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COUNCIL OF THE CITY OF PHILADELPHIA

3

PUBLIC HEARING

4

COMMITTEE OF THE WHOLE

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6

Room 401, City Hall
Philadelphia, Pennsylvania
Wednesday, November 10, 1999
12:30 p.m.

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Bill Nos. 960662, 960663, 970214, 970652, 980303,
980927

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PRESENT:

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COUNCIL PRESIDENT ANNA C. VERNA

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COUNCILWOMAN JANNIE BLACKWELL

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COUNCILWOMAN AUGUSTA CLARK

COUNCILMAN DARRELL CLARKE

COUNCILMAN DAVID COHEN

16

COUNCILMAN FRANK DI CICCIO

COUNCILMAN JAMES KENNEY

17

COUNCILWOMAN JOAN L. KRAJEWSKI

COUNCILMAN W. THACHER LONGSTRETH

18

COUNCILMAN RICHARD T. MARIANO

COUNCILWOMAN DONNA REED MILLER

19

COUNCILMAN MICHAEL A. NUTTER

COUNCILMAN ANGEL L. ORTIZ

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COUNCILMAN FRANK RIZZO

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I N D E X

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DIANE LUCIDI, Association of Realtors -----	46

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2 COUNCIL PRESIDENT Verna: May I ask all
3 Councilmembers who are in the building to please
4 report to the Chambers so that we can get started
5 with our public hearing Committee of the whole.

6 Councilman Rizzo, do you want to be
7 recognized.

8 COUNCILMAN RIZZO: Madam President, I
9 understand there will be three bills before us in
10 the Committee today, No. 970652.

11 COUNCIL PRESIDENT Verna: Yes.

12 COUNCILMAN RIZZO: I must leave, and I'm
13 going to leave my vote yes and for any amendments.

14 COUNCIL PRESIDENT Verna: Councilman
15 DiCicco, we're still considering 970214.

16 COUNCILMAN DI CICC0: Yes, with
17 amendment.

18 COUNCILMAN RIZZO: I want to vote yes on
19 any amendments.

20 COUNCIL PRESIDENT Verna: On Bill No.
21 970214?

22 COUNCILMAN RIZZO: 970214 and 970652.
23 Also on Bill No. 980303, vote no and on any
24 amendments also.

25 COUNCIL PRESIDENT Verna: And Councilman

1 Bill No. 970214

2 DiCicco, you have 980927?

3 COUNCILMAN DI CICC0: It will be
4 withdrawn.

5 COUNCIL PRESIDENT Verna: Is that
6 withdrawn?

7 COUNCILMAN DI CICC0: Yes.

8 COUNCIL PRESIDENT Verna: Thank you
9 Councilman.

10 COUNCILMAN RIZZO: Thank you, Madam
11 President.

12 COUNCIL PRESIDENT Verna: This is the
13 continued public hearing of the Committee of the
14 Whole from Wednesday, October 27, 1999, regarding
15 Bill Nos. 960662, 960663, 970214, 970652, 980303,
16 and 980927.

17 Councilman DiCicco, you're withdrawing
18 what bills? For the record, would you please make
19 it very clear which bills you're withdrawing?

20 COUNCILMAN DI CICC0: Madam Chair, I'm
21 withdrawing Bill Nos. 960662, 960663, 980927.

22 COUNCIL PRESIDENT Verna: Thank you. Do
23 we have anyone to testify on these bills?

24 (No response.)

25 COUNCIL PRESIDENT Verna: It is my

1 Bill No. 970214

2 understanding, it I just handed testimony from the
3 First Deputy City Controller, Dave Volpe, regarding
4 Bill No. 980303.

5 Does everyone have a copy of it? I just
6 received it.

7 Will the Clerk please distribute a copy
8 of the testimony. I would ask Mr. McPherson to
9 please read the testimony from the first deputy city
10 controller.

11 COUNCILMAN NUTTER: Madam President, for
12 procedural purposes, can I just ask if we can just
13 accept this testimony as if it had been read in the
14 record and give it to the stenographer.

15 COUNCIL PRESIDENT VERNA: I don't see
16 problem with that. We'll give a copy of it to the
17 stenographer and that will be made a part of the
18 record.

19 COUNCILMAN NUTTER: Thank you.

20 COUNCIL PRESIDENT VERNA: Councilman
21 DiCicco, it's my understanding that you have an
22 amendment that you would like to offer on Bill No.
23 970214.

24 COUNCILMAN DI CICCIO: Yes, Madam
25 President.

1 Bill No. 970214

2 Will the Clerk please distribute the
3 amendment?

4 Do I need to read in an in the record?

5 COUNCIL PRESIDENT VERNA: I think you
6 should.

7 Mr. Glancey, since this is pertaining to
8 your department, do you have a copy of the
9 amendment?

10 MR. GLANCEY: No, I don't.

11 COUNCIL PRESIDENT VERNA: The Clerk will
12 certainly give you a copy.

13 MR. GLANCEY: I now have one.

14 COUNCIL PRESIDENT VERNA: Councilman
15 DiCicco.

16 COUNCILMAN DI CICC0: Thank you, Madam
17 President. I'm offering an amendment to Bill No.
18 970214, "Section 2, Effective Date; Application.
19 This ordinance shall take effect upon the effective
20 date of state legislation enacted subsequent to the
21 enactment of this Ordinance authorizing this
22 Ordinance, and shall apply only to the exceptions
23 for which application is made to the Board of
24 Revision of Taxes on or after such effect date."

25 COUNCIL PRESIDENT VERNA: Are there any

1 Bill No. 970214

2 questions or comments from Members of the Committee
3 regarding this amendment?

4 The Chair recognizes Councilwoman Clark.

5 COUNCILWOMAN CLARK: I'm not certain I
6 understood the amendment, and I don't have it in
7 hand. What is the effective of it, Mr. DiCicco?

8 COUNCILMAN DI CICC0: Presently, the
9 City is authorized under state enabling legislation
10 to offer a three-year exemption -- an abatement on
11 new construction, residential real estate
12 construction. If this Committee should vote
13 favorably on the bill with the amendment, it will
14 not be able to take effect until the State gives us
15 the 10-year authorization. Presently, in the State
16 House and the senate, the bill is being worked on
17 and we anticipate approval at the state level that
18 will give the authorization to the City. So if we
19 would have said immediately, we couldn't do that
20 because we don't have the authority yet from State.

21 COUNCILWOMAN CLARK: A difference of
22 seven year authority.

23 COUNCILMAN DI CICC0: Yes. And the
24 maximum that the State could allow us is 10 years.
25 We presently have -- we implemented years ago in

1 Bill No. 970214

2 Council a three-year abatement. The bill is
3 requesting to extend that to 10 years.

4 COUNCILWOMAN CLARK: Would the bill
5 sunset 10 years?

6 COUNCILMAN DI CICC0: I don't think so.

7 COUNCILWOMAN CLARK: It would remain in
8 effect even though the 10 years had passed?

9 COUNCILMAN DI CICC0: No, the 10 years
10 abatement to the property that is being constructed.

11 COUNCILWOMAN CLARK: Oh, I see. And it
12 remains in force then, that 10 years would be the
13 maximum abatement period?

14 COUNCILMAN DI CICC0: That's correct.

15 COUNCIL PRESIDENT VERNA: Only after the
16 State legislation passes.

17 COUNCILWOMAN CLARK: If the State
18 passes.

19 COUNCILMAN DI CICC0: That's the purpose
20 of the amendment.

21 COUNCILWOMAN CLARK: Okay.

22 COUNCIL PRESIDENT VERNA: Councilman
23 Kenney, your light was on. Do you have any
24 questions?

25 COUNCILMAN KENNEY: No, my question was

1 Bill No. 980303

2 answered.

3 COUNCIL PRESIDENT VERNA: Thank you.

4 The next bill is Bill No. 970652. Do
5 you have anyone to testify on that? Or does the
6 sponsor or anyone else have any amendments to
7 propose?

8 (No response.)

9 COUNCIL PRESIDENT VERNA: Seeing none,
10 the next bill to be considered is Bill No. 980303.
11 Is there anyone to testify on this bill or do we
12 have any amendments being offered for that bill?

13 The Chair recognizes Councilman O'Neill.

14 COUNCILMAN O'NEILL: With the grace of
15 the Chair, I'm going back to 970214, the first bill
16 Councilman offered the amendment of. I have some
17 questions on that just dealing with the property
18 dealing with the buyer or the owner. Party A buys a
19 new home, gets the 10-year abatement. Two years
20 later or four years later or five years later sells
21 the property. Does the abatement continue, and if
22 it does, what is the public policy reason for
23 continuing it?

24 COUNCILMAN DI CICCIO: My understanding,
25 the abatement goes with the property for the balance

1 Bill No. 980303

2 of the 10-year term, if it's four years out that you
3 sell it, then there's six years left on the
4 abatement. That's my understanding.

5 COUNCILMAN O'NEILL: Does it have to be
6 that way according to state law?

7 COUNCILMAN DI CICC0: I'm not in a
8 position to answer that. Maybe Frank Paiva or
9 someone could answer that.

10 COUNCILMAN O'NEILL: I just from a
11 public policy standpoint would question whether as a
12 used property we should be offering any abatements,
13 because what's the difference between that used
14 property at that point and any other property that's
15 for resale. It's a comment. I think is worth
16 looking at. Probably before the time we get the
17 State. If we can tailor it, we will. I'd also be
18 glad to work with Councilman on the state part.

19 COUNCILMAN DI CICC0: Thank you.

20 COUNCIL PRESIDENT VERNA: The Chair
21 recognizes Councilwoman Clark.

22 COUNCILWOMAN CLARK: Madam President,
23 with respect to Bill No. 980303, if I understand it
24 correctly, this bill is reduce the ability to
25 transfer tax from 3.0 onto 1.5. This could result

1 Bill No. 980303

2 in an annual loss of approximately \$32 million for
3 the City's General Fund. In a companion piece of
4 legislation certain loopholes in the real estate
5 transfer tax are proposed to be closed, the value of
6 which has not yet been calculated by the
7 Administration due to a lack of data. The
8 Administration's is trying to value them, but
9 finding it difficult, the general feeling is that
10 their value is immaterial in comparison to the
11 annual loss of 32 million as a result of the
12 proposed rate reduction called for in Bill No.
13 980303.

14 The issue of tax reductions, the
15 strategy of which taxes should be reduced, who
16 receives these benefits and how the City pays for
17 the decreases should be addressed in the City's
18 annual operating budget and five-year financial plan
19 and if at the approach may pour holes in our budget
20 without leaving us a way to close them. And that is
21 the lingering and continuing problem that I have
22 with the bill that reduce the realty transfer taxes.

23 COUNCIL PRESIDENT VERNA: Thank you.

24 Any other questions?

25 COUNCILWOMAN CLARK: Would any other

1 Bill No. 980303

2 sponsors care to speak to that issue?

3 COUNCIL PRESIDENT VERNA: Councilman
4 Nutter.

5 COUNCILMAN NUTTER: Thank you, Madam
6 Chair and thank you, Councilwoman Clark. This is an
7 issue that's been discussed, obviously, over some
8 period of time, primarily brought to me by the
9 people who engage in business in the City, primarily
10 Greater Philadelphia Board of Realtors who, I
11 believe, testified at the previous hearing that at
12 least from their perspective there is some impact on
13 their business by the City's disproportionately high
14 real estate transfer tax as compared to the four
15 counties is around us.

16 The Administration's testimony from, I
17 guess, a week or two ago did indicate potential
18 significant revenue losses, although there is --
19 it's fairly easy to say that there is a dispute
20 among parties about what the value will be of the
21 closing of the four loop holes. The Administration
22 at least recognizes that these do exist and that
23 people do take advantage of them. The fact that
24 they can't quantify them doesn't mean that they
25 don't happen or that we wouldn't receive some

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benefit from them. I think it was testified at previous hearing that this Council, I believe in 1996 closed the loophole from which we are now enjoying some significant dollars coming into our budget.

Secondly, I am more than willing to have continued discussion and dialog with the Administration about a different strategy on reducing the real estate transfer tax. It has been done in the past that the reduction not done all at one time but done in a phased fashion over a period of time. Notwithstanding whatever reductions, even in a phased strategy, there's nothing to stop this Council from stopping the phase-in at any particular point in time.

There was one error that was made by the Administration in their calculations, which was an assumption that the transfer tax reduction would start in the middle of this particular fiscal year. I do have an amendment to be put forward that clarifies that particular issue as well as an amendment that would call for a five-year phase-in of a planned reduction of the real estate transfer tax with incremental and smaller reductions in the

1 Bill No. 980303

2 earlier years resulting in a much less, much less,
3 potential revenue loss to the City. And the
4 amendments that I have would cut that revenue loss
5 by 45 percent.

6 COUNCILWOMAN CLARK: Have you given a
7 value to closing the loopholes and would you be
8 comfortable with a plan that reduced the tax added
9 amount equal to the loopholes value?

10 I don't know that I've ever seen that
11 computation, but that would be a direct offset, it
12 seems to me, that nobody could complain about it.

13 COUNCILMAN NUTTER: Well, that certainly
14 is a very interesting idea, Councilwoman, which I'd
15 like to give a few seconds of thought to.

16 To get to your first question, no, I
17 have been able to quantify the value, nor has even
18 people more esteemed and learned in this particular
19 area than myself.

20 COUNCILWOMAN CLARK: Who are they?

21 COUNCILMAN NUTTER: There are many
22 around, Councilwoman, let me assure you. Some of
23 them are actually in the room with us today. Frank
24 Paiva from the Law Department studied this issue.
25 It's the kind of thing where you can't figure out

Bill No. 980303

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2 what you might get because you were never getting it
3 in the first place. But I think if I heard your
4 thoughts correctly, what you might be talking about
5 is somewhat of a bifurcation of the real estate
6 transfer tax reduction component of the bill, leave
7 the loophole closing portion in place and see what
8 happens over the next couple of years and then
9 possibly come back and look at a reduction that's
10 equal to what comes in from those taxes try to make
11 a wash, is that what your proposal is?

12 COUNCILWOMAN CLARK: Yes, unless there
13 is a way to assign a value that is reasonably
14 comforting to what the closing loopholes dollar
15 value would be. Since I have no clue what they
16 are -- I'm a little nervous with putting a hole in
17 the budget and hoping that loopholes will not make
18 the hole as big as we presently compute it to be. I
19 think we need to be more responsible than that, and
20 that's what my concern. But I, like you and other
21 Members of Council, understand the beneficial impact
22 of reducing that tax so as to increase the activity
23 in realty transfers.

24 COUNCILMAN NUTTER: And I think that's
25 been one of the primary goals. The new computation,

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2 just to at least get it on the record, and I would
3 like to circulate the amendments so the Members can
4 take a look at it, the new proposal would have the
5 transfer tax reduced to the one-and-a-half percent
6 level over a five year period of time and in the
7 next fiscal year it would go from the current 3
8 percent to 2.75 percent or two and three-quarters.
9 Based on the Administration's numbers in their
10 testimony. That will result in an about a \$5
11 million change between what they estimate the
12 revenues to be at the 3 percent rate versus what
13 they would be 2.75 rate in next year's annual
14 budget.

15 COUNCILWOMAN CLARK: What plan have you
16 to make up even that margin, that five million.

17 COUNCILMAN NUTTER: I think it goes back
18 to what you had raised earlier. And, again, I'm
19 intrigued by that kind of proposal where we would
20 keep in the closures. Although to be honest with
21 you, people in the real estate community, when they
22 looked at this, looked at the advantages that they
23 would get from the lowering of the real estate
24 transfer tax and were willing to push for that at
25 the sacrifice of the closing of these actual

1 Bill No. 980303

2 loopholes that people do in fact utilize and were
3 willing to trade off the closings for the reduction.

4 COUNCILWOMAN CLARK: But their
5 obligation and responsibility is different from
6 yours and mine.

7 COUNCILMAN NUTTER: I understand that.

8 COUNCILWOMAN CLARK: And from our
9 vantage point, how do we achieve the greatest good
10 by doing the least damage to systems that we already
11 understand?

12 COUNCILMAN NUTTER: I understand.

13 COUNCILWOMAN CLARK: Madam Chair, I
14 won't burden this record any further. I think the
15 point that I was trying to make has been made.

16 COUNCIL PRESIDENT VERNA: Thank you.
17 The Chair recognizes Councilman Kenney.

18 COUNCILMAN KENNEY: Thank you, Madam
19 Chairman. Mr. Volpe's analysis of this particular
20 proposal indicates that their conclusion is that the
21 proposed legislation is likely to be an effective
22 means of stimulating the local housing market. Then
23 on page -- I'm sorry, the pages aren't numbered.
24 But the page which says at the top "Real Property
25 Transfer Tax Analysis" and shows you the chart would

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1
2 seem to run counter -- Mr. Volpe is not here, but
3 would seem to run counter to his assertion because
4 in 1989 when it was at its highest rate, 4.07, the
5 real estate transactions in Philadelphia remained
6 flat. It actually went down until 1991 when it hit
7 a level 3.69 as a result of court ordered phased-in
8 reductions. And seeing the steadily rise with each
9 concurrent reduction from 1992 through 19 -- well,
10 in 1994 when it stop reducing at 3.0, seemed to have
11 indicated that there was a spike in each year in
12 housing sales and activity commensurate apparently
13 with the phased-in reductions. And what I'd like to
14 do is if somebody maybe from the Administration or
15 for the Board of Revision of Taxes or from the real
16 estate industry try to explain that for us.

17 The other question I have for whatever
18 expert may be here enlighten us, and I raised this
19 with Councilman Nutter on the converse of the
20 argument as to why we should do this or not. I'm
21 wondering whether or not the real estate industry or
22 anyone in the City could see the potentiality of
23 people selling their homes and moving out of
24 Philadelphia at a quicker rate based on a lower
25 realty transfer tax. So, for example, I bought two

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2 houses in my life, both in the zip code. One, I
3 bought for my parents and then the other one I sold
4 that house and moved to a larger house still in
5 South Philadelphia. The largest closing cost that I
6 had was my realty transfer tax. The question I
7 have, and I guess it's a supposition, is that if we
8 reduce that number, would it potentially spur more
9 people to sell their house because it's more cost
10 effective for them to do it now because it's less of
11 a closing cost?

12 One side of it my question is it seems
13 like the phased-in reductions did in fact spur on an
14 increase in property transactions. And secondly,
15 does anyone feel that a reduction in the real estate
16 property transfer tax could create potential that
17 someone might want to sell their house and move out
18 of the City because it's less costly at closing to
19 do so under the new scenario.

20 COUNCIL PRESIDENT VERNA: Mr. Glancey,
21 are you prepared to answer this question?

22 MR. GLANCEY: Always unprepared, Council
23 President, but never afraid to take a shot at
24 answering one of these questions.

25 Good afternoon. My name is David

1 Bill No. 980303

2 Glancey, and I'm the Chairman of the Board of
3 Revision of taxes.

4 Councilman Kenney, really I'm just
5 taking a shot at the first part of your question.
6 But it does seem to me that the transfer tax may not
7 be the priority factor in whether or not people buy
8 or sell homes. I mean, I think the cost of money is
9 always the most important, and secondly, just the
10 general conditions in the City. Now, is it a
11 factor? I can only use my only personal analysis.
12 I've bought two homes in the City of Philadelphia.
13 I don't remember ever considering realty transfer
14 taxes. I know times have changed since I last
15 bought my home about 20 years ago.

16 COUNCILMAN KENNEY: You may be correct,
17 because the first time I recognized the realty
18 transfer tax is when I fell off the chair at the
19 closing today when I had already done the deal. I
20 had already bought the house, I was already going to
21 settlement and went down the settlement sheet and
22 like kind of shrieked at that number. But the deal
23 was already done then, and that's I guess part of
24 what you're saying.

25 MR. GLANCEY: And I'm not here to

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2 minimize what the real estate community is saying.

3 I remember those days when it was 4.07 percent, and

4 I think in those days it was probably some sort of

5 an impediment. But I think the changing economy,

6 the reduction to 3 percent has had an I impact.

7 COUNCILMAN KENNEY: What you're

8 contending now is that spike from '91 to '96 had as

9 much or more to do with the economy and the cost of

10 money as it did the phased-in reductions in

11 transfer.

12 MR. GLANCEY: Again, without having

13 research in front of me, that would be my reaction,

14 yes.

15 MR. NADOL: I was going to try to answer

16 with regard to your question for Mr. Volpe, but I

17 think noticed that he just entered the Chambers.

18 COUNCIL PRESIDENT VERNA: Mr. Volpe has

19 just come into the room.

20 MR. NADOL: But conceptually as I

21 understand the analysis and as the Administration's

22 own analysis has similar shown there are multiple

23 variables that affect the volume of real estate

24 transactions and sales prices and so on. And again,

25 we're not saying that the transfer tax has zero

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1
2 impact, but what we're saying is that it's far, far
3 outweighed by the impact interest rates, the health
4 of the overall economy, general quality of life
5 within the City, many different factors. And it's
6 those other factors that I believe controllers
7 regression analysis, if you control that for those
8 other factors, the analysis shows that the remaining
9 impact of the transfer taxes is minimal.

10 COUNCILMAN KENNEY: What is the overall
11 benefit for the City for an increased housing sale
12 market, increased activity in selling and buying of
13 houses? Is there a direct benefit to the City? I
14 recognize the real estate industry's interest in
15 that particular area because it's their business,
16 and the more houses they sell and the more house
17 people buy certainly is works to their benefit.
18 But what is the benefit to the City with having a
19 spike or a large number of real estate transactions,
20 both selling and buying?

21 MR. NADOL: If there's, along with that,
22 increased activity, a net in migration of people, of
23 businesses, of investment in capital, then clearly
24 there's a benefit. If it's just exchanges back and
25 forth, kind of a wash or lots of activity because

1 Bill No. 980303

2 everyone selling to leave and properties are being
3 left behind vacant, then the benefit clearly would
4 not be all that great.

5 COUNCILMAN KENNEY: But in the
6 residential market -- and again, people from the
7 industry could comment. In the residential real
8 estate market, it's unlikely that a person selling
9 and leaving without selling the house and buying a
10 house somewhere else or leaving the house vacant.
11 It's more likely that a person would move their
12 business to another locale leaving the building
13 empty and available for lease. I don't know many
14 people who can buy a house in the suburbs in New
15 Jersey without selling the house they have in
16 Philadelphia first in order to make thier down
17 payment.

18 COUNCIL PRESIDENT VERNA: Councilman
19 Kenney, in all fairness to the witnesses at the
20 table, I think the question should have been
21 directed to Mr. Volpe. He is now present. I would
22 invite Mr. Volpe to come up to the witness table.

23 COUNCILMAN KENNEY: In the interest of
24 time, unless Mr. Volpe wants to elaborate, I think
25 that Mr. Glancey said that while the real estate

1 Bill No. 980303

2 transfer tax in his opinion is a factor, the spike
3 from '92 to '96 may have as much to do cost of money
4 and overall economy as the transfer tax phased-in
5 reductions. Would you like me to ask my question
6 over?

7 MR. VOLPE: First I'd like to apologize
8 for not being here earlier to read my own testimony,
9 so I do apologize.

10 COUNCILMAN KENNEY: David, the question
11 was that it would seem run counter to the assertion
12 in the testimony that the realty transfer tax
13 doesn't play a major role in the sale and purchase
14 of properties, but when I looked at the chart and
15 the phase-down numbers, it would seem that from the
16 3.69 level through the 3.0 level there seemed to be
17 a significant spike in housing transactions. The
18 question I asked was seemed to run counter-current
19 to the assertion that it didn't matter because it
20 was moving forward.

21 MR. VOLPE: I don't think we're saying
22 it doesn't matter. We're just saying a couple
23 things, one, other things matter more. The state of
24 the national economy, interest rates in terms of the
25 direction of interest rates, and the factor that we

1 Bill No. 980303

2 believe that other taxes are more important to be
3 cut in terms of job growth. You look at the wage
4 tax, business tax, we've done studies on those also
5 that show that in bang for buck for job creation,
6 you can do a lot better with reducing the wage tax,
7 business privilege tax or a portion of it than with
8 the real estate transfer tax. We did the actual
9 analysis a couple years ago. It was related to
10 another bill which related to making some
11 exemptions. And again, I wan to say, not saying it
12 doesn't matter, but there are other factors that
13 matter more.

14 COUNCILMAN KENNEY: Thank you.

15 THE CHAIRMAN: Thank you, Mr. Volpe.

16 The Chair recognizes Councilman Cohen.

17 COUNCILMAN COHEN: While I was out of
18 the room, there was a title of the bill read, Bill
19 No. 960663. Is that going to be brought for
20 discussion today?

21 COUNCIL PRESIDENT VERNA: That was
22 withdrawn.

23 COUNCILMAN COHEN: That's withdrawn?

24 COUNCIL PRESIDENT VERNA: That has been
25 withdrawn.

1 Bill No. 980303

2 COUNCILMAN COHEN: Okay.

3 COUNCIL PRESIDENT VERNA: We're
4 presently considering Bill No. 980303.

5 COUNCILMAN COHEN: With respect to that,
6 I'd like to make a few observations. Whenever a
7 large sum of money is threatened to be withdrawn
8 from the City budget, I get very concerned about
9 what is going to be cut if there is a loss because I
10 think City services are not nearly enough and I'm
11 looking for ways to increase the amount of money
12 despite the general mood of no tax increases. But
13 certainly, it would motivate against from reducing
14 income and, therefore, I just express those concerns
15 that I don't think we're in a position to withdraw
16 money. Now, this tax was a very interesting tax
17 when I was raised. I don't know how many members
18 were here in City Council, but this tax was the
19 brainchild for better or for worse of Mayor-elect
20 Street. He developed a theory that there is no
21 continuing constituency that would be hurt by this
22 because everybody was sort of a separate buyer and
23 that therefore it was a tax that could be leveled at
24 a much higher rate than it had been before at two
25 and a half percent because there would be nobody

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2 really to protest it. People that wanted to buy the
3 house would buy the house, and people who wanted to
4 sell would sell and nobody would complain. They
5 might complain a little bit, but they would not
6 organize any kind of a taxpayer protest. So even in
7 the late eighties it seemed like a kind of safe tax.
8 Then we got involved the illegal aspect of it when
9 Max Weiner raised the issue of a bill having had the
10 rate of taxation left blank in the original bill.
11 There was no rate in the taxes. And after the
12 hearing were held, at that point after we had all
13 the discussions, we filled in the figure with what
14 seemed to be appropriate. When Max Weiner sued the
15 City on the ground that there had not been enough
16 notice for the tax, nobody knew what the tax was
17 going to be and after the Council Committee adopted
18 the tax bill and filled in the missing space, there
19 was no further hearing. We thought our Council
20 procedures were appropriate. We felt the purpose of
21 the hearing was to established a figure for the tax
22 and we adopted it and it we thought it was all well,
23 but a cord courts did not agree with it. The courts
24 through out the law and devised a new pattern for
25 the law to take effect.

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2 Now, I don't know. Has there been any
3 problems with -- other than real estate agents.
4 They obviously want to be able to sell everything,
5 you know, with the least amount of taxes involved.
6 Have there been any significant number of complaints
7 purchasers or by sellers?

8 I mean, people complain whenever there's
9 going to be tax increase. Obviously, there are
10 going to be a number of people that complain, but
11 has there been any kind of a body of protest other
12 than through the real estate agents?

13 I'm not belittling the impact, but I
14 just want to know what's been the public result of
15 this tax increase.

16 And then I notice President Street, it's
17 natural for us candidates to do that. He mentioned
18 his role in reducing the tax, but I never saw any
19 mention of his role in increasing the tax. But it
20 was a very -- the City needed money. It was a very
21 good thing. And we liked that kind of a tax that
22 will not bring you criticism.

23 Augusta, do you remember that?

24 COUNCILWOMAN CLARK: I do remember.

25 COUNCILMAN COHEN: That was the history

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2 of this tax. Apparently the City Controller agrees
3 that it's a pretty good tax.

4 (Laughter.)

5 COUNCILMAN COHEN: Well, I won't hold
6 you to that. I mean from the point of an affecting
7 the commodity, you don't seem to feel that it's a
8 major significance at all.

9 MR. VOLPE: All I'm saying is as a City
10 we've got other problems that are much bigger and
11 there are factors that affect everybody, be it the
12 local economy, national economy, interest rates that
13 play a larger role than the tax itself. We would
14 never say it's a good tax. The Controller, if we
15 had the money, would probably look to reduce all our
16 taxes. But there are other taxes out there that
17 absolutely in terms of having a job stifling effect,
18 jobs or population are more onerous.

19 COUNCILMAN COHEN: Do you have any
20 information as to what the impact would be?

21 COUNCIL PRESIDENT Verna: Councilman
22 Cohen, I don't think the stenographer can hear you.

23 COUNCILMAN COHEN: Is there any
24 information, any study been made of the impact of
25 the tax? Has it retarded sales?

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2 I notice your statement indicates
3 there's no information available on that.

4 MR. VOLPE: No, our studies show that it
5 really didn't have much of an affect on residential
6 sales over the period we looked at which I think was
7 the 1998 through '96, that there were other factors
8 that did have an impact. If you had high mortgage
9 rates, that is going to lessen the number of sales.
10 If you have a bad economy, that is going to lessen
11 the number of sales. The tax itself, based on our
12 regression, which in fact is included, show that it
13 really didn't have an affect on the level or number
14 of sales.

15 MR. NADOL: And the Administration
16 analysis has reached the same conclusion.

17 COUNCIL PRESIDENT VERNA: Mr. Nadol,
18 please identify yourself for the record so the
19 stenographer knows who's talking.

20 MR. NADOL: I'm sorry, Council
21 President. I'm Michael Nadol the City's Director of
22 Finance.

23 Our analysis finds pretty much the same
24 thing that the Controller's analysis found. For
25 example, from fiscal year 1990 through fiscal year

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2 1995 when the rate was being reduced steadily from
3 its peak of 4.07 percent down to the current 3
4 percent. Our best collections adjusted for the size
5 of the rate were actually when the tax was at its
6 highest. And again, let me be clear. I'm adjusting
7 out for the factor of the rate itself being higher
8 and the kind per percent collections, the underlying
9 sales activity happened to be highest and best for
10 the City when the tax itself was at it highest
11 point. I'm not suggesting that we couldn't increase
12 activity by raising the tax, what I am suggesting is
13 much that as much as controller study's has shown,
14 there are many other factors, interest rates, the
15 overall economy, that are much more critical to
16 these kind of home purchase decisions than the rate
17 of this particular tax.

18 COUNCILMAN COHEN: Then President
19 Street's judgement must have been pretty good
20 because was what all of us currently in the Council
21 at that time felt that it was a kind of safe tax
22 because the people that would complain most would be
23 the ones had sold the houses. They were more likely
24 to need more money than the buyer of a house. Maybe
25 it's wrong according to controllers and accountants,

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2 but that's how we figured, and we thought it was all
3 right.

4 Okay, it's reassuring to know that it's
5 not having a major impact. Thank you, Madam Chair.

6 COUNCIL PRESIDENT VERNA: You're
7 welcome. The Chair recognizes Councilwoman Clark.

8 COUNCILWOMAN CLARK: Madam Chair, I
9 think that we as Members of Council would be highly
10 sensitive to criticism. And I, for one, have not
11 ever been called by a potential purchaser to say, "I
12 would buy a house, but the realty transfer tax is
13 too high" or "I will sell a house, but my share of
14 it is too high." I've not ever had that comment
15 come to me in the 20 years that I have been here.
16 So I am more inclined to look at the chart and say
17 that these are the Clinton years when interest rates
18 were low and unemployment was low and therefore
19 people were inclined to take the kind of risk for a
20 long-term big ticket item like a mortgage.

21 And in terms of purchasing, I guess I
22 have purchased three or four houses in Philadelphia.
23 You read about it in the news. When you're buying a
24 house, you're buying it with borrowed money anyhow,
25 so whether you're borrowing the money for the

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2 closing costs or whether you're borrowing money for
3 the purchase cost hardly makes a lot of difference
4 to you if you've got a mortgage banker who is
5 willing to cover the difference between what you
6 have and what you need. And it's a one-time
7 expenditure. You sign so many papers on that day
8 and give away so much money, that it hardly makes a
9 difference who got which check. I just don't see it
10 being the kind of problem that we're saying it is
11 today. But I would like to see some analysis of the
12 value of the loopholes that could be closed so that
13 we can do a rational plan toward reducing the tax,
14 because nothing make a legislature's heart beat
15 nicer than to be able to say to the constituency, "I
16 reduced your tax load." Of course, we want to do
17 that, but we have an obligation to be reasonable and
18 rational in our approach. Thank you, Madam Chair.

19 COUNCIL PRESIDENT Verna: The Chair
20 recognizes Councilman Nutter.

21 COUNCILMAN NUTTER: Thank you, Madam
22 Chair. Hopefully, we would be able to bring all of
23 this to some conclusion. I think that over the past
24 couple days and even in previous hearings, my
25 colleagues' comments and viewpoints are both

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2 enlightening and have been helpful in this
3 discussion, and people having the opportunity
4 articulate their views and feelings about it. We
5 over the past couple days and certainly the past few
6 years and over the next couple weeks will be talking
7 about various, whether it's tips or tax abatements
8 and wide variety of things that may or may not have
9 an impact on the City budget. We may even one day
10 have a discussion about stadiums and any impact that
11 they may have on the budget. So, I am, as all my
12 colleagues, equally sensitive to any actions that we
13 may take that have budgetary implications.
14 Everything usually above the level of parking
15 regulations and a couple other things often have
16 budgetary implications and sometimes actually
17 involve taxes.

18 I think today's debate and discussion,
19 quite honestly, may have been longer than some of
20 the discussions that we've had about tips and other
21 tax abatement programs and whether they impact the
22 City of Philadelphia's budget or the School
23 District's budget. Not only are these discussions
24 important, but it also highlights, in a good way I
25 think. Some of the differences of opinion about how

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2 we try to all accomplish the same goal, which is to
3 have people stay here and have more people come here
4 and we can escape the reality, and I don't think we
5 need a regression analysis to show that not
6 withstanding all the things that have happened over
7 the past few years, Philadelphia has continued to
8 lose more population than any other county in the
9 United States of America. I'm not ever going to
10 propose that this simple matter by itself is going
11 to reverse that, but it could be a part of a larger
12 strategy that encourages people to come back to our
13 City and others to stay here and just move up in
14 terms of the size of housing.

15 This, I believe is probably my third
16 bill in this regard. The first one had a title
17 problem. The second was an effort to just deal with
18 homeowner to homeowner transactions, but that raised
19 some concerns in the commercial and industrial
20 components of the real estate community and so
21 that's why I came back with an across the board cut.

22 Councilman DiCicco had a bill. His was,
23 I guess, less devastating than mine, and so we've
24 chosen to go with this particular bill.

25 I think where I am, given the

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2 discussion, is as a legislature I would like to kind
3 of bring this to some conclusion with the sense of
4 finality one way or the other about this particular
5 issue. So I've heard all of the comments and
6 respect them. I would like to at least move this
7 bill along. Members will then do whatever it is
8 that they want to do with it. What we do is vote on
9 matters and express our view and our opinion by way
10 of voting on matters either up or down. At least
11 get the bill in a form that I think is the most
12 responsible, notwithstanding the difference of
13 opinion about impact on the budget, and have a bill
14 that's in a form at least that provides for a
15 phased-in reduction. And then the members are
16 always free to do whatever it is they want to do
17 with that particular bill. But for me, at least, as
18 a legislature, it allows kind of a putting a period
19 at the end of the sentence and then we can all move
20 on with our particular lives and agendas and bills
21 and the like.

22 This continues to be out here. It sits
23 around for extended period of time with no
24 particular resolution one way or the other. So I
25 think in that regard, all I can do is ask my

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2 colleagues, who all of whom I respect their opinion,
3 to, one, get the bill in the form that at least the
4 sponsor -- and, actually, there are a number of
5 co-sponsors. Get the bill in a form that response
6 to the administration's appropriate concern about
7 the level or potential loss and have that bill in a
8 form that is ready for a vote one way or the other,
9 and Members will do what Members want to do and I
10 respect them no matter what action they may take.
11 But I'd like to bring this particular matter to a
12 conclusion, have a bill, have it sitting before us
13 and then members take a vote on it and end it one
14 way or the other. And that would be my request, I
15 guess, either at a collegial level or a personal
16 level to have this matter move forward and not have
17 it in the status of limbo or just kind of sitting in
18 the committee which naturally if sits here for
19 another couple of months, it would just expire by
20 way of the end of calendar, but still doesn't have
21 the complete sense of finality that people like to
22 have on issues when they work on them. So I'd like
23 to get the bill out in a form that is more
24 responsible and then allow Members to take a vote on
25 it.

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2 COUNCIL PRESIDENT VERNA: Thank you.

3 The Chair recognizes Councilman Mariano.

4 COUNCILMAN MARIANO: I would like to be
5 a recorded as voting yes for all bills and
6 amendments.

7 COUNCIL PRESIDENT VERNA: You're voting
8 on all bills and amendments that were offered?

9 COUNCILMAN MARIANO: Yes.

10 COUNCIL PRESIDENT VERNA: Very well.

11 The Chair recognizes Councilman Cohen.

12 COUNCILMAN COHEN: Not everything is
13 always ready to be decided. Sometimes things have
14 to be thought about, sometimes they have to be
15 thought about over a longer period of time,
16 sometimes you have to study a whole new situation.
17 There are all kinds of possibilities. I don't think
18 everything is always ready to be moved along and
19 decided. Therefore, I don't think that that's --
20 for me, that's not really a good option because I
21 don't think I'm ready to make a decision. I would
22 like to really know what the impact has been of this
23 tax. It may be a very good tax as taxes go. No tax
24 today is any good, but as a tax goes, it may create
25 less problems than any other one. It may be

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2 advisable to keep this tax and maybe follow the
3 Administration. I'm not known for doing that, but
4 it might be wise to follow the Administration
5 because of the amount money involved. I don't know
6 whether that's going to be the result. So I don't
7 think that it's necessarily in our interest as a
8 City to reach a decision. We're in the process of
9 discussing it. I think we ought to continue to
10 discuss it, but we ought not to feel that we have to
11 come to a decision now. We may not have enough
12 material for that. Thank you, Madam President.

13 COUNCIL PRESIDENT VERNA: The Chair
14 recognizes Councilman DiCicco.

15 COUNCILMAN DI CICCIO: Thank you, Madam
16 President. I, too, would like to offer some
17 comments similar to the comments that were just made
18 by Councilman Cohen. With all due respect to
19 Councilman Nutter, having been someone who
20 introduced a very similar bill for a 1 percent
21 reduction in the real estate taxes, the reason I
22 withdrew my bill was primarily because of the
23 information that has been given to me by the
24 Administration which shows a significant hole in the
25 budget going forward and I didn't think it would be

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2 fair for the next Administration coming in to begin
3 to start out with a significant reduction in
4 revenue, projected revenue. That being said, I'm
5 still not convinced that there are in other ways in
6 which we can accomplish some reduction in the real
7 estate transfer tax, i.e., the loopholes that we
8 have to look at. We know the numbers that the
9 reduction would produce based on the activities that
10 we have experienced over a period of time. I know
11 if we bring the real estate community up to the
12 table, they will more or less testify as to the
13 advantage of the reduction. And somewhere in
14 between may be the correct assumption or numbers. I
15 think what we really need to do is continue to work
16 on this. And as a sponsor on another bill and a
17 co-sponsor to your bill, I think we should continue
18 to keep working at this even into the next
19 administration and maybe bring in some people who
20 are experts in this field, economists or some people
21 from other municipalities who may have had similar
22 bills and see what the impact, the positive impact.
23 We always speak to the negative impact, but no one
24 is really speaking to the positive, if there is a
25 positive. It's an unknown. I don't know if we'll

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2 ever get to that, but I think you need to have a
3 dialog and continue the dialog. So for me, again,
4 the reason I did withdraw my bill was because of the
5 uncertainty, but I am not in a position, I'm not
6 ready yet to say let's just finish it, because if I
7 had to vote on it today, I would be voting no, but
8 that's really not what I want to do. And if you
9 look at the bills that I've been doing all along, is
10 how do we get people to the settlement table, how do
11 we encourage more home ownership and providing an
12 opportunity for people to buy, which was the other
13 bill I withdraw as an example of a bill that says
14 the responsibility for the transfer tax should be to
15 the seller and not to the buyer for those people who
16 may decide to stay in the City bit move up. That's
17 a way of reducing the real estate transfer tax
18 burden on that seller/purchaser. So there are a lot
19 of things, I think, we may be able to figure out in
20 this bill, in the reduction bill, and incorporate
21 some other things in there based on some of the
22 other bills that are floating out there and maybe
23 come up with a better package and get to some level
24 of reduction. Thank you. Thank you, Madam
25 President.

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2 COUNCIL PRESIDENT Verna: You're
3 welcome.

4 The Chair recognizes Councilwoman Clark.

5 COUNCILWOMAN CLARK: Madam Chair, I
6 associate myself with the comments of Mr. Cohen and
7 Mr. DiCicco. I do think that have all of us care
8 about the reducing the tax burden, but I think that
9 sometimes we can act too quickly. We should
10 preserve our option. We should put some value on
11 the closing of the loophole. We should look at the
12 gradual reduction that Councilman Nutter discusses.
13 We should bring this whole notion back at a time
14 when we are at the beginning of an Administration
15 and not at end so as not to burden unnecessarily a
16 new Administration with unexpected revenue
17 shortfalls. For that reason, if we have to vote on
18 it today, I have no choice but to vote against it.

19 COUNCIL PRESIDENT Verna: Thank you.

20 The Chair recognizes Councilman O'Neill.

21 COUNCILMAN O'NEILL: I'm fine, Madam
22 Chair.

23 COUNCIL PRESIDENT Verna: The Chair
24 recognizes Councilman DiCicco.

25 COUNCILMAN DI CICC0: I just wanted one

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2 more comment. What I would suggest to Councilman
3 Nutter is that going forward with the next
4 Administration and should we keep these dialog
5 going, I would be more than willing to be a
6 co-sponsor to a similar bill. You can be the
7 sponsor to it, obviously, and I would be more than
8 willing to co-sponsor it. But I really think we
9 just need to keep this going. Thank you.

10 COUNCIL PRESIDENT Verna: Councilwoman
11 Tasco, did you want to be recognized.

12 COUNCILWOMAN TASC0: Yes. Thank you,
13 Madam President. As one of the co-signers on this
14 bill, I think I have to speak, too. I do echo the
15 comments of Councilman Cohen and DiCicco and Clark.
16 And I just have one comment -- a couple of comments.
17 One, I think that we've all been sort of distracted
18 in the last three or four months and some of us need
19 a little more time to give a lot more detailed study
20 to this entire bill. And so that I can vote from an
21 informed point of view, because we all want to
22 reduce taxes, but I think we should not act in haste
23 and repent in leisure. So I would ask you to just
24 keep this dialog going along for a little more time.
25 Thank you.

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2 COUNCIL PRESIDENT Verna: The Chair
3 recognizes Councilwoman Clark.

4 COUNCILWOMAN CLARK: Madam Chair, I ask
5 to be granted permission to leave this hearing for
6 the time being. Should a vote come up while I'm
7 out, I want to be recorded as voting no on any bill
8 that reduction the revenue.

9 COUNCIL PRESIDENT Verna: How about
10 Councilman DiCicco's bill, 970214.

11 COUNCILWOMAN CLARK: What do you think I
12 should do?

13 COUNCILMAN NUTTER: You didn't give me
14 that option.

15 (Laughter.)

16 COUNCILWOMAN CLARK: I want to vote no
17 on Michael's and abstain on all the others.

18 COUNCIL PRESIDENT Verna: Thank you.
19 Councilman Nutter.

20 COUNCILMAN NUTTER: Thank you, Madam
21 President. First, at a later point in time I will
22 ask for more in-depth analysis of Councilwoman
23 Tasco's comment about acting in haste and repenting
24 in leisure. I need to have more -- I definitely
25 need more study about that particular idea. I may

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2 have some repenting I need to do.

3 With regard to have my initial comments
4 and then Councilman Cohen and a number of other
5 Councilmembers have commented on, I think we all,
6 one, understand that a no vote on a particular bill
7 like this doesn't lock anybody into anything. But I
8 respect, again, greatly the Members' wish to keep
9 the discussion going and the dialog to reach a sense
10 of consensus on something as significant as this.

11 I would at least like to let the Chair
12 know, but this was a little while ago before we all
13 went around. I was given a note that indicated that
14 the Realtors who here wanted to have an opportunity
15 to come to the table and address some of issues that
16 were raised. That's, obviously, the Chair's call.
17 I think we're still in the public hearing, and I
18 said, that was a while ago so I'm not sure where
19 they are at this point in time. In terms of still
20 wanting to provide testimony, that was a little
21 while ago.

22 COUNCIL PRESIDENT VERNA: Councilman
23 O'Neill, do you want to be recognized?

24 COUNCILMAN O'NEILL: Our new Finance
25 Director may be leaving the table and I would like,

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2 before he does, to congratulate him on the testimony
3 he gave on these bills the first time out, which I
4 think is his baptism, if I'm not mistaken, at least
5 on issues like this. I thought the balance he gave,
6 the sensitivity to the bills' sponsors even if he
7 wasn't the necessarily agreeing with them and the
8 written testimony which I read later, I thought was
9 excellently prepared and well written, easy to
10 understand, which isn't always something we get from
11 finance directors. I'd like to congratulate Mr.
12 Nadol on that. I don't know what the future is
13 going to hold for him, but I was very impressed.
14 Thank you.

15 COUNCIL PRESIDENT VERNA: Thank you.

16 COUNCIL PRESIDENT VERNA: Gentlemen, if
17 you don't mind perhaps we can hear from
18 representatives from the real estate board.

19 Good afternoon. Please identify
20 yourself for the record and proceed with your
21 testimony.

22 MS. LUCIDI: My name is Diane Lucidi.
23 I'm the Government Affairs Director for the Greater
24 Philadelphia Association of Realtors.

25 MS. CRIBBINS: And I'm Janet Cribbins

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2 from Prudential, Fox, and Roach in Chestnuthill.

3 MS. LUCIDI: Unfortunately, all our
4 members weren't able to be here today. There is a
5 national convention in Florida and we were here
6 originally in October before the election and
7 thought that we'd have some closure then.

8 I just wanted to make a few points here.
9 Philadelphia has the highest transfer tax in the
10 nation. And the Greater Philadelphia Association of
11 Realtors encourages home ownership. The transfer
12 tax as it is definitely presents a adverse message
13 to potential home buyers. Home ownership, we feel
14 and believe, creates stability in neighborhoods.
15 Philadelphia has lost over 150,000 residents in the
16 past 10 years. The trend continues to be this way.
17 There won't be any people left in Philadelphia to
18 tax. One of the Councilmembers said that transfer
19 tax was a safe tax and that they had never heard --
20 another Member said that no one has ever complained
21 to them. When I lobbied Council, a few of the staff
22 people have told me that their family members,
23 cousins, relatives, whatever, were forced not to buy
24 in Philadelphia because of the transfer tax. As a
25 first-time homeowner transfer tax does play a key

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2 role in purchasing a home in Philadelphia. I'm
3 experiencing now. I'm a resident of South
4 Philadelphia. I want to stay Philly. I want to
5 stay South Philadelphia. But I have to consider the
6 transfer tax. It is part of the closing cost; it is
7 a factor.

8 We acknowledge that the flight from the
9 City is due to a variety of factors, including wage
10 tax, schools, crime, et cetera. But we do believe
11 that the transfer tax does play a role. We believe
12 that the current efforts of this five-year plan not
13 succeeding. Too many people have left the City, and
14 a more bold approach is needed for the rest of the
15 Philadelphia, as was done in Center City. But the
16 rest of the Philadelphia needs to be put on an even
17 keel. We need to be able to compete with our
18 suburban counties, whether it's Flourtown, South
19 Jersey, whatever. People are fleeing to these
20 communities, and we ask to be put on an even playing
21 field with our suburban counties.

22 COUNCIL PRESIDENT Verna: Thank you. Are
23 there any questions or comments from Members of the
24 Committee?

25 (No response.)

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2 COUNCIL PRESIDENT Verna: Thank you very
3 much.

4 The Chair recognizes Councilman Nutter.

5 COUNCILMAN NUTTER: Madam President,
6 recognizing, one, lateness of the hour and also the
7 reality of where we are with this particular bill,
8 what I will probably want to propose in the public
9 meeting is if you look at Page 3 of the bill, see
10 the language and italics in 19-1403(1)(g), what I
11 will probably propose in the public meeting is to
12 delete out the phrase "ending June 30, 1998; and,"
13 and leading into letter (h), which is new, "one and
14 one-half percent (1.5%) for the fiscal years of the
15 City commencing July 1, 1998 and" the word
16 "thereafter" stays. That was the original part of
17 that particular section of the code.

18 Secondly, because of when this bill was
19 originally introduced, as you can see it has a 98
20 number on it back in April of '98. It was
21 anticipated that the bill being put into place at
22 that time would have an effective date of July 1,
23 1998. Obviously, that date has long ago passed. So
24 that date needs to be changed to July 1, 2000.

25 And what you would then have in effect

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2 is the real estate transfer tax proponent of the
3 bill taken out; the reduction component, the
4 loophole closing portions of the bill would remain
5 with a corrected effective date.

6 So at that point should those amendments
7 pass, what the Members will have is a bill that does
8 not have any reference made or component regarding a
9 real estate transfer tax reduction but only a bill
10 that closes the loopholes that we've talked about
11 before.

12 COUNCIL PRESIDENT VERNA: I think you're
13 going elaborate on that. I don't quite understand
14 what you mean.

15 COUNCILMAN NUTTER: Madam Chair, this
16 bill 980303 does five different things in the bill.
17 One of them is proposed reduction in the real estate
18 transfer tax from the current 3 percent to one and a
19 half percent. Given the discussion that we've had
20 today and the comments made by many of my
21 colleagues, what I would propose in the public
22 meeting is to delete the section that would reduce
23 the real estate transfer tax, leave the rest of the
24 bill in place which then only deals with loophole
25 closing. The other sections of the bill, if you

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2 look at the top of Page 2, Number 11, Item c, you
3 see that there's new language there. In 19-1405 on
4 Page 3 there's new language age in that section. In
5 19-1407, at the bottom of Page 3 into Page 4, all of
6 those sections are also being amended to close
7 loopholes. Those components would remain, but also
8 the effective date needs to be changed because of
9 when the bill was introduced.

10 COUNCIL PRESIDENT VERNA: Councilman
11 Cohen.

12 COUNCILMAN COHEN: My intention on this
13 bill has been directed to mostly the tax feature.
14 We haven't heard any discussion, or at least I
15 haven't heard any discussion, on the other parts of
16 the bill. Does the Administration agree, Councilman
17 Nutter, with your closing the loophole? Is there
18 any reason why the loophole was there?

19 COUNCILMAN NUTTER: Councilman Cohen, at
20 the original hearing on the bill, Frank Paiva from
21 the City's Law Department who is a tax expert and
22 who drafted the components that we're talking about
23 testified on the record as to these loopholes and
24 provided examples of how these loopholes are
25 presently used by people in the real estate

1 Bill No. 980303

2 community. He is here. I'm sure, if you would
3 like, he can give you an abbreviated version of that
4 testimony.

5 COUNCILMAN COHEN: I think in view of
6 the proposed amendment, it would be worthwhile if he
7 gave us a very brief summary so knew what we were
8 talking about, because we've concentrating on the
9 other phase of the bill. Most of us are not experts
10 on loopholes.

11 COUNCIL PRESIDENT VERNA: Can we hear
12 from someone from the Administration on this, Mr.
13 Nadol?

14 You've heard the a proposed amendments.
15 Can you tell us what the Administration's feelings
16 are?

17 MR. NADOL: I have heard the proposed
18 amendments, and certainly our primary and really
19 only objection to this bill was the fiscal impact of
20 the proposed transfer tax rate reduction, which as
21 we've talked about at length, would have been in
22 excess of \$30 million a year.

23 In terms of the proposed loophole
24 closing initiatives, we've looked at them from both
25 a public policy and a revenue perspective, and we

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believe that they are ideas that do have merit.
There are, as was testified at the previous hearing,
some cases where out in among the tax bar at
seminars educating attorneys about the City's tax
structure where some of the loopholes addressed in
this bill are cited as tax avoidance strategies.

In our review of actual transactions,
and we focussed on a large number of large
commercial transactions, we have not been able to
identify any cases where these loopholes actually
had been used. That's why we did not attribute a
significant revenue impact to these proposals. But
at the same time, they are proposals that would help
to make it harder for people to avoid paying their
fair share of the tax the way the rest of us do. So
the bottom line would be that closing these
loopholes would be a policy that we would support.

COUNCIL PRESIDENT VERNA: So in essence,
what you're saying is the City would be collecting
more money and we're not really doing anything as
far as the residential transfer tax? Am I correct
in my thinking?

MR. NADOL: One the loopholes which
addresses foreclosures could have some impact in the

1 Bill No. 980303

2 residential market, but the primary --

3 COUNCIL PRESIDENT Verna: What kind of
4 effect? Be a little more specific, please.

5 MR. NADOL: I may ask both the Revenue
6 Commissioner and Mr. Paiva from the Law Department
7 to assist me with that.

8 COUNCIL PRESIDENT Verna: Councilman
9 Kenney.

10 COUNCILMAN KENNEY: Thank you, Madam
11 Chair. Is it safe to say that all the revenue
12 impacts relative to the remaining provisions of the
13 bill can be nothing but positive to the City?

14 MR. NADOL: I think that's correct to
15 say, yes. We don't believe they would be anywhere
16 close to the impact of the proposed rate reductions,
17 but if there are any impacts, they would be
18 positive. They would make it harder for people to
19 avoid paying their tax.

20 COUNCILMAN KENNEY: Thank you.

21 COUNCIL PRESIDENT Verna: I guess that
22 question doesn't have to be answered now.

23 Councilman Cohen.

24 COUNCILMAN COHEN: I'm satisfied with
25 the explanation given by him.

1 Bill No. 980303

2 COUNCIL PRESIDENT Verna: Are there any
3 other questions or comments from Members of the
4 Committee?

5 The Chair recognizes Councilman Nutter.

6 COUNCILMAN NUTTER:

7 COUNCILMAN NUTTER: Thank you, Madam
8 President. Councilman Cohen, are you satisfied
9 with --

10 COUNCILMAN COHEN: I'm satisfied.

11 COUNCILMAN NUTTER: Let me also just say
12 that this has been -- I won't say a long and arduous
13 journey; it hasn't been long enough for that. They
14 haven't brought out the rubber hoses yet. But
15 Councilman O'Neill's comments, one, I thought were
16 very well taken both about Mr. Nadol. We're seeing
17 a kinder gentler Finance Department and Director.
18 I know from whence the niceness comes from. There's
19 a lady downstairs who I believe deserves a lion
20 share of credit for that.

21 Secondly let me thank Frank Paiva for
22 all of his work on this particular matter. The
23 Administration, and I see a revenue commission over
24 there, the Administration has certainly been a, in a
25 sportsmanship fashion, I would say the

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2 administration has grudgingly done its job and
3 protected its interest both by way of materials, and
4 from what I've been made aware of, the infrequent or
5 possibly recently frequent phone calls, discussions,
6 and conversations with Members which is their right
7 to do. I would lastly say, though, that this
8 Council is going to be challenged in the next few
9 months and certainly over the next few years about
10 what we do and how we do it and how we conduct
11 ourselves. And I think for those of us, and I think
12 that includes everybody, really care about this body
13 and how we conduct our affairs, we always have to
14 still be mindful of the fact that we are legislative
15 body of the City. It is our responsibility to be
16 respectful of the Administration, but it is still a
17 co-equal and independent branch of this government.
18 There are times when we'll agree; there are times
19 when we will disagree and often have to take actions
20 that we think are in the interest of citizens of
21 this City because we represent them as much as
22 Administration does each and every day. So with
23 that, I think I've at least made my intentions clear
24 in the public hearing and I'll take the appropriate
25 action in the public meeting.

1 Bill No. 980303

2 I would ask my colleagues, certainly,
3 for their support in trying to amend the bill in the
4 way that I've indicated for the last go-round of
5 this conversation.

6 Thank you very much, Madam President.

7 COUNCIL PRESIDENT VERNA: Thank you.

8 Are there any questions or comments from any
9 Members.

10 (No response.)

11 COUNCIL PRESIDENT VERNA: Thank you very
12 much. Does anyone else care to testify?

13 (No response.)

14 COUNCIL PRESIDENT VERNA: Seeing none,
15 this will conclude the public hearing of the
16 Committee on the Whole.

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COUNCIL OF THE CITY OF PHILADELPHIA

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PUBLIC MEETING

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COMMITTEE OF THE WHOLE

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Wednesday, November 10, 1999

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Public Meeting conducted by the
Committee of the Whole, held in Room 401, City Hall,
Philadelphia, Pennsylvania, on the above date, to
consider action on the following:

10 BILLS 990662, 990663, 970214, 970652, 980303, 980927

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13 PRESENT:

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COUNCIL PRESIDENT ANNA C. VERNA

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COUNCILWOMAN JANNIE BLACKWELL

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COUNCILWOMAN AUGUSTA CLARK

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COUNCILMAN DARRELL CLARKE

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COUNCILMAN DAVID COHEN

19

COUNCILMAN FRANK DI CICCIO

20

COUNCILMAN JAMES KENNEY

21

COUNCILWOMAN JOAN L. KRAJEWSKI

22

COUNCILMAN RICHARD T. MARIANO

23

COUNCILWOMAN DONNA REED MILLER

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COUNCILMAN MICHAEL A. NUTTER

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COUNCILMAN ANGEL L. ORTIZ

COUNCILMAN FRANK RIZZO

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1 PUBLIC MEETING

2 COUNCIL PRESIDENT Verna: We will go
3 into our public meeting.

4 The Chair recognizes Councilman DiCicco
5 regarding Bill No. 970214.

6 COUNCILMAN DI CICC0: Thank you, Madam
7 President. I make a motion that we adopt the
8 amendment to Bill No. 970214.

9 (Duly seconded.)

10 COUNCIL PRESIDENT Verna: It has been
11 moved and seconded that the amendment be adopted.

12 All in favor will signify by saying aye.

13 Those opposed?

14 The ayes have it. The motion is
15 carried.

16 The Chair recognizes Councilman DiCicco.

17 COUNCILMAN DI CICC0: Madam President, I
18 make a motion that Bill No. 970214, as amended, be
19 reported out of this Committee with a favorable
20 recommendation and that the Rules of Council be
21 suspended so as to permit first reading next session
22 of City Council.

23 (Duly seconded.)

24 COUNCIL PRESIDENT Verna: It has been
25 moved and second that Bill No. 970214 be reported

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out of Committee with a favorable recommendation, as amended, and that the Rules of Council be suspended so as to permit first reading at our next session of Council.

All in favor will signify by saying aye.

Those opposed?

The ayes have it. The motion is carried.

The Chair recognizes Councilman DiCicco regarding Bill No. 970652.

COUNCILMAN DI CICC0: Thank you, Madam. President. I move that Bill No. 970652 be reported out of this Committee with a favorable recommendation and that the Rules of Council be suspended so as to permit first reading at our next regular session of City Council.

(Duly seconded.)

COUNCIL PRESIDENT VERNA: It has been moved and seconded that Bill No. 970652 be reported out of Committee with a favorable recommendation, also a recommendation that the Rules of Council be suspend so as to permit first reading at our next meeting.

All in favor will signify by saying aye.

1 PUBLIC MEETING

2 Those opposed?

3 The ayes have it the motion is carried.

4 The Chair recognizes Councilman Nutter
5 regarding Bill No. 980303.

6 COUNCILMAN NUTTER: Madam Chair, the
7 proposed amendment for 980303 is that in Section
8 19-1403(1)(g) that the printed italics starting with
9 "ending June 30, 1998," concluding with the word
10 "and" in the letter (h), that that wording be
11 deleted; and that in Section 2 on Page 4, the year
12 1998 be deleted and the year 2000 be substituted.

13 COUNCILMAN COHEN: Councilman Nutter,
14 read that again, the first part of it.

15 COUNCILMAN NUTTER: Councilman, on
16 Page 3, which is a part of section 19-1403 which
17 starts at the bottom of Page 2 on the bill, there
18 are italics that are printed in letter (g). I'll
19 read the entire passage, "ending June 30, 1998; and"
20 and going over to letter (h), which is in italics
21 "one and one half percent(1.5%) for the fiscal years
22 of the City commencing July 1, 1998 and," all of
23 that italic language is proposed to be deleted. And
24 on Page 4 in Section 2, which is the effective date
25 section, currently reads "July 1, 1998," the "1998"

1 PUBLIC MEETING

2 should be stricken and the year "2000" should be
3 inserted. So that this bill becomes effective July
4 1 of the year 2000.

5 COUNCILMAN COHEN: Okay.

6 COUNCIL PRESIDENT VERNA: The Chair
7 recognizes Councilwoman Tasco.

8 COUNCILWOMAN TASC0: May I ask Mr.
9 Nutter a question?

10 COUNCIL PRESIDENT VERNA: Please do.

11 COUNCILWOMAN TASC0: 19-1403(g), the 3
12 percent for the fiscal year stays in there, that's
13 in the bill already?

14 COUNCILMAN NUTTER: That's already in
15 the code. The italic language what was amending
16 that section of the code to allow for the reduction
17 to 1.5 percent.

18 COUNCILWOMAN TASC0: H comes out?

19 COUNCILMAN NUTTER: H comes out
20 completely except the word "thereafter," because
21 "thereafter" is a part of the code. It goes with
22 the original letter g.

23 COUNCIL PRESIDENT VERNA: Councilman,
24 how about the title of the bill?

25 COUNCILMAN NUTTER: We advertised the

1 PUBLIC MEETING

2 bill and said we propose to decrease the tax, and we
3 declined to do that. We did less than the title
4 allowed us to do. What's your concern, Madam
5 President?

6 COUNCILMAN COHEN: Well, it states --

7 COUNCIL PRESIDENT VERNA: Decreasing the
8 rate of tax beginning July 1, 1998.

9 COUNCILMAN COHEN: The bill states that
10 the purpose is to decrease the tax.

11 COUNCILMAN NUTTER: The Council has
12 declined to do that. No one can have any
13 detrimental reliance on a bill that proposes to do
14 something and we've done less. We could not do
15 more.

16 COUNCILMAN COHEN: But you are not
17 decreasing the tax.

18 COUNCILMAN NUTTER: No, we're not. As
19 soon as some reads the final bill, they will see
20 that we have not reduced the tax. We proposed to do
21 something; we chose not to do it.

22 COUNCIL PRESIDENT VERNA: I believe we
23 have someone from the Law Department here,
24 Councilman. Do you mind taking the table and
25 testifying on this, sir?

1 PUBLIC MEETING

2 MR. PAIVA: Good afternoon, Madam Chair.

3 My name is Frank Paiva. I'm from the City of
4 Philadelphia Law Department. It is my understanding
5 that the title must show all the possibilities that
6 will be before the Council, but to the extent that
7 less is done, to my knowledge, there's no problem
8 with the notice requirement. That's what the
9 title's for, it's to give notice to everyone that
10 these are things that are before the Council. And
11 one of the things before the bill was the rate
12 reduction, but Council has now decided not to go
13 forward with any rate reduction so that's not a
14 problem because notice was given.

15 And the other parts, the loophole
16 closings, they were also noticed and everyone had
17 notice that those parts were also part of this bill.

18 COUNCILMAN KENNEY: Madam Chair.

19 COUNCIL PRESIDENT VERNA: The Chair
20 recognizes Councilman Kenney.

21 COUNCILMAN KENNEY: Mr. Paiva, in effect
22 is not the bill, the pink copy of the bill the
23 working document of this counsel and that whatever
24 it is we pass is codified in the Philadelphia Code;
25 and therefore, the title of the bill doesn't appear

1 PUBLIC MEETING

2 in the Philadelphia Code, just what action we've
3 taken?

4 So someone who reads the Philadelphia
5 Code would not be misled that there's a decrease
6 realty transfer tax because in fact it was never
7 done. The pink copy on file in the Clerk's Office
8 would be a record of what in fact was proposed and
9 discussed but not finally passed and codified in
10 Philadelphia Code.

11 THE WITNESS: The importance of the
12 title is just to give notice that these are things
13 that Council is considering doing so that if anyone
14 out there objects to it, they can come in and have
15 an opportunity. That's the purpose. Usually the
16 problem is we try to do changes that we haven't
17 given people notice for. That's the problem we try
18 to avoid.

19 COUNCIL PRESIDENT VERNA: In the past, I
20 think the City Solicitor has sent notification to us
21 that we could never change the title of the bill.

22 COUNCILMAN NUTTER: And we're not
23 proposing to change the title. We're not changing
24 the title.

25 COUNCILMAN COHEN: I would ask that

PUBLIC MEETING

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2 there been a written opinion on the subject. I will
3 accept it if it's written so that there will be a
4 clear record because it's not what my understanding
5 is of the requirement. I will accept the City
6 Solicitor's opinion on that, but I am concerned that
7 if people are going to use as sophisticated a
8 technique to try to avoid the tax structure of
9 Philadelphia, I think they're going to be ready to
10 go to court. I would just urge the City Solicitor
11 to consider all the aspects of it. I will accept
12 whatever opinion they render on that subject.

13 COUNCILMAN NUTTER: Madam President.

14 COUNCIL PRESIDENT VERNA: The Councilman
15 Nutter.

16 COUNCILMAN NUTTER: Thank you. Madam
17 President I respect Councilman Cohen's comments.
18 What I would be more than happy to do is to seek the
19 opinion that the Councilman requests. I would not
20 like for the lack of that opinion today, and at
21 least the comments of a representative of the Law
22 Department who has articulated on the issue, to not
23 hold up getting the bill out of Committee.

24 COUNCILMAN COHEN: I would not ask for
25 that. There's plenty of time to get the opinion.

1 PUBLIC MEETING

2 COUNCILMAN NUTTER: This bill is not
3 even going to get first reading until the 18th and
4 won't be ready for a vote until the 2nd. So we will
5 certainly have -- they have could probably have this
6 opinion in about 15 minutes. But in any event we'll
7 certainly have it before the bill is ready for
8 second reading and final passage to be distributed
9 to all Members.

10 COUNCILMAN COHEN: Very good.

11 COUNCIL PRESIDENT Verna: Are you
12 satisfied, Councilman?

13 COUNCILMAN COHEN: Yes, I agree with
14 that.

15 COUNCILMAN NUTTER: Madam President, I
16 would move the adoption of these amendments.

17 (Duly seconded.)

18 COUNCIL PRESIDENT Verna: It has been
19 moved and seconded that the amendments be adopted.

20 All in favor will signify by saying aye.

21 Those opposed?

22 The ayes have it. The amendment is
23 adopted.

24 The Chair recognizes Councilman Nutter.

25 COUNCILMAN NUTTER: Madam Chair, I move

1 PUBLIC MEETING

2 that Bill 980303, as amended, be reported out of
3 this Committee with a favorable recommendation and
4 a further recommendation that the Rules of Council
5 be suspended so as to permit first reading at our
6 next session.

7 (Duly seconded.)

8 COUNCIL PRESIDENT VERNA: It has been
9 moved and seconded that Bill No. 980303 be reported
10 out of the Committee with a favorable
11 recommendation, as amended, also a recommendation
12 that the Rules of Council be suspended so as to
13 permit first reading at our next meeting.

14 All in favor will signify by saying aye.

15 Those opposed?

16 I ayes have it. The motion is carried.

17 This concludes the public meeting of the
18 Committee of the Whole. Thank you all very much for
19 your patience.

20 (Council adjourned at 1:20 p.m.)

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C E R T I F I C A T I O N

I HEREBY CERTIFY that the foregoing
proceedings of the Council of the City of
Philadelphia of November, 10, 1999, were reported
fully and accurately by me, and that this is a
correct transcript of the same.

RE: COMMITTEE OF THE WHOLE

Lisa C. Bradley, RPR
and Notary Public