GUIDE CHECKLIST FOR DOCUMENT RECORDING

The following checklist addresses common problems found in documents submitted to the City Register for recording. It is not intended as a comprehensive primer on recording requirements, and does not set forth every legal requirement or situation for recording

I. GENERAL REQUIREMENTS FOR RECORDING ANY DOCUMENT

The following general requirements must be met in order to record any document:

- A. The document must be dated.
- B. The name and address of parties to documents must be in the caption.
- C. Documents must be signed.
 - A facsimile signature is acceptable.
 - 2. Names in the caption must coincide with the signatures on the documents.
 - 3. Where applicable, recording data for power of attorney should be noted below the signature
 - a. Power-of-attorney document should be recorded in the county where the property is located prior to or simultaneous with the document to be recorded.
- D. Documents must be acknowledged or proved and notarized in accordance with Article 9 of the Real Property Law.
 - 1. The Acknowledgment must be complete.
 - a. Venue must be completed.

- b. Date must be completed.
- c. Correct acknowledgment form must be used -Uniform Acknowledgement for a NYS venue vs. general acknowledgment vs. subscribing witness.
- d. The names of the parties must be written in the acknowledgment exactly as they appear on the document.
- 2. Notary information must be complete.
 - a. The notary stamp and signature must be provided below the acknowledgment.
 - b. The notary signature must be an original signature.
 - c. A notary licensed in New York State must include his or her license number and expiration date of his or her license.
- E. A Recording and Endorsement Page MUST be submitted.
 - Record and return information must be provided.
 The name and address to whom the document is returnable must be indicated on the Recording and Endorsement Page
 - Tax Map information (tax block and lot numbers)
 must be shown on the Recording and Endorsement
 Page if the document is to be recorded against the
 particular block(s) and lot(s). It will be verified
 against the property description provided.
 - 3. Page count must be filled in.
 - 4. Premises address must be completed to include unit #, when applicable.
 - 5. Names & addresses of all parties must be completed.
- F. Property description
 - 1. An address or a metes and bounds description is acceptable.

- 2. A property description must be provided in the body of the document if the document is to be recorded against a particular block and lot number.
- G. Correct recording fees must be provided.
 - Recording fees may be paid by certified check, postal money order, bank check, etc. made payable to the NYC Department of Finance.
 - 2. Checks must be signed.

H. Document

- The document must be legible and suitable for microfilming.
- 2. The document must have at least 1/2" margin all around each page.

II. RECORDING A REAL PROPERTY DEED

In addition to the General Requirements For Recording Any Document, the following requirements must be met:

- A. Form NYC-RPT must be completed and include the following:
 - 1. Grantor and grantee information must be completed.
 - a. The names must coincide with the names on the deed document.
 - b. The addresses provided should be the post-transfer mailing addresses.
 - c. EIN/SSN information must be completed. If the party has no EIN/SSN, or the party's application is pending, a notation to that effect must be provided.
 - Property location must be completed. The property location must coincide with the location(s) shown on the deed document.
 - 3. Date of transfer to grantee must be completed.

- 4. A condition of transfer must be checked off.
 - a. Any applicable schedule must be completed in its entirety.
 - Any required supporting documentation must be provided
- Type of property transferred must be completed.
- 6. Type of interest transferred must be completed.
- 7. Where the consideration is \$400,000 or more, a copy of the Contract of Sale or closing statement must be attached to the return.
- 8. The details of consideration shown on Schedule 1 must add up to the total consideration.
- 9. Schedule 2 computation of the tax must be completed.
- 10. At least one party must sign the certification portion of the return and have the signature notarized. Please note the party falling to sign a return may be subject to penalties, and the period of limitations for tax assessment is not applicable to such party. See Administrative Code §11- 2105(a).
- 11. The tax may be paid by cash, money order, draft, certified check, an Attorney's Trust Account check, an IOLA account, an Attorney's Special Account check or an Attorney's Escrow Account check unless an established uncertified check limit is in effect. Checks should be made payable to NYC Department of Finance.

5

- 12. If a one-or two-family dwelling, a smoke detector affidavit must be filed.
- B. NYS-TP-584 (Combined Real Estate Transfer Tax Return and Credit Line Mortgage Certificate) must be completed and include the following:
 - Grantor and grantee information must be completed.
 The names must coincide with the names on the deed document.

- Location and description of property conveyed must be completed. The property location must coincide with the location(s) shown on the deed document.
- 3. Date of conveyance must be completed.
- 4. Percentage of real property conveyed which is residential real property must be completed.
- Condition of conveyance must be checked off. Any applicable schedule must be completed in its entirety.
- 6. Schedule B Real Estate Transfer Tax Return must be completed.
 - a. The tax may be paid by certified check, an Attorney's Trust Account check, an Attorney's Special Account check or an Attorney's Escrow Account check unless an established uncertified check limit is in effect.
 - b. Checks must be made payable to the NYC Department of Finance.
- 7. Schedule C Credit Line Mortgage Certificate must be completed.
- 8. At least one party must sign the Affirmation portion of the return. The party failing to sign is not relieved of any tax liability, and the period of limitations of tax assessment are not applicable to such party. See Tax Law §1409.
- 9. If the transaction occurred prior to June 15, 1996, a Real Property Transfer Gains Tax affidavit must be submitted.
- C. If the property is a Multiple Dwelling of 3 or more units, a Department of Housing Preservation and Development Preliminary Residential Property Transfer Form (OHP Form 515) is required. If the property conveyed is not a multiple dwelling, an affidavit to that effect must be filed in lieu of filing the Preliminary Registration form.

III. RECORDING A MORTGAGE

In addition to the General Requirements For Recording Any Document, the following requirements must be met:

- A. The maximum amount secured, expressed un U.S. dollars, must be clearly stated. If the amount is written in words and in numeric characters, both MUST agree. Abbreviations, such as "K" or "M", are not acceptable.
- B. The amount of tax due should be noted in the upper left hand corner of the mortgage document to assist in veritying the proper tax calculation.
- C. The "type of property clause" must be included one- to two-family dwelling, three-tamily dwelling, six or less residential units, or more than six dwelling units.
- D. If an exemption from the mortgage tax is being claimed, duplicate aitidavits must be provided citing all pertinent details of the transaction, including the applicable section of the law exempting the transaction.

IV. RECORDING AN ASSIGNMENT OF MORTGAGE

In addition to the General Requirements For Recording Any Document, and in addition to the Requirements for Recording a Mortgage, the following requirements must be met:

- A. The recording information of the mortgage being assigned must be in the assignment document.
- B. Unless an assignment within the secondary mortgage market as defined in Real Property Law §275 (2) (a), there must be in the assignment document or attached thereto a statement under oath assigned by the mortgagor or any other party with knowledge of the facts that the assignee is not acting as a nominee of the mortgagor and that the mortgage continues to secure a bona fide obligation.

V. RECORDING A CORRECTION MORTGAGE

In addition to the General Requirements For Recording Any Document, and in addition to the Requirements For Recording a Mortgage, the following requirements must be met:

- A. The mortgage document must cite the recording information of the mortgage as originally recorded.
- B. The mortgage document must contain a clause (in the 1st or 2nd page) reciting what is being corrected.
- C. If an exemption from the mortgage tax is being claimed by virtue of the correction mortgage being a supplemental instrument, duplicate original attidavits must be submitted outlining the details of the transaction as follows:
 - 1. The date of the mortgage previously recorded.
 - 2. The names of the parties to the mortgage.
 - 3. The recording information of the mortgage previously recorded.
 - 4. The maximum amount secured by the previously recorded mortgage.
 - 5. The amount of mortgage tax that was paid.

5

- 6. The said amount that was loaned or advanced and became secured, noting exceptions if any.
- 7. The balance of principal indebtedness outstanding under such previously recorded mortgage.
- 8. That after the maximum amount became secured, no reloans or re-advances have become secured.
- 9. The new instrument should be described by date and the parties thereto.
- The maximum amount of principal indebtedness secured thereunder or in conjunction with the previously recorded mortgage.
- 11. Request for exemption under §255 of the Tax Law.

VI. RECORDING A CORRECTION DEED

In addition to the General Requirements For Recording Any Document, and in addition to the Requirements For Recording a Deed, the following requirements must also be met:

- A. The deed document must cite the recording information of the deed as originally recorded.
- B. The deed document <u>must</u> contain a clause on the 1st or 2nd page reciting what is being corrected.

VII. RECORDING A SATISFACTION OF MORTGAGE

In addition to the General Requirements For Recording Any Document, the following requirements must also be met:

- A. The recording information, including the amount secured, of the mortgage(s) to be discharged must be provided.
- B. All assignments, consolidations, etc. must be recited in detail in the satisfaction document the chain MUST be complete as per §321 of the Real Property Law. All certificates of discharge must be signed as provided in §321 and acknowledged or proved and certified in a like manner as to entitle a conveyance to be recorded.
- C. The party(ies) signing the satisfaction document MUST be the last holder(s) of record of the mortgage.
 - 1. If the mortgage is to be discharged by an executor or administrator of an estate, the caption must recite the name of the court and venue of the proceedings in which the letters testamentary or of administration were issued.
 - If heirs and/or distributees are holders of the mortgage, the caption must recite the date of death, place of residence at the time of death, the fact that the decedent died intestate, that no administrator has been appointed and they constitute all distributees of the intestate.

VIII. RECORDING A MEMORANDUM OF LEASE

In lieu of recording a lease for a term exceeding three years, there may be recorded a memorandum of such lease, executed by all persons who are parties to the lease. In addition to the General Requirements For Recording Any Document, the following requirements must be met:

- A. The memorandum of lease must include:
 - 1. The name and address of lessor(s) and the name and address of the lessee.
 - 2. A reference to the lease, including its date of execution.
 - A description of the leased premises in the form contained in the lease.
 - 4. The term of lease with the date of commencement and the date of termination of such term.
 - 5. If there is a right to extension or renewal, the maximum period for which or date to which the lease may be extended or the number of times or date to which it may be renewed.
 - 6. The date or dates on which such rights of extension or renewal are exercisable.
- B. The lease must be submitted whenever a memorandum of lease is presented for recording. The lease will not be recorded; it will be examined to determine whether or not the memorandum of lease is subject to the Mortgage Recording Tax.
- C. The NYC-RPT form must be filed.
- D. Form NYS-TP-584, as it applies to the New York State Gains Tax and NYS Real Estate Transfer Tax, must be filed.

IX. RECORDING A CONSOLIDATION AND EXTENSION AGREEMENT

501

In addition to the General Requirements For Recording Any Document, the following requirements must be met:

- A. The complete information regarding the mortgages being consolidated must be recited in the agreement, including the parties to the mortgages.
- B. The maximum amount secured must be recited in the agreement.
- C. If an exemption from the mortgage tax is being claimed, the appropriate affidavit must be filed in duplicate original. In addition to the requirements noted in Section V, items C. 1-11, the affidavit also must include the amount of the mortgage, as consolidated.