

Request for Board Action
HENDERSON COUNTY
BOARD OF COMMISSIONERS

MEETING DATE: 16 February 2005
SUBJECT: Refund request for transfer tax overpayment
ATTACHMENT: Letter making refund request

SUMMARY OF REQUEST:

Attorney Michael M. Thompson has requested, on behalf of Steven Harenlip and Beth M. Siegel, the refund of the sum of Four Hundred Seventy Dollars (\$470.00) in real property conveyance excise tax ("deed stamps"). The deed in question represented real estate located in Rutherford County, not Henderson County, but was incorrectly recorded in the Henderson County Register of Deeds Office.

Pursuant to N.C. Gen. Stat. §105-228.37, a request for refund of overpayment of real property conveyance excise tax must be made within six months of the date of payment. The payment was made 30 December 2004. The Henderson County Register of Deeds Office was first notified of the alleged overpayment by letter from Mr. Thompson dated 12 January 2005. A letter to the Board of Commissioners to the same effect was received 8 February 2005, and the person making the request has agreed to waive notice (see below) of the consideration of their request.

Under N.C. Gen. Stat. §105-266.1, the Board of Commissioners has the following responsibilities:

- 1) It must "grant a hearing on each timely request for refund".
- 2) The taxpayer must be notified of the hearing date within sixty (60) days of the date of the request, and at least ten (10) days prior to the date of the hearing.
- 3) The hearing must be held within ninety (90) days of the request for refund, unless otherwise agreed.
- 4) A decision must be given within ninety (90) days of the hearing.

Any refund granted must include the tax paid plus interest until the date of payment. ¹

COUNTY MANAGER RECOMMENDATION/BOARD ACTION REQUESTED:

County staff will be present and prepared if requested to give further information on this matter. The County manager supports this proposal.

¹ As a condition of refund, the taxpayer must record a correcting instrument in the Henderson County Register of Deeds Office, pursuant to N.C. Gen. Stat. §105.228-37(e).



VAN WINKLE ATTORNEYS AT LAW

422 South Main Street
Hendersonville, North Carolina 28792
828-697-6196
www.vwlawfirm.com

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| John C. Kelso | Michael M. Thompson |
| | Stephen B. Williamson |

February 8, 2005

Henderson County Commissioners Office
c/o Charles Russell Burrell, County Attorney
100 North King Street
Hendersonville, NC 28792

Via Facsimile # 697-4536

Re: Recordation of Deed to Steven Harenlip and Beth M. Siegel

Dear Russ:

I am enclosing herewith a copy of a deed erroneously recorded in the Henderson County Registry. You will note that the property is located in Rutherford County, North Carolina and should have been recorded in that Register of Deeds office. I have since recorded the deed in the correct county. Because of the error, the sum of \$ 470.00 in revenue stamps was paid to the Henderson County Register of Deeds Office. These stamps should, in fact, be affixed to the deed recorded in Rutherford County. I respectfully request a refund of my \$ 470.00 payment.

Please do not hesitate to contact me if you have any questions. I really appreciate your assistance.

Sincerely yours,

Michael M. Thompson

MMT/kr
Enclosure

North Carolina, Henderson County The foregoing certificate(s) of Henn Risher
Notary Public (Notario Public) is/are certified to be correct, this
instrument presented for registration and recorded in this office
this 30 day of December, 2004
at 9:45am in book 1811 page 56
Debra W. Males Doris W. Smith
Register of Deeds (Assistant Deputy)

COPY

\$ 470.00 PAID 12-30-04
Henderson Co., N.C. Register of Deeds

NORTH CAROLINA GENERAL WARRANTY DEED

Excise Tax \$ 470.00 Parcel Identifier No. _____
Tax Lot No. _____

Mail after recording to Van Winkle, Buck, Wall, Starnes, & Davis, P.A. Attorney's Initials MMT
422 South Main Street, Hendersonville, North Carolina 28792-5304
This instrument was prepared by Van Winkle, Buck, Wall, Starnes, & Davis, P.A.
Brief description for the Index: Lot 29, Laurel Mountain Estates

THIS DEED made this 28th day of December, 2004, by and between:

GRANTOR	GRANTEE
<i>LME OF NC, INC.</i>	STEVEN HERENLIP; AND BETH M. SIEGEL AS TENANTS IN COMMON Whose mailing address is: 6 Pennington Drive Huntington, NY 11743

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH, that Grantor, for a valuable consideration paid by Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto Grantee in fee simple, all that certain lot or parcel of land situated in Chimney Rock Township, Rutherford County, North Carolina, and more particularly described as follows:

**SEE EXHIBIT A ATTACHED HERETO AND
INCORPORATED HEREIN BY REFERENCE.**

The property hereinabove described was acquired by Grantor by instrument recorded in a portion of Deed Book , at Page , Henderson County Registry.

A map showing the above described property is recorded in Plat Book _____, Page _____.

TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to Grantee in fee simple.

And Grantor covenants with Grantee, that Grantor is seized of the premises in fee simple, has the right to convey the same in fee simple, that title is marketable and free and clear of all encumbrances, and Grantor will warrant and defend the title against the lawful claims of all persons whomsoever except for the exceptions hereinafter stated.

Title to the property hereinabove described is subject to the following exceptions:

Easements, covenants, conditions and restrictions of record; 2004 ad valorem taxes; and utilities physically located on the property

IN WITNESS WHEREOF, Grantor has caused this instrument to be signed by its duly authorized representative the day and year first above written.

LME OF NC, INC.

 (Seal)
EDWARD J. YOUNGER, PRESIDENT

SEAL-STAMP NORTH CAROLINA, COUNTY OF HENDERSON

I, _____, a Notary Public of the County and State aforesaid, certify that, EDWARD J. YOUNGER, personally came before me this day and acknowledged that He is President of LME OF NC, INC. And that he as President, being authorized as such to do so, executed the foregoing on behalf of the Corporation. Witness my hand and official stamp or seal, this _____ day of December, 2004.

My commission expires: _____

Notary Public

(It is extremely important that nothing goes within the 1/2" margin of the edge of this document and that the entire notary seal is showing)

EXHIBIT A

B **BEING** all of Lot 29, Phase I, Laurel Mountain Estates Subdivision, as shown on plat recorded in Plat Book 25, at Page 155, Rutherford County Registry, reference to which is hereby made and incorporated herein for greater certainty of description.

AND BEING a portion of that property described in deed recorded in Deed Book 841, at Page 679, Rutherford County Registry.

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