

REQUEST FOR BOARD ACTION

HENDERSON COUNTY

BOARD OF COMMISSIONERS

MEETING DATE: 16 February 2005

SUBJECT: Request for quitclaim deed

ATTACHMENT(S): Facsimile from Porter W. Staples
Letter from Porter W. Staples

SUMMARY OF REQUEST:

Attorney Porter W. Staples, on behalf of his client, Dora Womack, seeks a quitclaim deed from Henderson County.

- On or about 14 February 1974, Lee and Ruby Morgan received a deed (Deed Book 604, at Page 193) for "Lots 5 and 6 of the Phinizy Subdivision as shown on Plat Book 1, Page 6, Henderson County Registry".
- On or about 4 August 1981, Henderson County received a deed from Albert Jackson, Sheriff of Henderson County, for various parcels. Among the various parcels included in the description in this deed was the following: "Lee Morgan & Wife 1 Lot and House East Flat Rock Hendersonville Township".
- On or about 17 February 1993, Henderson County executed a deed in favor of Chad P. Golightly for "1 lot East Flat Rock". Henderson County sold the property only after an original bid and several upset bids on the property. In the solicitation for upset bids, the advertisement listed the property as "1 lot East Flat Rock". The original offer to purchase executed by Golightly left the property description blank, other than a reference to former ownership by "Lee & Ruby Morgan".

Dora Womack states that she received title to the property from Golightly. She seeks your approval for the execution by the County of a quitclaim deed granting her all the interest the County presently has, if any, in the property acquired by Morgan in Deed Book 604, at Page 193, which is incorporated herein by reference. Womack's attorney has stated in conversation with staff that Womack needs this in order to obtain title insurance on the property (which is required in order to obtain financing for construction on the property).

Under a quitclaim deed, the County would not warrant any title to this property whatsoever.

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.

Law Offices of
PORTER W. STAPLES
26 Clayton Street
Asheville, NC 28801
828/254-8999
FAX: 828/258-3236

FACSIMILE TRANSMITTAL

TO: Russ Borell FAX # 697 4536

FROM: PORTER STAPLES

DATE: 2/3/2005

RE: Invalid deed problem

MESSAGE: copy of deed and current tax bill

THIS TRANSMITTAL CONSISTS OF _____ PAGES, INCLUDING THIS COVER SHEET. IF YOU DO NOT RECEIVE THIS NUMBER, PLEASE CALL THIS OFFICE. THANK YOU.

Henderson County Parcel Report

Tax Owner:	WOMACK, DORA	Tax Owner Account:	304568	
Current Owner:	WOMACK, DORA	Current Owner Account:	304568	
Mailing Address:	212 HIGHLAND PARK DR EAST FLAT ROCK, NC 28726		Print Date:	02/02/05

Tax Codes:	G01 F01	PID:	99-06182
		PIN:	00-9577-84-1259-55
District:	01	Map Sheet:	9577.16
Subdivision:		Appraised Acreage:	0.38
Subdivision Plat:	PHINIZY, LEONAF	Calculated Acreage:	0.38
Zoning:	T-15	Property Description:	#05 BLK 2 PHINIZY PROPERTY
Deed Book & Page:	1210/079		
Date Recorded:	12/21/04		
Revenue Stamps:	0		
Stamp Sale Price:	0	Personal Property Mobile Home:	NO

Tax Value		Current Value	
Land Value:	13,400	Land Value:	13,400
Building Value:	0	Building Value:	0
Total:	13,400	Total:	13,400
Land Use Deferment:	0	Land Use Deferment:	0
Elderly Exemption:		Elderly Exemption:	
Total Tax Value:	13,400	Total Current Value:	13,400

Tax Bill Information

Tax Bill Number	Principle	Interest	Levy Paid	Total Due
1. 03A9906182	74.37	0.00	74.37	0.00
2. 02A9906182	60.18	0.00	60.18	0.00
3. 01A9906182	60.18	0.00	60.18	0.00
4. 00A9906182	60.18	0.00	60.18	0.00
5. 99A9906182	59.16	0.00	59.16	0.00
6. 98A9906182	60.08	0.00	60.08	0.00

*****NOTE *** INFORMATION SHOWN IS OF DATE OF REPORT.**

This information is collected for the inventory of property found within this jurisdiction, and is compiled from recorded deeds, plats and other public records and data. Users of this information are hereby notified that the aforementioned public primary information sources should be consulted for verification of the information contained in this report. The County assumes no legal responsibility for the information contained in this report.

STATE OF NORTH CAROLINA,
COUNTY OF HENDERSON.

815/679

THIS INDENTURE, Made this the 17th day of February, in the year of our Lord, one thousand nine hundred and ninety-three, between HENDERSON COUNTY, NORTH CAROLINA, of the first part, and Chad P. Golightly of the County of Henderson and State of North Carolina, of the second part.

WITNESSETH:

WITNESSETH, that the said party of the first part, for and in consideration of the sum of 1-8,500.00 in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, has Bargained and Sold, Conveyed and Confirmed, and by these presents does Bargain and Sell and Convey and Confirm, unto the said party of the second part, his heirs and assigns forever, all the following described piece or parcel of land lying and being in the Township of Hendersonville, County of Henderson, and State of North Carolina, and known and designated as follows, viz:

1 lot East Flat Rock

IT IS UNDERSTOOD AND AGREED that this deed conveys only such interest as Henderson County may have in the above described property by virtue of unpaid taxes, and there is EXCEPTED from this conveyance any right to the interest or claim, which Henderson County may have in or against said property arising from Old Age Assistance Payments, Aid to the Permanently and Totally Disabled, or any facts other than unpaid taxes.

IT IS UNDERSTOOD AND AGREED that this is a quitclaim deed, conveying such interest as the County may have in the property described above, and that said conveyance is accepted without any responsibility on the part of the County in case there is a defect of title, in which event there shall be no refund on the purchase price.

TO HAVE AND TO HOLD THE SAME, together with all the hereditaments and appurtenances thereto in anywise appertaining unto the said party of the second part, his heirs and assigns forever.

IN WITNESS WHEREOF, the party of the first part has caused its name to be signed by the Chairman of its Board of County Commissioners and attested by its Clerk, and its official seal hereto affixed, all by order of its Board of County Commissioners this given.

WITNESSETH: Elizabeth W. Corn Clerk
By Walter H. Hood Chairman of Board of County Commissioners (SEAL)

STATE OF NORTH CAROLINA,
COUNTY OF HENDERSON.

This 17th day of February, 1993, personally came before me, Marianne J. Jackson, Dist Clerk of the Superior Court for Henderson County, North Carolina, Elizabeth W. Corn who says that she knows the common seal of Henderson County, and is acquainted with Walter H. Hood who is Chairman of the Board of County Commissioners, and that Elizabeth W. Corn is the Clerk of said Board and saw the said Chairman sign the foregoing instrument, and saw the common seal of said Henderson County affixed to said instrument by said Chairman, Elizabeth W. Corn signed her name in attestation of the execution of said instrument in the presence of said Chairman of said Board of County Commissioners of Henderson County, North Carolina, for the instrument with the certificate be registered.

Witness my hand and official seal, this 18th day of February, 1993.
Marianne J. Jackson, Dist
Clerk Superior Court of Henderson County, N. C.

FILED FOR RECORD in the office of the Register of Deeds for Henderson County, North Carolina, on this 18 day of February, 1993 at 10:10 o'clock A. M., and Recorded and Verified on the 18 day of February, 1993 at 10:10 o'clock A. M., in Book 815 at Page 679.
Ruby A. Maxwell
Register of Deeds, Henderson County

By Patricia A. Miller Assoc.

Law Offices of
PORTER W. STAPLES
26 CLAYTON STREET
Asheville, NC 28801
828/254-8999 FAX 828/258-3236

February 7, 2005

Dear Russ,

As we discussed on the phone, Henderson County drafted a deed that is void on its face for lack of a legal description. The county had gotten title to the property in a deed from the Sheriff after a tax foreclosure, in which deed the same description was used.

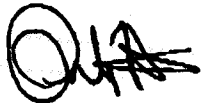
My research into the record shows that the lot has a correct legal description of "Being all of Lots 5 and 6 of the Phinizy Subdivision as shown on Plat Book 1, Page 6, Henderson County Registry." You indicated that your research showed the same thing.

We are requesting that Henderson County execute a corrective deed which has a legal description. A quitclaim deed will be sufficient for our purposes and will avoid any liabilities for the County.

The Grantee on the original deed for the County was Chad P. Golightly in Deed Book 815, Page 679. Mr. Golightly subsequently deeded the same property to my client, Dora Womack, in Deed Book 1210, Page 79. Therefore, we are requesting that the County quitclaim the lot directly to Ms. Womack.

Please give me a call if we need to discuss it.

Sincerely yours,



Porter W. Staples
Attorney at Law

PS/hs

Heidi\letter.womack