

REGISTER

NAME

CITIZEN

REPRESENTING

STREET ADDRESS

CITY

Time of
Arrival

Time of
Departure

May 2, 1967

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BOARD OF SUPERVISORS

WEST PIKELAND TOWNSHIP

CHESTER COUNTY, PENNSYLVANIA

TRANSCRIPT OF PROCEEDINGS

of the meeting of the Board of Supervisors of West
Pikeland Township, held at the Township Building,
Chester Springs, Pennsylvania, on Tuesday, the second
day of May, A. D. 1967, at eight o'clock in the
evening.

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BEFORE:

SAMUEL B. ACKER, Chairman

JAMES G. LAMB, JR., Member

PRESENT:

Richard Reifsnyder, Esquire, Solicitor;

Charles Thompson, Secretary

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MR. REIFSNYDER: This is the passage of the real estate transfer tax at one percent, and Mr. Cornelius, the official court stenographer, is going to take that for your benefit, Mr. Thompson.

Will you mark this document, Mr. Reporter, the proof of publication of proper advertising of the passage of the ordinance, and make it a part of the record.

(Said document was thereupon marked B-1.)

THE CHAIRMAN: Is there a motion?

MR. LAMB: I make a motion that we impose the one percent real estate transfer tax in the form that it has been presented and open to public inspection for the last month.

THE CHAIRMAN: I second the motion.

In favor?

MR. LAMB: Aye.

THE CHAIRMAN: Aye.

(Said ordinance is in words and figures as follows:)

"No. An Ordinance

"Imposing a tax to provide general revenue

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for Township purposes upon certain documents transferring title to real property upon the privilege of transferring title to real property, upon the registration within the Township of certain documents transferring title to real property, and upon the transfer of title to and the acceptance of possession of real property situate wholly or partially within the Township; imposing the tax upon the grantor, the transferor, the party offering the document for registration and the party accepting possession; imposing duties and conferring powers on the Treasurer of West Pikeland Township; prescribing the method and manner of collecting the tax; providing certain exemptions; and imposing penalties.

"The Board of Supervisors of the Township of West Pikeland does ordain that a tax for general revenue for Township purposes be and is hereby imposed, assessed and levied pursuant to the authority granted by the Act of the General Assembly approved June 25, 1947, P. L. 1145, as from time to time since amended (6851) as is hereinafter provided.

"Section 1. This Ordinance shall be known and may be cited as 'The West Pikeland Township

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Realty Transfer Tax Ordinance.'

"Section 2. Definitions.

"(a) 'Person' means any individual, partnership, association or corporation. Whenever used in any clause prescribing or imposing a penalty, the term 'person' as applied to partnerships or associations shall mean the partners or members thereof, and as applied to corporations the officers thereof.

"(b) 'Treasurer' means the Township Treasurer of the Township of West Pikeland.

"(c) 'Township' means the Township of West Pikeland.

"(d) 'Document' means any deed, instrument or writing, whether or not executed, acknowledged or delivered within the Township whereby any lands, tenements or hereditaments within the Township or any interest therein shall be granted, bargained, sold or otherwise conveyed, but does not include leases, agreements of sale or purchase, wills, mortgages, transfers between husband and wife, and transfers between parent and child.

"(e) 'Value' means the gross amount of

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<p>the actual consideration for the lands, tenements or hereditaments or interest therein, and the amount of any liens or other encumbrances on the lands, tenements or hereditaments, or interest therein, granted, bargained, sold or otherwise conveyed or of which possession is taken, or a commensurate part of the liens or other encumbrances thereon where such liens or other encumbrances also encumber other lands, tenements or hereditaments; Provided, that where any document evidencing the transfer of title shall set forth a small or nominal consideration, the 'value' thereof shall be determined from the price set forth in or actual consideration for the contract of sale, or in the case of a gift, from the actual monetary worth of the property, or interest therein, granted, bargained, sold or otherwise conveyed or of which possession is taken.</p> <p style="text-align: center;">"Section 3.</p> <p style="text-align: center;">"(a) Every person who makes, executes, issues or delivers any document, or in whose behalf any document is made, executed, issued, or delivered, shall pay therefor and in respect</p> <p style="text-align: right; margin-right: 50px;"><i>Marguerite S. Grady</i></p>							

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thereof, and for or in respect of the vellum, parchment or paper upon which such document is written or printed, a tax at the rate of one percent (1%) of the value of the property represented by such document, which tax shall be due and payable at the time of the making, execution, issuance or delivery of such document.

"Provided, that where any lands, tenements, or hereditaments situated partly within and partly without the Township are conveyed by a document, such tax so levied shall be calculated on the valuation of that portion of lands and tenements lying within the Township.

"(b) Every person who transfers title to any lands, tenements or hereditaments within the Township or interest therein, shall pay for and in respect of the privilege of making such transfer, a tax at the rate of one percent (1%) of the value of such property, unless (i) the tax provided for or intended to be provided for in paragraph 3 (a) hereof shall have been paid with respect to the document evidencing such transfer, or (ii) such document or such transfer is exempt

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pursuant to the provisions of paragraph 3 (a) or Section 10 hereof. Where the lands, tenements or hereditaments so transferred are situated partly within and partly without the Township such tax so levied shall be calculated on the valuation of that portion thereof lying within the Township. The tax provided for by this paragraph shall be due and payable at the time of such transfer.

"(c) Every person who accepts possession of any lands, tenements or hereditaments situate within the Township or any interest therein pursuant to or in connection with a transfer of title thereof effected by means of a document, shall pay for and in respect of the privilege of such acceptance of possession a tax at the rate of one percent (1%) of the value of such property, unless (i) the tax provided for or intended to be provided for in paragraph 3 (a) hereof or the tax provided for was intended to be provided for in paragraph 3 (b) hereof or the tax provided for or intended to be provided for in paragraph 3 (c) hereof shall have been paid in respect of such document or in respect of the transfer effected

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thereby or in respect of the registration of such document, or (ii) such document or the transfer effected thereby is exempt pursuant to the provisions of paragraph 3 (a) or Section 10 hereof. Where the lands, tenements or hereditaments of which possession is so accepted are situated partly within and partly without the Township, such tax so levied shall be calculated on the valuation of that portion thereof lying within the Township. Such tax shall be due and payable at the time of such acceptance of possession.

Section 4. The person liable for the tax imposed hereby, in the case of each document, transfer or transaction taxable hereunder, shall, prior to the delivery or acceptance of the document, place thereon a certificate signed by him or for him by title insurance company, licensed real estate broker, or attorney-at-law, which shall set forth the value of the real estate transferred, the amount of tax imposed hereby, that the same has been paid, and the date of payment. No person shall offer for recording, or record any document in the Office of the Recorder of Deeds of Chester County, Pennsylvania, which document does not

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contain said certificate, nor unless that tax hereby imposed shall first have been paid.

"Section 5. The tax hereby imposed shall be paid to the Treasurer and the person liable for the tax shall file with the Treasurer on forms furnished by the Township a record of the real estate transfer, setting forth the true, complete and actual value of the real estate involved, the names of the parties, the location of the real estate, and such other information as may be required. The report shall be signed by the person liable for the tax or for him by the title insurance company, licensed real estate broker, or attorney-at-law.

"Section 6. The Treasurer is hereby charged with the administration and enforcement of this ordinance and is hereby authorized and empowered to adopt, promulgate, and enforce rules and regulations to this end.

"Section 7. Every document, when lodged with or presented to any Recorder of Deeds for recording, shall set forth therein and as part of such document, the true, full, complete and actual value thereof, or shall be accompanied by either a certificate from a

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title company, or an affidavit executed by a responsible person connected with the transaction showing such connection, and setting forth the true, full, complete and actual value thereof.

"Section 8. All taxes imposed by this ordinance not paid when due shall bear interest thereon at the rate of one-half of one percent (0.5%) per month until paid.

"Section 9. All taxes imposed by this ordinance, together with interest from the due date, shall be recovered as other debts of like character are recovered.

"Section 10. The following rules and regulations pertaining to the administration and enforcement of this ordinance are hereby prescribed and adopted:

(a) Exempt Transfers. Under this ordinance certain transfers of real estate or interest in real estate are entirely exempt from the tax. In certain instances the exemption is based on the nature of the document or on the interest transferred. Thus leases, agreements of sale or purchase, mortgages and testamentary transfers

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are exempt. In other instances, the exception is based on the identity of the parties. Thus, transfers between husband and wife and between parent and child are exempt, as also are transfers to a nominee or straw party of the transferor or from a nominee or straw party to his principal.

"(1) Husband and wife. Transfers between husband and wife are exempt if they are in this relationship at the time of the transfer.

"(2) Parent and child. A transfer exclusively between a parent and child (including a legally adopted child) or the spouse of such child is exempt irrespective of whether the parent is grantor or grantee, or whether the transfer is by gift or for a valuable consideration. The exemption does not apply as between parents and stepchild, nor to grandparents and grandchild. In cases of multiple parties, some of whom are of exempt identity, and some not, the tax is based on the fractional interest passing between non-exempt parties.

"(3) Nominee and Straw Transfer. Where real estate is transferred to a grantee to hold as

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nominee or straw party for the grantor, the transfer to nominee or straw party is exempt, but a later transfer by the nominee or straw party to anyone other than his principal would be taxable. Where real estate is transferred to a grantee to hold as nominee or straw party for the real purchaser the transfer is taxable, but when the nominee or straw party later transfers to the real purchaser, the transfer is exempt. Thus, for example: If A transfers to his nominee B for the sole purpose of creating a mortgage and then reconveying to A subject to the mortgage, neither the conveyance nor the reconveyance are taxable. If A transfers to C, who is B's nominee or straw party, the transfer is taxable; but if C later transfers to B, the transfer is not taxable.

"(4) Leases. Leases are expressly exempt from the tax regardless of the length of their term.

"(5) Mortgages. Mortgages are exempt from the tax. This exemption is not, however, to be construed as meaning that a transfer of property subject to a mortgage is only taxable to

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the extent of the equity.

"(6) Agreements of Sale. Agreements for the sale of real estate are not taxable whether or not presented for recording.

"(7) Wills and Intestate Transfers. A transfer by will or under the intestate law is exempt, as is also any transfer by Executor's or administrator's deed or by excerpts from an Orphan's Court adjudication or schedule of distribution, which is merely confirmatory of such a testamentary of intestate transfer: Provided, that any such transfer which involves consideration passing either to the fiduciary or to other heirs or devisees because the transferee is receiving a greater share in the real estate than that to which the will or the intestate law entitled him shall be taxable on the basis of the consideration so passing. Also exempt are transfers under the Orphans' Court adjudication allocating real estate to a widow as part of her exemption allowance.

"(8) Charitable and Other Organizations Exempt from Federal Income Tax. There is no

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transfer contingencies, or where the value of such consideration is speculative, the tax is based on the fair value of the real estate involved. In every case the amount of any lien or encumbrance is to be included in the value of the property.

"(1) Deeds of Quitclaim or Confirmation. If there is an actual consideration for a deed of quitclaim or confirmation, the tax is due on that basis. If, however, such a deed is given without actual consideration, no tax is due.

"(2) Deeds of Partition. Deeds in partition are not subject to tax unless a consideration passes between the parties by reason of one or more of the parties receiving a share of the real estate of a greater value than the party's undivided interest, in which event the deed conveying such greater share is taxable in an amount based on the additional consideration received by the grantor. Where partition is effected by sale under court decree and subsequent division of the proceeds, the transfer is fully taxable unless one of the persons entitled to share in the proceeds becomes the purchaser. In

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that event the tax is based upon the extent to which the purchase price exceeds the share of the purchaser.

"(3) Deeds of Exchange. A deed of exchange is taxable on the basis of the value of the land accepted by the grantor in consideration for it, plus the amount, if any, of any cash consideration.

"(4) Security and Lien Transactions. Transfers subject to mortgage or ground rent, or for purposes of securing the grantee in some transaction pertaining to the property transferred are taxable on the full value of the property transferred. 'Value' shall include liens such as mortgages, ground rents, judgments or other forms of encumbrance.

"(5) Foreclosure Sales and Deeds in Lieu of Foreclosure. When real estate is sold on foreclosure of mortgage or on execution upon a judgment on the bond or note accompanying a mortgage on said real estate by a sheriff, United States marshal or corporate mortgage trustee, the transfer to the purchaser, is taxable on the basi

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of the highest of: (i) the bid price; or (ii) the amount of the judgment not in excess, however, of the fair value of the real estate.

"When real estate is sold by a sheriff other than in the case of a mortgage foreclosure, or by a trustee in bankruptcy or receiver, the transfer to the purchaser is taxable on the basis of the bid price.

"In the case of a deed in lieu of foreclosure, the tax shall be based on the balance of principal and interest due on the mortgage not in excess, however, of the fair value of the real estate.

"(6) Deeds to and from Corporations. A conveyance of real estate to a corporation in consideration of the issuance to the grantor of capital stock is subject to tax upon the basis of the value of the property transferred. Conveyances by a corporation to its stockholders in liquidation or dissolution are not subject to tax.

"(7) Partnerships. Conveyances of real estate by partners to themselves as partners and conveyances of partnership real estate to partners

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as individuals in partial or complete liquidation of the partnership are not subject to tax. Conveyances or partnership real estate to a new partnership are subject to tax even though some of the partners in the new firm are identical with the members of the old partnership.

"(8) Deeds to and from Trustees. A conveyance to a grantee in trust to hold a property for the benefit of income beneficiaries and remaindermen is subject to the tax to the extent of the value of the interest passing to persons other than the grantor irrespective of whether the trust is revocable or irrevocable. The exemption for transfers between spouses and between parent and child is inapplicable where the grantee is a trustee. Conveyances from a trustee to a beneficiary in distribution of the trust are not taxable: Provided, that any such conveyance which involves consideration passing either to the trustee or to other beneficiaries because the grantee is receiving a greater share in the real estate than that to which the trust instrument entitled him shall be taxable on the basis of the

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consideration so passing. Where the trust is a dry trust and has substantially the effect of a nominee or straw transaction, the rules applicable to such transaction are controlling.

"(9) Deeds Creating Easements. Transfers creating easements or similar incorporeal rights in land are taxable on the basis of the actual consideration for the transfer. Cemetery deeds which create no estate in land but simply give the grantee the right of sepulcher are not taxable.

"(10) Deeds Which Change Tenure Only. A transfer from grantors to themselves as grantees for the sole purpose of changing the form of their tenure, is not subject to tax.

"(11) Conveyance in Consideration of Maintenance. A conveyance of real estate in consideration of life maintenance is taxable, the tax to be measured by the value of the property or interest conveyed.

"(12) Ground Rents. The tax upon an instrument creating, extinguishing or assigning a ground rent is based upon the actual considera-

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tion paid for the creation, redemption or assignment of such ground rent.

"(c) Documents in Escrow. A document delivered in escrow shall not be deemed to be delivered nor the transfer effected thereby made until the document is released from escrow.

"(d) Proof of Pertinent Facts. Wherever taxability or amount of tax turns upon the determination of any facts or circumstances pertaining to the transfer or to the status of or relationship between the parties thereto, such facts or circumstances may be established prima facie either by (1) appropriate recitals or other provisions in the document, or (2) an affidavit executed by a responsible person connected with the transaction showing such connection and setting forth all of the pertinent facts and circumstances, the original of which shall be filed with the Recorder of Deeds and a copy with the Township Secretary.

"Section 11. It shall be unlawful for any person to:

"(a) Fail to pay the tax imposed by this

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Ordinance, or

"(b) Fail to place upon a document the certificate required by this ordinance, or make any false statement in such certificate, or

"(c) Fail, neglect or refuse to comply with or violate the rules and regulations adopted and promulgated by the Treasurer under the provisions of this Ordinance.

"Section 12. Any person violating any of the provisions of this Ordinance shall be liable to a penalty not exceeding three hundred dollars (\$300.00), and further shall be required to pay the amount of the tax, together with interest as is otherwise provided for herein, which should have been paid on the document or documents, and upon default in the payment of the same for ten (10) days, shall be subject to thirty (30) days' imprisonment.

"Section 13. The provisions of this Ordinance are severable, and if any portion thereof, is held to be invalid, the decision of the court shall not affect or impair any other remaining portions of this Ordinance. It is hereby declared to be the intent of the Board of Supervisors that this Ordinance would

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have been adopted if such invalid portion had not been included herein.

"Section 14. The tax levied under this Ordinance shall go into effect on May 8, 1967.

"Section 15. A transaction or transfer taxable under paragraph 3 (a) or paragraph 3 (b) hereof shall be deemed to have been made on the date upon which the document involved or effecting the same is filed for recording unless there is submitted to the Recorder of Deeds an affidavit executed by a responsible person connected with the transaction showing such connection and setting forth the pertinent facts necessary to establish the date upon which such transfer became effective and there is filed with the Township Secretary a copy of such affidavit.

"Approved by the Board of Supervisors on the 2nd day of May, 1967.

"BOARD OF SUPERVISORS, WEST PIKELAND TOWNSHIP, SAMUEL B. ACKER, Chairman; JAMES G. LAMB, JR JOHN H. WILCOX. Attest: CHARLES THOMPSON, Secretary.

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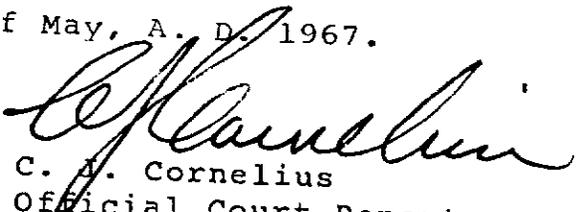
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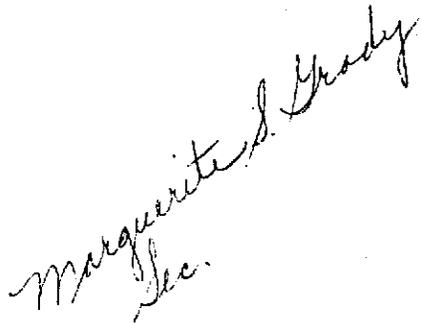
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C E R T I F I C A T E

I hereby certify that the foregoing pages, numbered consecutively from 1 to 23, are a full, true and accurate transcript of my original shorthand notes taken in the above-entitled matter before the Board of Supervisors of West Pikeland Township, at the Township Building, Chester Springs, Pennsylvania, on Tuesday, the second day of May, A. D. 1967.


C. V. Cornelius
Official Court Reporter
Courts of Chester County
West Chester, Pennsylvania


Sec.
