ at \_\_\_\_\_ in \_\_\_\_\_ (the "Apartments"). The Apartments were rented periodically for short-term transient use. The longest period for which the Apartments were rented was \_\_\_\_\_ weeks. The Apartments generally were used independently, although at times they had been rented together because there was a connecting door. The Apartments have separate tax lots. The Apartments were conveyed by separate deeds on \_\_\_\_\_ to \_\_\_\_\_ (the "Purchaser"). Under an agreement with the Purchaser, the total purchase price of \$ \_\_\_\_\_ was allocated to the Apartments as follows: \$ \_\_\_\_\_ to \_\_\_\_\_ and \$ \_\_\_\_\_ to \_\_\_\_\_.

#### ISSUE

You have requested a ruling that the conveyance of Unit 1703 and Unit 1704 will be considered two separate transactions and that the applicable rate of tax will be determined solely by reference to the purchase price for each unit.

#### CONCLUSION

The consideration for the transfer of Unit \_\_\_\_\_ will not be aggregated with the consideration for Unit \_\_\_\_\_ to determine the applicable rate of tax.

#### DISCUSSION

In general, the RPTT is imposed on each deed at the time of delivery by a grantor to a grantee when consideration for the real property and any improvement thereon exceeds \$25,000. Section 11-2102.a of the Administrative Code of the City of New York (the "Code"). A deed subject to tax includes "[a]ny document or writing ...whereby any real

property or interest therein is created, vested, granted, bargained, sold, transferred assigned, or otherwise conveyed..." Code §11-2101.2.

The RPTT is imposed at a rate of one percent of the consideration for a conveyance of a one, two or three-family house or individual residential condominium unit where the consideration is \$500,000 or less, and 1.425 percent where the consideration is over \$500,000. For other conveyances of real property the rate is 1.425 percent where the consideration is \$500,000 or less, and 2.625 percent where the consideration is over \$500,000. Code §11-2102.a(9).

The tax rate applicable to the conveyance of an individual residential condominium unit does not apply in this instance because multiple units were transferred by a single grantor to a single grantee. Furthermore, the tax rate for individual residential condominium units is inapplicable because the Apartments were used to provide temporary lodging of a transient nature, rather than for residential purposes. See Section 23-03(b)(9) of Title 19 of the Rules of the City of New York ("RCNY").

The consideration for the Apartments will not be aggregated in determining whether the higher or lower tax rate for conveyances other than individual residential condominiums applies. The RPTT is imposed on "each deed" conveying an interest in real property, such as a condominium unit. Code §11-2102.a; 19 RCNY §23-02 definition of "Consideration" paragraph (1) illustration (iii). The Apartments were conveyed by separate deeds. Under section 339-y of the Real Property Law, each condominium unit is a separate parcel of real property and is subject to separate assessment and taxation under the Real Property Tax Law. There is no indication in this case that there was any attempt to avoid the RPTT by using multiple deeds for a single parcel of property. Therefore, it is our determination that the consideration for each condominium unit deed should be viewed separately and not aggregated for purposes of determining the applicable rate of tax.

The Department of Finance reserves the right to verify the information submitted.

Very truly yours,

Devora B. Cohn  
Assistant Commissioner  
for Legal Affairs