December 12, 1950.

Colin F. Stam, Esq.
Chief of Staff
Joint Committee on Internal Revenue Taxation
House Office Building
Washington 25, D.C.

Re: H.R. 9827
Excess Profits Tax Relief for
Real Estate Companies

Dear Sir:

As the representative of several commercial real estate companies, I wish briefly to supplement the statement made by me before the Ways and Means Committee (Hearings, p. 292) and the statement of Mr. William B. Gess before the Senate Finance Committee on December 7, 1950.

The situation as to which complaint was made in those statements is not confined to the taxpayers represented by Mr. Gess and myself, but is believed to be typical of the entire commercial real estate industry. Although some real estate corporations may have relatively good invested capital credits, the haphazard historical genesis of credits computed in that manner will force the majority of taxpayers to use the average earnings method. This letter is designed to show that the average earnings method is unfair and discriminatory in
that it singles out this industry for a tax impact relatively more severe than that imposed on other industries. I am sure that the members of this industry stand ready to pay their fair share of war revenue; but thus far H.R. 9827 does not provide the equitable treatment which the Administration itself has called for (see statement of Secretary Snyder, Ways and Means Hearings, p. 15).

Exhibit A, attached hereto, is a photostatic copy of the Treasury's own tables as published in the hearings before the Ways and Means Committee. These tables demonstrate conclusively that real estate companies as an industrial group have lower base period earnings than any other major industry classification, except public utilities. In the year 1949, the industry began to show some improvement over previous years. The percentage of occupancy of office buildings was higher for that year than for any year since 1930 except 1948, and it is submitted that this was due, not to the increasing tempo of the defense economy, but to better business conditions generally. If the percentage of occupancy was already at a high point in 1949 and the best that a real estate company can hope for is the discounted average of three years in the base period, then the excess profits tax will attach, not to war profits, but to ordinary profits.

Exhibit B, attached hereto, is a statement prepared
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on the basis of facts supplied in the annual reports of the National Association of Building Owners and Managers, 134 So. LaSalle Street, Chicago, Illinois. The table shows the average income, expense, and net income (before interest, ground rents and federal taxes) in terms of cents per square foot for 549 buildings in 88 cities of the United States for the year 1949, and makes a comparison between that year and various earlier years in which the scope of the reported information was not as large. (For instance, in 1924, 170 buildings in 43 cities supplied the information, in 1935, 364 buildings in 64 cities were included, and in 1946, 512 buildings in 79 cities were included.) Exhibit B shows in effect that although the 1946-1949 earnings experience of the industry was better than it was in the real estate depression of 1935-1939, nevertheless, the earnings level is far below the 1924-1930 average. Here again, the base period average allowed by the bill in its present form affords too low an average earnings credit for the purpose of determining whether real estate companies are now making excess war profits.

Exhibit C, attached hereto, is a proposed bill to alleviate the situation in which the real estate industry now

finds itself. It is believed that this proposal is fair to all concerned, and it is respectfully submitted to you with the request that it be considered by the Joint Committee and by both Houses of Congress in formulating the Excess Profits Tax Act of 1950.

Very truly yours,

[Signature]

WHH:MK
Encls.