

## **REQUEST FOR BOARD ACTION**

### **HENDERSON COUNTY BOARD OF COMMISSIONERS**

**MEETING DATE:** August 1, 2016

**SUBJECT:** Satisfaction of Deed of Trust for 2004 SSH Loan (Ballard)

**PRESENTER:** John Mitchell, Business and Community Director

**ATTACHMENTS:** 1. Deed of Trust  
2. Satisfaction of Deed of Trust

#### **SUMMARY OF REQUEST:**

County staff received a satisfaction of Deed of Trust request from Jeanne Steadman on behalf of her parents 2004 CDBG Scatter Site Housing (SSH) Loan. Clyde and Elsie Ballard were the recipients of a 2004 SSH Loan through the Department of Commerce. A Deed of Trust was recorded (see attachment 1) that stated the loan agreement with Henderson County was for a period of 8 years from the date of the loan agreement provided the applicant complied with the terms of the agreement. At the end of this 8 year period the loan was forgiven and the property could be sold or transferred. Both Mr. and Mrs. Ballard are deceased and the 8 year period ended July 15, 2012.

#### **BOARD ACTION REQUESTED:**

Board approval required for satisfaction of Deed of Trust on Ballard loan.

#### **Suggested Motion:**

*I move that the Board approve the satisfaction of the Ballard Loan from the 2004 SSH Grant.*

B 1541 2512

North Carolina, Henderson County, The foregoing certificate(s) of

John E. Davis  
Notary Public (~~Notary Public~~) is/are certified to be correct, this  
instrument presented for registration and recorded in this office  
this 14 day of Oct, 2004  
at 2:30 p.m. in book 1541, page 512

Nedra W. Miles B. J. Hoggins  
Register of Deeds (Assistant Deputy)

Prepared by: Gay M. Wilson

Return to: Henderson County SS Program, c/o Benchmark, LLC, PO Box 430, Kannapolis, NC 28082

STATE OF NORTH CAROLINA)  
COUNTY OF HENDERSON)

### DEED OF TRUST

Clyde THIS DEED OF TRUST, executed this 15<sup>th</sup> day of July, 2004, by and between  
W. Ballard, Elsie Ballard, hereinafter called Grantor; Angela S. Becker, hereinafter called Trustee; and  
Henderson County, hereinafter called Beneficiary:

### WITNESSETH:

THAT WHEREAS, the Beneficiary has advanced to the Grantor or for his benefit a Rehabilitation Loan in the  
total sum of Twenty eight thousand one hundred twenty five

(\$ 28,125.00) Dollars, the same to be non-interest bearing, for their habilitation of a dwelling unit located on  
real property owned by the Grantor and described hereinafter, said advancement being under Henderson County's  
Community Development Office pursuant to a Grant issued to Henderson County under the provisions of Title I of  
the Housing and Community Development Act of 1974 by the North Carolina Department of Commerce and which  
Grant is being implemented and administered by Henderson County; and

WHEREAS, as part of the consideration for receiving funds for such housing rehabilitation, the Grantor  
entered into a Loan Agreement with Henderson County whereby the Grantor agreed, among other things, for a  
period of 8 years from the date of the Loan Agreement, that the subject property would not be sold, conveyed,  
transferred, or otherwise disposed of for the primary purpose of profit or gain, and would not be conveyed away  
other than by Will, Probate or Court Order without the prior approval of Henderson County; further, the Grantor  
agreed to abide by certain conditions contained in the said Agreement with respect to any rental or lease of the  
subject property during the recapture period from the date of that Agreement, otherwise the Grantor is liable to repay  
to Henderson County the Rehabilitation Loan made to him as provided in the Loan Agreement.

81841 0811

GOINS  
025861890

C. TRANSFER OF PROPERTY (continued)

If Note Holder exercises such option to accelerate, Note Holder shall mail Borrower notice of acceleration in accordance with Paragraph 15 hereof. Such notice shall provide a period of not less than 30 days from the day the notice is mailed within which Borrower may pay the sums declared due. If Borrower fails to pay such sums prior to the expiration of such period, Note Holder may, without further notice or demand on Borrower, invoke any remedies permitted by Paragraph 22 hereof.

The Note Holder shall have waived such option to accelerate if, prior to the sale or transfer, the Note Holder and the person to whom the Property is to be sold or transferred reach agreement in writing that the credit of such person is satisfactory to the Note Holder. As a condition to waiving the Note Holder's right to accelerate, the loan terms, including the interest rate payable on the Note, the Margin for future interest rate changes (as that term is defined in the Note), and the maximum interest rate Cap of 8.0 % above or below the initial interest rate shall be subject to modification by the Note Holder.

Notwithstanding a sale or transfer, the Borrower will continue to be obligated under the Note and this Security Instrument unless Note Holder has released Borrower in writing.

D. BORROWER'S RIGHT TO REINSTATE

Uniform Covenant 19 ("Borrower's Right to Reinstate") is amended to read as follows:

Uniform Covenant 19 of the Security Instrument ("Borrower's Right to Reinstate") is deleted; provided, however, in the event Lender sells, assigns or otherwise conveys its interest in the Note and this Security Agreement to the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation, then Note Holder agrees to permit reinstatement according to the Covenant 19 of the Security Agreement.

E. ASSIGNMENT OF RENTS; APPOINTMENT OF RECEIVER; LENDER IN POSSESSION

As additional security hereunder, Borrower hereby assigns to Lender the rents of the Property, provided that Borrower shall, prior to acceleration under Paragraph 22 hereof or abandonment of the Property, have the right to collect and retain such rents as they become due and payable.

Upon acceleration under Paragraph 22 hereof or abandonment of the Property, Lender, in Person, by agent or by judicially appointed receiver, shall be entitled to enter upon, take possession of and manage the Property and to collect the rents of the Property including those past due. All rents collected by Lender or the receiver shall be applied first to payment of the costs of management of the Property and collection of rents, including, but not limited to, receiver's fees, premiums on receiver's bonds and reasonable attorney's fees, and then to the sums secured by this Deed of Trust. Lender and the receiver shall be liable to account only for those rents actually received.

By signing this, Borrower agrees to all of the above.

In Witness whereof, the undersigned has set his hand and adopted the word (Seal) appearing beside his signature as his seal this the year and date first above appearing.

Carol C. Goins (SEAL)  
Borrower CAROL C GOINS

\_\_\_\_\_  
Borrower (SEAL)

William M. Goins (SEAL)  
Borrower WILLIAM M GOINS

\_\_\_\_\_  
Borrower (SEAL)

SECU 640B (12/2002)NC

Two Year ARM Rider

NOW, THEREFORE, the Grantor, for and in consideration of said Loan of a Rehabilitation Loan as set forth above, has bargained and sold, and by these presented does bargain, sell and convey unto said Trustee and his successors, the premises located in Henderson County, North Carolina, and described in Attachment A;

**TO HAVE AND TO HOLD** the above described premises, together with all rights, privileges and appurtenances thereunto belonging, unto the Trustee and his successors upon the terms and conditions as follows:

**FIRST:** The Grantor shall pay all taxes and other assessments within the time prescribed by law and shall keep the building on said premises in a proper state of repair and preservation and insured against loss by fire and storm with some reliable insurance company having an office in Henderson County in an amount at least equal to the principal amount of the Rehabilitation Loan plus the principal sum due under any prior deeds of trust on the said property.

If the Grantor shall fail to pay said taxes or assessments or to effect and continue said insurance in force, then the balance due under the said Rehabilitation Loan shall immediately become due and payable.

**SECOND:** If during a 8 year period from the date the Loan Agreement is signed the Grantor does not sell, convey, transfer or otherwise dispose of the subject property other than by Will, Probate or Court Order without the prior written approval of Henderson County, and if the Grantor, rents or leases the subject property in accordance with the provisions of his Loan Agreement with Henderson County, copy of which is on file and available for inspection at Henderson County, County Manager's Office, Beaufort, North Carolina, then this Deed of Trust shall automatically be void and shall be canceled by the Death of the Grantor or at the end of the year period without being required to be canceled of record.

**THIRD:** But if the Grantor shall sell or convey the subject property in violation of the terms hereof or otherwise violate the terms or conditions of his Loan Agreement with Henderson County within the 8 year period according to the terms of the Loan Agreement, then the balance due on said Loan shall thereupon become due and payable.

**FOURTH:** That if the terms or conditions of this Deed of Trust or the Loan Agreement are violated the Loan shall be paid to the Beneficiary, Henderson County, by the Grantor, and that in any event this Deed of Trust shall remain a charge against the subject property until satisfied in accordance with the terms hereof.

**FIFTH:** If the Grantor shall violate any of the terms or conditions hereof or of the Loan Agreement and the Loan shall become due, then the Beneficiary may, at its option, call upon the Trustee to sell the subject property at public auction to the highest bidder for cash, after complying with the laws of the State of North Carolina in regard to foreclosure in effect at the time of default, and the Trustee shall have the right to retain out of the proceeds of such sale five (5%) percent commission for making said sale, together with the cost of advertising and selling said property, and shall apply the residue to the payment of the amount owed the Beneficiary and shall pay the balance thereafter remaining, if any, to said Grantor or other party entitled thereto.

**SIXTH:** The irrevocable power to appoint a substitute Trustee of Trustees is hereby expressly granted to the Beneficiary.

The Grantor covenants that he is the owner in fee simple of the land conveyed and has the right to convey the same, and that the same is free and clear of all encumbrances except as herein stated, and that he will forever warrant and defend the title herein conveyed against the lawful claims of all persons whomsoever, that in the phrasing of this document the masculine shall include the feminine, the singular shall include the plural.

IN TESTIMONY WHEREOF, the Grantor has hereunto set his hand and seal as of the day and year first above written.

Eddie Brackel (Seal)  
Clyde W. Ballard (Seal)  
 Clyde W. Ballard

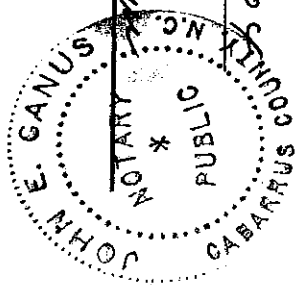
STATE OF NORTH CAROLINA )  
 COUNTY OF Hebberso )

I, Jeffrey E. Githaus a Notary Public in and for said County and State, do hereby certify that Clyde W. Ballard & Elsie Ballard personally appeared before me this day and acknowledged the due execution of the foregoing Deed of Trust.

Witness my hand and seal this 15<sup>th</sup> day of July 2008

My Commission expires: 07-28-2008

Jeffrey E. Githaus  
 Notary Public



STATE OF NORTH CAROLINA )  
 COUNTY OF \_\_\_\_\_ )

I, \_\_\_\_\_ a Notary Public in and for said County and State, do hereby certify that \_\_\_\_\_ personally appeared before me this day and acknowledged the due execution of the foregoing Deed of Trust.

Witness my hand and seal this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

My Commission expires: \_\_\_\_\_

Notary Public \_\_\_\_\_

B 1541 8816

ATTACHMENT A

Parcel as described in Deed Book 382 / Page 359 of the Henderson County Registry.

CANCELLATION RECORDED  
IN DEED OF TRUST BOOK 1665  
PAGE 176

*David A. Seiden Deputy*  
CANCELLED OFF RECORD  
REGISTER OF DEEDS  
*8-11-05*

B 1541 P 516

Filed and recorded in the Register of Deeds Office for  
Henderson County, N.C. this 14 day of Oct, 20 04  
at 2:40 o'clock P.M. in Book 1541 at page 516

*Debra L. Moore*  
Register of Deeds

*By: Trade & Finance Deputy*

Return To:

Argent Mortgage Company, LLC  
P.O. Box 14130,  
Orange, CA 92863-1530

*1*  
Law Offices Of  
Richard J. Maita, P.A.  
35A Montford Ave.  
Asheville, NC 28801  
(828) 236-1888

Prepared By: Argent Mortgage Company, LLC

Jeffrey Pirzinger  
44 South Broadway, 16th  
Flr. White Plains, NY 10604

[Space Above This Line For Recording Data]

DEED OF TRUST

DEFINITIONS

Words used in multiple sections of this document are defined below and other words are defined in Sections 3, 11, 13, 18, 20 and 21. Certain rules regarding the usage of words used in this document are also provided in Section 16.

(A) "Security Instrument" means this document, which is dated October 5, 2004 together with all Riders to this document.

(B) "Borrower" is TONY R. MASON AND WIFE, PAMELA SUE MASON

Borrower is the trustor under this Security Instrument.  
(C) "Lender" is Argent Mortgage Company, LLC

Lender is a limited liability company organized and existing under the laws of Delaware

0064365638 -9607

NORTH CAROLINA-Single Family-Fannie Mae/Freddie Mac UNIFORM INSTRUMENT

Form 3034 1/01

*12/01* -6(1NC) 100051

Page 1 of 15

Initials: *TM. fsm*

VAMP MORTGAGE FORMS - (800)521-7291

10/05/2004 8:51:33

### SATISFACTION OF SECURITY INSTRUMENT

(G.S. 45-36.10; G.S. 45-37(a)(7))

The undersigned is now the secured creditor in the security instrument identified as follows:

Type of Security Instrument:	<b>Deed of Trust</b>
Original Grantor(s):	<b>Clyde W. Ballard and Elsie Ballard</b>
Original Secured Party(ies):	<b>Henderson County</b>
Recording Data:	<b>The security instrument is recorded in Book 1541, at Page 512, in the office of the Register of Deeds for Henderson County, North Carolina.</b>

This satisfaction terminates the effectiveness of the security instrument.

Date: \_\_\_\_\_

HENDERSON COUNTY

By: \_\_\_\_\_

THOMAS H. THOMPSON, Chairman  
Henderson County Board of Commissioners

WITNESS:

\_\_\_\_\_  
TERESA L. WILSON, Clerk to the Board  
of Commissioners of Henderson County

HENDERSON COUNTY, NORTH CAROLINA: I certify that Teresa L. Wilson, Clerk to the Board of Commissioners of Henderson County, personally appeared before me this day and certified to me under oath or by affirmation that she is not a grantee or beneficiary of the transaction, signed the foregoing document as a subscribing witness, and either (i) witnessed (name of principal) sign the foregoing document or (ii) witnessed (name of principal) acknowledge his or her signature on the already-signed document.

Date: \_\_\_\_\_

\_\_\_\_\_  
Official Signature of Notary Public

Notary printed name: \_\_\_\_\_

My commission expires: