



FINDING OF SUBSTANTIAL NEED FOR EARLIER IMPLEMENTATION

In order to assist property owners in attempting to limit the harm caused to a property owner by the recording of a fraudulent document concerning the property, the Department of Finance is implementing a procedure that will offer the owner or lienor of the property or the executor or administrator of the owner's or lienor's estate the opportunity to register with the Department to receive notice in the event that a deed or mortgage or a related document has been recorded against the property in the Office of the City Register or, for property in the County of Richmond, with the County Clerk. In the event that a fraudulent document is recorded, this procedure will provide the parties with the rightful interest in the property with notice that will allow such parties the opportunity to take the necessary action to limit harm to their interests. The Department of Finance intends to implement this program immediately in order to limit the potential harm as quickly as possible.

Therefore, pursuant to section 1043(e)(1)(c) of the New York City Charter, the Department of Finance hereby finds that there is a substantial need for the earlier implementation of the Amendment to the Rules Relating to the Office of the City Register. Consequently, the attached rule amendment shall be effective upon its final publication in the City Record.

A handwritten signature in black ink, appearing to read "David M. Frankel", written over a horizontal line.

David M. Frankel
Commissioner of Finance

Approved:

A handwritten signature in black ink, appearing to read "Michael R. Bloomberg", written over a horizontal line.

Michael R. Bloomberg, Mayor

Dated: July 12, 2010

**THE CITY OF NEW YORK
DEPARTMENT OF FINANCE**

NOTICE OF RULEMAKING

Pursuant to the power vested in me as Commissioner of Finance by sections 389(b) and 1043 of the New York City Charter, I hereby promulgate the within Amendment to the Rules Relating to the Office of the City Register. This amendment was published in proposed form on May 28, 2010. A hearing for public comment was held on June 28, 2010.

David M. Frankel
Commissioner of Finance

Note: New matter underscored; old matter in brackets [] to be deleted.

Amendment to the Rules Relating to the Office of the City Register

Section 1. The Rules Relating to the Office of the City Register (19 RCNY Chapter 43) are amended to add a new section 43-02 to read as follows:

§43-02 Notice of Recording. (a) Registration to receive notice. An owner, (or owner's agent/attorney or designee of owner), lienor (or lienor's agent/attorney) or executor/administrator (or the agent/attorney of the executor/administrator) of the estate of the owner or lienor of real property located in the City of New York may register with the Department of Finance, in a format determined by the Commissioner of Finance, to receive notice from the Department that a deed-related or mortgage-related document, as described in subdivision (e) of this section, has been recorded against such property in the Office of the City Register or, in the county of Richmond, in the Office of the County Clerk.

(b) Notice by Department of Finance. The Department of Finance, to the extent practicable, will send notice to the registrant, in the event that one or more of the documents described in subdivision (e) of this section has been recorded against such property in the Office of the City Register or, in the county of Richmond, in the Office of the County Clerk. In the discretion of the Department of Finance, such notice may be sent by electronic means unless the registrant specifically requests otherwise.

(c) Nothing in this section shall be construed to create an enforceable right in any individual to receive the notice described in subdivision (b) of this section. The failure of the Department of Finance to provide the notice described in this section, or the failure of a property owner to receive such a notice,

(1) shall not result in any liability of the City of New York, including the Department of Finance, or the Office of the Richmond County Clerk;

(2) shall not prevent the levy, collection and enforcement of taxes on the affected property;

(3) shall not invalidate any proceedings or filings with respect to the affected property; and

(4) shall not prevent the City of New York, including the Department of Finance, or the Office of the Richmond County Clerk from taking any actions under or enforcing any provision of law or rule.

(d) Notwithstanding any other provision of this section, the Department of Finance shall have the discretion to send the notice described in subdivision (a) of this section to individuals or entities that have not filed registrations under subdivision (a) of this section.

(e) (1) Deed-related documents. For purposes of this section, a deed-related document shall include any document determined by the City Register to be deed-related, and includes, but is not limited to:

(i) Air rights

(ii) Condemnation proceeding documents;

(iii) Condo declaration;

(iv) Confirmatory deed;

(v) Contract of sale;

(vi) Correction deed;

(vii) Court order;

(viii) Deed;

(ix) In rem deed;

(x) Judgment;

(xi) Life estate deed;

(xii) Memorandum of contract;

(xiii) Power of attorney;

(xiv) Real estate investment trust deed;

(xv) Revocation of power of attorney;

(xvi) Sundry agreement; and

(xvii) Unit assignment.

(2) Mortgage-related documents. For purposes of this section, a mortgage-related document shall include any document determined by the City Register to be mortgage-related, and includes, but is not limited to:

(i) Collateral mortgage;

(ii) Mortgage;

(iii) Mortgage and consolidation;

(iv) Mortgage spreader agreement;

(v) Satisfaction of mortgage;

(vi) Subordination of mortgage;

(vii) Sundry mortgage; and

(viii) UCC-1 (financing statement).

(f) Inclusion of information from the Office of the Richmond County Clerk in the notices to be provided pursuant to this section is conditioned upon the continued participation of such office in the program established in accordance with this section.

BASIS AND PURPOSE OF AMENDMENT

In some cases, persons attempt to convey real property that they do not actually own, or create the illusion of a mortgage or other type of interest by recording a fraudulent deed or other type of document in the Office of the City Register, or for property located in the county of Richmond, in the Office of the County Clerk. If the document is presented to the recording officer in recordable form, the recording officer is required by law to record it. In order to assist property owners in attempting to limit the harm caused to a property owner by the recording of a fraudulent document concerning the property, the Department of Finance will offer the owner or lienor of the property or the executor or administrator of the owner's estate the opportunity to register with the Department to receive notice in the event that a deed or mortgage or a related document has been recorded against the property in the Office of the City Register or, for property in the County of Richmond, with the County Clerk. In the event that a fraudulent document is recorded, this procedure will provide the rightful owner of the affected property or a lienor of the affected property or the executor or administrator of the owner's or lienor's estate with notice that will allow the owner or lienor, or other individual or entity, the opportunity to take the necessary action to limit harm to their interests. The Department has determined to promulgate the procedure as a rule in order to provide the broadest possible notice to affected parties.