



January 25, 2017

City of Chicago  
Rahm Emanuel, Mayor

Department of Law  
Stephen R. Patton  
Corporation Counsel

Revenue Litigation Division  
30 North LaSalle Street  
Suite 1020  
Chicago, Illinois 60602

J. Timothy Ramsey  
Nixon Peabody LLP  
70 West Madison, Suite 3500  
Chicago, IL 60602-4224

Re: Chicago Real Property Transfer Tax Opinion Letter

Dear Mr. Ramsey:

We are responding to your request for an opinion confirming that the merger of [REDACTED] LLC ("ETSPE"), the owner of real property in Chicago, with its sole member/owner [REDACTED] L.L.C. ("ETA"), and ETSPE continuing to exist as the surviving entity is not a taxable transfer under the Chicago Real Property Transfer Tax Ordinance ("Ordinance"), chapter 3-33 of the Municipal Code of Chicago ("Code"). Attached is a copy of your request dated December 29, 2016.

Under Code Section 3-33-020(G), ETSPE is a real estate entity. The Ordinance imposes a tax upon the privilege of transferring a 50 percent interest in ETSPE. See Code Sections 3-33-030 and 3-33-020(A)(3) and (C). Code Section 3-33-060 sets forth various transactions that are exempt from taxation. Code Section 3-33-060(J) ("Exemption J") provides that the following transactions are exempt:

Transfers from a subsidiary corporation to its parent for no consideration other than the cancellation or surrender of the subsidiary's stock and transfers from a parent corporation to its subsidiary for no consideration other than the issuance or delivery to the parent of the subsidiary's stock.

When the Ordinance and Exemption J were created, Illinois did not recognize limited liability companies ("LLCs") as legal entities. However, it is clear from the language of Exemption J that had LLCs been in existence when Exemption J was created, the transfers between and mergers of LLCs and their members for no consideration other than cancellation or surrender of LLC interests would have been made exempt. Moreover, it has been the policy of the Department of Finance that transfers of real property or beneficial interests in real property (e.g., 100% of an interest in a real estate entity) are not deemed taxable, if there is no change in the economic ownership of the property.

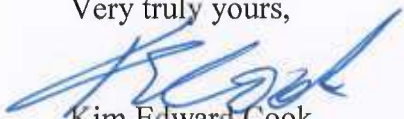
There will be no change in the economic ownership of the real property in this case. The owner/members of ETA own the property indirectly before the proposed merger and will own the property indirectly after the proposed merger in the exact ownership percentages.

Mr. J. Timothy Ramsey  
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Based on the above, it is our opinion that the proposed merger is exempt from the Chicago Real Property Transfer Tax. This opinion is based on the text of the Ordinance as of the date of this letter and the facts as represented in the attached letter being true. The opinions contained herein are expressly intended to constitute written advice that may be relied upon pursuant to section 3-4-325 of the Code.

If we may be of further assistance, please call me at (312) 744-1436.

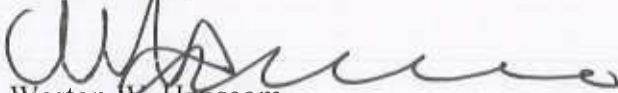
Very truly yours,



Kim Edward Cook  
Chief Assistant Corporation Counsel  
Revenue Litigation Division

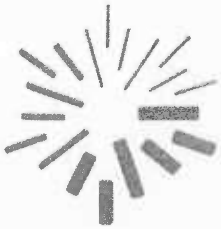
Encl.

APPROVED:



Weston W. Hanscom  
Deputy Corporation Counsel  
Revenue Litigation Division

cc: Elaine Herman  
Joel Flores



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December 29, 2016

**VIA MESSENGER**

City of Chicago Department of Finance  
333 South State Street, Room 300  
Chicago, Illinois 60604-3977  
Attention: Tax Compliance

**Re:** [REDACTED] Chicago, Illinois

Dear Sir or Madame:

We are attorneys for [REDACTED] LLC, a Delaware limited liability company (“ETSPE”). ETSPE owns the highrise residential apartment building known as [REDACTED] Chicago, Illinois (the “Property”). ETSPE requests that the City of Chicago Department of Finance (“Department of Finance”) issue a private letter ruling, pursuant to the City of Chicago Department of Revenue Uniform Revenue Procedures Ruling #3 dated June 1, 2004 (“Ruling #3”), that the proposed merger of ETSPE with its parent entity, with ETSPE as the survivor in the merger, is not subject to the City of Chicago Real Property Transfer Tax (“Transfer Tax”) imposed pursuant to the Chicago Real Property Transfer Tax Ordinance, Chapter 3-33 of the Chicago Municipal Code (“Transfer Tax Ordinance”). Specifically, ETSPE requests that the Department of Finance issue a private letter ruling that this proposed merger of ETSPE with its parent entity is exempt from the Transfer Tax pursuant to Section 3-33-060(I) of the Chicago Municipal Code.

In considering this request for a private letter ruling, please note the following factual matters:

- The sole member of ETSPE is [REDACTED] L.L.C., an Illinois limited liability company (“ETA”). As such, ETA is the parent of ETSPE, and ETSPE is the wholly-owned subsidiary of ETA.

- The only members of ETA, and their percentage interests in ETA, are as follows:

<u>Member</u>	<u>Percentage Interest in ETA</u>
[REDACTED]	49.5%
[REDACTED]	
[REDACTED]	
[REDACTED]	49.5%
[REDACTED]	
[REDACTED]	
[REDACTED]	1.0%
[REDACTED]	
Total	100%

- The proposed merger transaction will provide for ETSPE and ETA to be merged, with ETSPE as the surviving entity. Therefore, no transfer of title to the Property will occur in connection with the merger.
- Following the proposed merger, the current members in ETA [REDACTED] will be the sole members in ETSPE. Their percentage interests in ETSPE will be the same as they are in ETA before the merger.
- No consideration will be paid by or among any of the parties involved in this merger transaction.
- The effect of the merger will be to simplify the ownership structure so as to eliminate ETA and to have [REDACTED] hold their membership interests directly in ETSPE instead of holding them indirectly through ETA.

The Transfer Tax Ordinance imposes transfer tax on the transfer of title to, or beneficial interest in, real property located in the City of Chicago. The Transfer Tax is imposed on the transfer of real estate and on the transfer of a “controlling interest” in a “real estate entity” (as such terms are defined in Section 3-33-020 of the Transfer Tax Ordinance). Section 3-33-060 of the Transfer Tax Ordinance provides that certain transfers are exempt from the Transfer Tax. The exemption in Section 3-33-060(I) is as follows:

“I. Transfers between a subsidiary corporation and its parent or between subsidiary corporations of a common parent either pursuant to a plan of merger or

consolidation or pursuant to an agreement providing for the sale of substantially all of the seller's assets;"

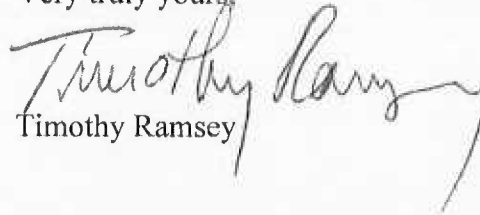
Section 3-33-060(I) refers specifically to corporations but not to limited liability companies. Both ETSPE and ETA are limited liability companies. If Section 3-33-060(I) referred to merger transactions involving both corporations and limited liability companies in a parent/subsidiary relationship, ETSPE would not need to request this ruling from the Department of Finance. However, because Section 3-33-060(I) refers only to corporations, ETSPE requests a ruling from the Department of Finance that the merger transaction between ETSPE and ETA as described above is exempt from the Transfer Tax pursuant to Section 3-33-060(I). In other words, ETSPE requests that the Department of Finance issue a ruling that, for purposes of the exemption in Section 3-33-060(I), the merger of these two limited liability companies in a parent/subsidiary relationship will be treated as a merger of corporations in a parent/subsidiary relationship.

Please be advised of the following in response to specific requirements of Ruling #3:

- Pursuant to Section 6(c) of Ruling #3, ETSPE is not aware of any authority that is contrary to the private letter ruling requested in this letter.
- Pursuant to Section 6(d) of Ruling #3, at this time there are no contracts, licenses, agreements, instruments or other documents in existence relating to the proposed merger. Such documents will be generated in the future if the Department of Finance issues the private letter ruling requested in this letter.
- Pursuant to Section 6(e) of Ruling #3, attached to this letter is an Addendum executed by ETSPE and ETA pursuant to which ETSPE and ETA (i) appoint the undersigned Timothy Ramsey as their attorney in fact for purposes of requesting this private letter ruling from the Department of Finance and (ii) state under penalty of perjury that the factual matters set forth in this letter above are true and correct. In addition, we are enclosing herewith the City of Chicago Department of Finance Power of Attorney and Declaration of Representative as executed by ETSPE, ETA and the undersigned Timothy Ramsey.
- Pursuant to Section 8 of Ruling #3, ETSPE requests that all of the following information be considered confidential information and that such confidential information be redacted from the public's copy of any private letter ruling issued by the Department of Finance in response to this request: (i) the names and employer identification numbers of ETSPE and ETA, (ii) the identity of the members of ETA, (iii) the identity of the proposed members of ETSPE following the proposed merger, and (iv) the percentage interests of the parties referred to in clauses (ii) and (iii) in ETA and ETSPE.

We look forward to the response of the Department of Finance to this request for a private letter ruling at the earliest opportunity.

Very truly yours,

  
Timothy Ramsey

JTR/bfp

cc: [REDACTED] Esq. (by email)  
Mr. [REDACTED] (by email)