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INDEPENDENT REGULATORY
REVIEW COMMISSION

October 29, 2007

VIA EMAIL & 1ST CLASS MAIL

Mr. Kim Kaufman, Executive Director
Independent Regulatory Review Commission
14th Floor
333 Market Street
Harrisburg, PA 17101

RE: Proposed Amendments to 61 Pa Code, Chapter 91 (relating to realty transfer tax) ("Draft Regulations")

Dear Mr. Kaufman:

We do a great deal of real estate business in Pennsylvania and are very concerned about the Draft Regulations the Department of Revenue has promulgated revising the realty transfer tax regulations. These regulations in certain instances are contrary to the law and also are bad public policy. They will discourage real estate transactions in Pennsylvania. Among the significant issues raised by the Draft Regulations are:

- Realty transfer tax would be imposed on the assignment of a contract to purchase real estate. Taxing this type of transaction is contrary to the law under the Pennsylvania Supreme Court's holding in the Allebach case. Also as a practical matter, very often contracts are signed by a parent and then assigned to a subsidiary at or just prior to closing and it makes little sense to treat this assignment as a taxable transaction.
- Like kind exchanges may well be subject to double transfer taxes because these regulations provide, contrary to the federal law, that neither a "qualified intermediary" nor an "exchange accommodation title holder" are agents of the taxpayer. Pennsylvania would be the only state in the country where exchanges would be subject to such multiple realty transfer taxes. The Commonwealth should not seek to impose double tax on what is essentially one real estate transfer between a seller and a buyer, although an additional non-substantive transfer may occur between seller or buyer and its agent depending on the relative timing of the 1031 transaction. The Commonwealth should not penalize sellers and buyers for following 1031 exchange guidelines which authorized by federal tax law and regulations.

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For these reasons, we urge the Independent Regulatory Review Commission to reject these regulations and request the DOR to issue regulations that comply with the law and are good public policy. Thank you for your consideration.

Very truly yours,

HOME PROPERTIES, INC.



Kathleen K. Suher
Vice President and Assistant Counsel

cc: Gregory C. Fajt, Chief of Staff