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14 October 2004

BY FACSIMILE & U.S. MAIL

The Honorable Frank M. Conaway,
Clerk of the Circuit Court for Baltimore City
Courthouse East, Room 200
111 North Calvert Street
Baltimore, Maryland 21202

Re: **New \$22,000 Partial Exemption in Baltimore City —
Partial Waiver of Collection of Recordation Tax on Mortgages¹**

Dear Mr. Conaway:

This letter is to confirm our conversation on the telephone earlier this afternoon in which, after discussing the issue with me, you agreed to concur with the City's request that your office treat the amount exempted on the deed or other instrument of transfer pursuant to § 16-2 of Article 28 (Taxes) of the Baltimore City Code as if it had been subject to recordation tax for purposes of the purchase money mortgage exemption from recordation tax found in § 12-108(i) of the Tax-Property Article of the Maryland Code. **This waiver only applies to purchase money exempted pursuant to such § 16-2 and does not apply to any other situation in which recordation tax on a purchase deed is paid on less than the full amount of consideration.**

To assist your Land Records staff, I offer the following example of the effect of this waiver:

Suppose that an individual purchases a home in Baltimore City for \$100,000, qualifies for the \$22,000 exemption provided under § 16-2 of Article 28 (Taxes) of the Baltimore City Code, and has obtained purchase money financing of \$80,000.

In this letter I will be using the generic term "mortgages" to refer to both mortgages and deeds of trust.

In such situation, the amount of recordation tax due on the deed for such transfer would be calculated on a reduced "consideration payable" of \$78,000 (for a recordation tax of \$780), rather than on \$100,000 (which would have been a recordation tax of \$1,000 instead), because \$22,000 of the consideration for the deed is exempted pursuant to § 16-2 of Article 28 (Taxes) of the Baltimore City Code.

Without the waiver referenced above, a strict application of the provisions of § 12-108(i) would provide only a \$78,000 exemption from recordation tax on the purchase money mortgage (because only that amount was subject to the recordation tax when the purchase deed was recorded), and therefore recordation tax would be due based on the non-exempt "debt secured" of \$2,000 (for a recordation tax of \$20).

With such waiver now in effect, § 12-108(i) would provide a \$100,000 exemption from recordation tax on the purchase money mortgage (because, for purposes of § 12-108(i), it will be deemed that the full \$100,000 of the purchase deed was subject to recordation tax), and therefore no recordation tax would be due on the purchase money mortgage (because a \$100,000 is more than sufficient to exempt the \$80,000 purchase money mortgage).

If you or your staff have any questions or concerns about this waiver, please do not hesitate to contact me. In addition to the telephone and facsimile numbers listed above, I can be reached via e-mail at bbenshoof@oag.state.md.us.

Sincerely,



Bruce L. Benshoof
Assistant Attorney General

BLB

Mr. Frank M. Conaway

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cc: Ralph S. Tyler,
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