

**MINUTES  
BENCH-BAR FORECLOSURE COMMITTEE  
SUBCOMMITTEE RE REAL ESTATE CONVEYANCE TAX**

**NOVEMBER 6, 2009**

Members in attendance: Attorney Robert Frankel, Chair, Hon. Douglas Mintz, Attorney Adam Bendett, Attorney Denis Caron, and Attorney Richard Leibert,

Attorney Frankel called the meeting to order at 2:00 P.M.

Discussion began regarding the fundamentals of how the conveyance tax is discussed and reached a consensus that a foreclosure sale is an involuntary sale by the foreclosed owner and that the state is merely an arm of the owner/seller.

The members discussed a process whereby the committee would collect the proceeds of sale and pay the money into court in accordance with C.G.S. §49-27. A third-party buyer would tender to the committee a check net of the conveyance tax along with copies of checks to pay the conveyance tax due to the state and the conveyance tax due to the municipality. The committee would then submit the net proceeds of sale to the court along with the copies of the tax checks. In the case of a plaintiff who is the successful purchaser and is only obligated to pay the Committee its fees and costs under § 49-27, the plaintiff purchaser should also be required to tender copies of the checks for the conveyance taxes.

Members suggest adding to the Standing Orders a requirement that the Committee Deed be recorded within thirty (30) days of the closing.

Members noted that certain purchasers – such as Fannie Mae and Freddie Mac and CHFA are exempt from paying a conveyance tax. Members also suggested that the legislature, in order to clarify its intent, consider putting language in the statute stating that any of these conveyances are not subject to exemptions.

Members also discussed the calculation of the amount of the conveyance tax and expressed their view that the law is unclear on the amount of tax to be paid and whether it is based on the value of the property or, not necessarily what was bid at the sale. Also, there is a problem in calculating the tax because the value of the property is reduced when deducting the tax from the proceeds of the sale. If the purchaser buys the property subject to a first mortgage, the exact amount owed on the first mortgage would have to be known in order to calculate the conveyance tax. Privacy laws do not allow someone to get that information. Members believe the legislature should change the statute to calculate the conveyance tax based on the successful bid at the foreclosure sale.

The members next discussed changes that are needed to the foreclosure forms:

JD-CV-99 – Motion for Approval of Committee Sale  
Add to motion section:

5. Allow as an expense of the Committee a conveyance tax in the amount of \$\_\_\_\_\_ to be paid out of gross sales proceeds (that portion does not have to be paid into court) to the State of Connecticut Department of Revenue Services;

6. Allow as an expense of the Committee a conveyance tax in the amount of \$\_\_\_\_\_ to be paid out of gross proceeds (that portion does not have to be paid into court) to \_\_\_\_\_, Connecticut; or

7. No conveyance tax shall be paid due to an exemption.

Add to order section:

5. The payment, as an expense of the Committee, of a conveyance tax in the amount of \$\_\_\_\_\_ to be paid out of gross sales proceeds (that portion does not have to be paid into court) to the State of Connecticut Department of Revenue Services;

6. The payment, as an expense of the Committee, of a conveyance tax in the amount of \$\_\_\_\_\_ to be paid out of gross proceeds (that portion does not have to be paid into court) to \_\_\_\_\_, Connecticut; or

7. No conveyance tax shall be paid due to an exemption.

JD-CV-80 Notice to Bidders and JD-CV-88 Sales Agreement:

Language as to how the purchase price is to be paid is to be added to these forms. Adam Bendett will assist Peggy George with drafting the language to be added.

JD-CV-79 Foreclosure By Sale Standing Orders and JD-CV-81 Uniform Procedures

At the closing the Committee shall collect the balance of the proceeds in the following manner, unless exempted:

photocopies of the checks to pay the conveyance tax to the State of Connecticut Department of Revenue Services and the conveyance tax to the municipality where the real property or any part thereof is situated and

the balance of the proceeds required under the terms of the judgment of foreclosure.

JD-CV-98 Foreclosure Return of Sale – With Proceeds

Change 3. b. to state: “the buyer’s attorney paid the Committee \$\_\_\_\_\_ representing the balance of the proceeds of sale less the conveyance tax to the Connecticut Department of Revenue Services and the conveyance tax to \_\_\_\_\_ where the real property, or any part thereof, is situated, if applicable, required under the terms of the judgment of foreclosure by sale in this case, and provided photocopies of the checks, if applicable, to pay the conveyance taxes. Said photocopies are attached hereto. The balance of the proceeds of sale less applicable conveyance taxes was paid into court on \_\_\_\_\_.”

JD-CV-97 Foreclosure Return of Sale – No Proceeds

Add to 3:

“c. the buyer’s attorney provided photocopies of checks to pay the conveyance tax to the State of Connecticut Department of Revenue Services and the conveyance tax to the municipality where the real property or any part thereof is situated.”

The members suggested that concerns regarding the conveyance tax legislation should be added to the legislature’s next special session and that the proposed form changes should be made and circulated. A motion was made to give power to the chair of the

subcommittee to make the recommendations to the full committee. All in favor. Another meeting of the subcommittee will be scheduled.

Meeting adjourned at 3:29 P.M.

DRAFT