



September 1, 2006
Pennsylvania Realty Transfer Tax
No. RTT-06-011
Conveyance of Common Areas to Homeowner's Association

ISSUE

Is a deed that conveys title to common areas in a planned community from Taxpayer X to Taxpayer Y, a homeowner's association for the planned community, subject to Pennsylvania Realty Transfer Tax?

CONCLUSION

The deed is not subject to tax if the conditions outlined below are met.

FACTS

Taxpayer X is the developer of a planned community.

Taxpayer Y is the homeowner's association established for the planned community.

Taxpayer X desires to convey common areas in the planned community to Taxpayer Y. Consideration for the conveyance will be \$1.

DISCUSSION

It is the Department's policy that common areas in planned development communities have very little value separate and apart from the community itself. Therefore, the common areas generally cannot be sold or conveyed to anyone outside of the planned community. Further, these areas generally are not separately assessed and any appraisal to determine their value would cost more than these areas are worth.

Because of this reality, the Department has recognized deeds that convey common areas from developers to homeowner's associations for actual consideration of \$1 as representing the actual value of the interest conveyed. Because the real estate being conveyed has no or nominal value, the deed of conveyance is not subject to tax under 61 Pa. Code § 91.193(b)(21) (relating to deeds for real estate valued at \$100.00 or less).

The above policy is only applicable if: (1) the individual property owners in the planned community have exclusive membership in the homeowner's association and thus have exclusive ownership and control of the common areas, and (2) proof is provided that when the property owners purchased their individual units, a portion of their contract price was attributable to the "purchase" of the common areas. Proof that a portion of the common areas and/or open space has been added to the assessment of each of the individual units would likewise be sufficient to justify subjecting the conveyances to tax for actual consideration of \$1. Otherwise, tax on the conveyance of these common areas must be based on the computed value of the real estate, if separately assessed, or an appraisal.