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February 5, 2008

Richard M. Daley
Mayor, City of Chicago
Chicago City Hall
Chicago, IL 60602

Re: ***City of Chicago Real Estate Transfer Tax***

Dear Mayor Daley:

The City of Cleveland recently sued several lenders claiming their subprime lending practices created a public nuisance that hurt property values and city tax collections. The lawsuit seeks hundreds of millions of dollars in damages, including lost taxes from devalued property and money spent demolishing and boarding up abandoned homes. Cleveland is not alone. In the wake of a November, 2007 report that 361 metropolitan areas will be taking an economic hit in the vicinity of $166 billion due to the rise of foreclosures, other major cities have taken or are considering similar action.

At the same time, the City of Chicago is considering a proposal that likely would make it harder for owners facing foreclosure to sell their properties.

On February 6, the Chicago City Council will vote on a proposal to increase by 40 percent the municipal "transfer tax" that buyers pay at closing when buying a home or a commercial building located in the city. The tax increase, which would cost buyers of Chicago property $10.50 for every $1,000 of sale price, was approved by the Illinois legislature as a way to subsidize the Chicago Transit Authority's underfunded pension system. The current transfer tax, paid by the buyer, is $7.50 per every $1,000 of sale price. State and County transfer tax rates would remain unchanged. As an example, the municipal transfer tax on a typical $300,000 residential property in Chicago will increase under this proposal from $2,250.00 to $3,150.00.

While Chicago's appointed "role" in the transit bailout production may be unavoidable, on balance the proposed tax increase may not be such a good idea. In the midst of a real estate market already suffering from the fallout from the mortgage crisis, the last thing the largest city in Illinois needs is to place further restrictions on the fundamental right to buy and sell property which will make housing in Chicago less affordable and slow business and economic growth. With federal lawmakers working on an economic stimulus package for the nation, this is not the best time to implement a local tax increase that will make it harder to sell real estate.

Foreclosures are up approximately 75% over last year. Many owners of Chicago property facing foreclosure are trying to sell their homes in a regular sale or in a "short sale" transaction (where a lender agrees to allow a mortgaged property to be sold for less than the full amount owed). The higher transfer tax, however, will likely cause potential buyers to look outside Chicago city limits for comparable properties to purchase, rather than pay the additional several hundred dollars of transfer tax required to buy a typical Chicago property. Chicago residents facing foreclosure will suffer if prospective buyers refuse to consider Chicago properties. A seller who cannot find a buyer for a "short sale" may have to abandon the residence, with devastating results for the neighborhood.

At some point a tax such as this becomes confiscatory. The City Council should consider alternative solutions. On behalf of the several hundred real estate attorneys who are members of the Illinois Real Estate Lawyers Association, we urge the City Council to refrain from creating additional challenges at a time when the real estate market is the slowest it has been in two decades. We urge the Council to either find another method to bail out the CTA pension fund, or, if no other solution can be found, change the structure of Chicago's transfer tax to visit the burden equally on buyers and sellers.

Very truly yours,

ILLINOIS REAL ESTATE LAWYERS ASSOCIATION

Ralph J. Schumann, President

cc: Board of Directors, Illinois Real Estate Lawyers Association

RJS:dd