

# REQUEST FOR BOARD ACTION

## HENDERSON COUNTY

### BOARD OF COMMISSIONERS

**MEETING DATE:** 15 April 2020

**SUBJECT:** McDuffy request for refund of twice paid deed transfer tax

**ATTACHMENT(S):** Request letter; letter giving notice of hearing

**SUMMARY OF REQUEST:**

Attorney A. Scott McDuffie has requested the refund of the sum of Four Hundred Fifty Dollars (\$450.00) in real property transfer tax. Mr. McDuffie's letter requesting the refund is attached. Lee King, Register of Deeds, verified the accuracy of Mr. McDuffie's letter.

Pursuant to N.C. Gen. Stat. §105-228.37, a request for refund of overpayment of real property conveyance transfer tax must be made within six months of the date of payment. The payment was made on or about December 23, 2019.

If the Board determines that a refund is in order, the refund will be of the amount of the tax paid, \$450.00.

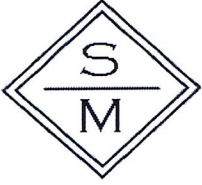
County staff will be present and prepared if requested to give further information on this matter.

**BOARD ACTION REQUESTED:**

Approval of the refund.

If the Board is so inclined, the following motion is suggested:

***I move that the Board grant the refund requested insofar as it conforms to the requirements of N.C. Gen. Stat. §105-228.37(b).***



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## MCDUFFY LAW FIRM, PLLC

A. SCOTT MCDUFFY  
ATTORNEY AT LAW

OFFICE@MCDUFFYLAW.COM  
WWW.MCDUFFYLAW.COM

317 BANNER FARM ROAD, SUITE A  
MILLS RIVER, NC 28759

PHONE  
828.674.4802

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March 25, 2020

Henderson County Attorney  
Charles Russell Burrell  
1 Historic Courthouse Square  
Suite #5  
Hendersonville, NC 28792

Re: Request for refund of Transfer Tax paid twice in same county

Dear Mr. Burrell:

On Friday December 20 2019 at 04:48:41 pm my office recorded a deed for Shawn Alexander Hampton and wife Evelyn Hampton in the Office of the Register of Deeds for Henderson County. The deed was recorded in Book 3431 at Page 79-81 and a copy of the same is attached hereto for your reference. On this date we had an electronic system error and was advised to resubmit the deed electronically to the Register of Deeds. Unfortunately, that again was recorded on Monday December 23, 2019 in Henderson County in Book 3431 at Page 179-181 in the Office of the Register of Deeds for Henderson County. I have also included that for your reference.

The first deed was recorded on December 20,2019 and we paid the transfer tax of \$450.00.

On Monday December 23,2019 we again paid the Transfer Tax of \$450.00.

I would like to request, pursuant to the procedure set forth in North Carolina General Statute § 105-228.37, that the \$450.00 paid on December 23,2019 in error to the Henderson County Register of Deeds be refunded.

If any other information is required, I can be reached at 828-674-4802 at any time.

I appreciate your consideration of this matter.

Sincerely,

A. Scott McDuffey

BK 3431 PG 79 - 81 (3)

DOC# 916953

This Document eRecorded:

12/20/2019 04:48:41 PM

Fee: \$26.00

Henderson County, North Carolina  
William Lee King, Register of Deeds

**NORTH CAROLINA GENERAL WARRANTY DEED**

Excise Tax: \$ 450.00

Parcel Identifier No. 112976 Verified by \_\_\_\_\_ County on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_  
By: \_\_\_\_\_

Mail/Box to: McDuffy Law Firm 317 Banner Farm Rd. Suite A. Mills River, NC 28759

This instrument was prepared by: Whitney Staton - Deed Preparation Only - No Title Search Performed

Brief description for the Index: \_\_\_\_\_

THIS DEED made this 20 day of December, 2019, by and between

GRANTOR

GRANTEE

Edward D. Fisher, divorced  
1011 S. Buena Vista Dr.  
Hendersonville NC 28792

Shawn Alexander Hampton and wife, Evelyn Hampton  
613 S Buena Vista Drive  
Hendersonville, NC 28792

Enter in appropriate block for each Grantor and Grantee: name, mailing address, and, if appropriate, character of entity, e.g. corporation or partnership.

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

See Exhibit A Attached Hereto and Incorporated by Reference

This instrument was prepared by Whitney P. Staton.. a licensed NC attorney. Delinquent taxes, if any, to be paid by the closing attorney to the county tax collector upon disbursement of closing proceeds

The property hereinabove described was acquired by Grantor by instrument recorded in Book 1143 page 725. All or a portion of the property herein conveyed X includes or     does not include the primary residence of a Grantor.

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 the Grantee in fee simple.

And the Grantor covenants with the 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 that Grantor will warrant and defend the title against the lawful claims of all persons whomsoever, other than the following exceptions:

Subject to 2019 ad valorem property taxes.  
Subject to easements, rights of way and restrictions of record.

IN WITNESS WHEREOF, the Grantor has duly executed the foregoing as of the day and year first above written.

\_\_\_\_\_ (Entity Name) Edward D. Fisher (SEAL)  
 By: \_\_\_\_\_ Print/Type Name: Edward D. Fisher

\_\_\_\_\_ (SEAL)  
 Print/Type Name & Title: \_\_\_\_\_ Print/Type Name: \_\_\_\_\_

By: \_\_\_\_\_ (SEAL)  
 Print/Type Name & Title: \_\_\_\_\_ Print/Type Name: \_\_\_\_\_

By: \_\_\_\_\_ (SEAL)  
 Print/Type Name & Title: \_\_\_\_\_ Print/Type Name: \_\_\_\_\_

State of North Carolina - County or City of Henderson  
 I, the undersigned Notary Public of the County or City of Henderson and State aforesaid, certify that Edward D. Fisher personally appeared before me this day and acknowledged the due execution of the foregoing instrument for the purposes therein expressed. Witness my hand and Notarial stamp or seal this 9 day of December, 20 19.

My Commission Expires: 10/31/22  
 (Affix Seal)

**CRYSTAL UHLENHAKE**  
 Notary Public, North Carolina  
 Henderson County  
 My Commission Expires  
 October 31, 2022

Crystal Uhlenhake Notary Public  
 Notary's Printed or Typed Name

State of \_\_\_\_\_ - County or City of \_\_\_\_\_  
 I, the undersigned Notary Public of the County or City of \_\_\_\_\_ and State aforesaid, certify that \_\_\_\_\_ personally appeared before me this day and acknowledged the due execution of the foregoing instrument for the purposes therein expressed. Witness my hand and Notarial stamp or seal this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

My Commission Expires: \_\_\_\_\_  
 (Affix Seal)

\_\_\_\_\_  
 Notary Public  
 Notary's Printed or Typed Name

State of \_\_\_\_\_ - County or City of \_\_\_\_\_  
 I, the undersigned Notary Public of the County or City of \_\_\_\_\_ and State aforesaid, certify that \_\_\_\_\_ personally came before me this day and acknowledged that \_\_\_\_\_ he is the \_\_\_\_\_ of \_\_\_\_\_, a North Carolina or \_\_\_\_\_ corporation/limited liability company/general partnership/limited partnership (strike through the inapplicable), and that by authority duly given and as the act of such entity, \_\_\_\_\_ he signed the foregoing instrument in its name on its behalf as its act and deed. Witness my hand and Notarial stamp or seal, this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

My Commission Expires: \_\_\_\_\_  
 (Affix Seal)

\_\_\_\_\_  
 Notary Public  
 Notary's Printed or Typed Name

## Exhibit A

BEGINNING at a power pole on the west margin of Buena Vista Drive, said pole standing South 20 deg West 300 feet from the north end of Buena Vista Drive, Fisher's Southeast corner; running thence with the west margin of Buena Vista Drive South 20 deg. 00 min. 00 sec. West 100 feet to a stake; thence leaving Buena Vista Drive and running North 70 deg. 00 min. 00 sec. West 138 feet to a stake; thence North 7 deg. 35 min. 33 sec East 102.39 feet to a stake Fisher's southwest corner; thence with Fisher's line, South 70 deg 00 min 00 sec East 160 feet to the point and place of Beginning, and containing 0.342 acre, more, less according to that survey by Patterson & Patterson, entitled "Survey for Dewey David Taylor, Jr.", dated July, 2000 and designated Job No. 00-07-27-A, reference to which is hereby made and incorporated herein for a more specific description.

This conveyance is made SUBJECT to those restrictive covenants and conditions as set out in Deed Book 435 at Page 397, Henderson County Registry.

Being that property recorded in Deed Book 1143 at Page 725, Henderson County Registry.

BK 3431 PG 179 - 181 (3)

DOC# 916973

This Document eRecorded:

12/23/2019 09:31:37 AM

Fee: \$26.00

Henderson County, North Carolina  
William Lee King, Register of Deeds

**NORTH CAROLINA GENERAL WARRANTY DEED**

Excise Tax: \$ 450.00

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

Mail/Box to: McDuffy Law Firm 317 Banner Farm Rd. Suite A. Mills River, NC 28759

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**GRANTEE**

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

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By: \_\_\_\_\_ (Entity Name) Print/Type Name: Edward D. Fisher (SEAL)
By: \_\_\_\_\_ (SEAL) Print/Type Name: \_\_\_\_\_ (SEAL)
By: \_\_\_\_\_ (SEAL) Print/Type Name: \_\_\_\_\_ (SEAL)
By: \_\_\_\_\_ (SEAL) Print/Type Name: \_\_\_\_\_ (SEAL)

State of North Carolina - County or City of Henderson
I, the undersigned Notary Public of the County or City of Henderson and State aforesaid, certify that Edward D. Fisher personally appeared before me this day and acknowledged the due execution of the foregoing instrument for the purposes therein expressed. Witness my hand and Notarial stamp or seal this 9 day of December, 2019.
My Commission Expires: 10/31/22 (Affix Seal)
CRYSTAL UHLENHAKE Notary Public, North Carolina Henderson County My Commission Expires October 31, 2022
Crystal Uhlenhake Notary Public Notary's Printed or Typed Name

State of \_\_\_\_\_ - County or City of \_\_\_\_\_
I, the undersigned Notary Public of the County or City of \_\_\_\_\_ and State aforesaid, certify that \_\_\_\_\_ personally appeared before me this day and acknowledged the due execution of the foregoing instrument for the purposes therein expressed. Witness my hand and Notarial stamp or seal this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.
My Commission Expires: \_\_\_\_\_ (Affix Seal)
Notary Public
Notary's Printed or Typed Name

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My Commission Expires: \_\_\_\_\_ (Affix Seal)
Notary Public
Notary's Printed or Typed Name

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**OFFICE OF THE COUNTY ATTORNEY**  
Henderson County, North Carolina

**Charles Russell Burrell**  
County Attorney

April 2, 2020

Ms. A. Scott McDuffy  
McDuffy Law Firm, PLLC  
317 Banner Farm Road, Suite A  
Mills River, NC 28759

RE: Requested refund of transfer tax under N.C. Gen. Stat. §105-228.37

Dear Mr. McDuffy:

This constitutes notice, pursuant to N.C. Gen. Stat. §105-228.37(b), that the Board of Commissioners of Henderson County will consider your request, made in your letter of March 25, 2020, for refund of the duplicate transfer tax of \$450.00 paid on December 23, 2019.

The Board's meeting will begin at 9:30 a.m. It will be held under the Board's procedures for electronic meetings, due to the limit on the number of persons allowed in the Board's meeting room during the current emergency state. While you may speak on this request if you wish, any comment will be transmitted to the Board by electronic device from the Community Room in the Historic Courthouse. Seating in the Community Room will be limited as well.

It is my expectation that this matter will appear on the Board's consent agenda, proposed by staff to be adopted *en masse* by the Board without debate. Of course, any member of the Board can remove the item from the consent agenda for separate debate and vote. The agenda item for this matter will include your letter, this letter, and a cover request recommending approval.

If you have any questions, please do not hesitate to contact me.

Sincerely,

Charles Russell Burrell

1 Historic Courthouse Square, Suite 5  
Hendersonville, North Carolina 28792  
Telephone (828) 697-4719 — Facsimile (828) 697-4536