



State of Georgia

Douglas J. MacSinnittie
Commissioner

Department of Revenue
Administrative Division - Office of Tax Policy
1800 Century Blvd., Suite 15311
Atlanta, Georgia 30345-3205
(404) 417-6649

Frank M. O'Connell
Director

November 7, 2011

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Re: Real Estate Transfer Tax Claim for Refund pursuant to O.C.G.A. § 48-6-7 in the amount of [REDACTED] paid upon recording a Limited Warranty Deed on August 10, 2010, with the Clerk of Superior Court, [REDACTED] [REDACTED] claimant.

Dear [REDACTED]

I have carefully considered your Claim for Refund of real estate transfer tax pursuant to the above-captioned matter. Your letter dated May 5, 2011, plus accompanying documentation were all considered in the review. It is my determination that your Claim for Refund in the amount of [REDACTED] is granted.

O.C.G.A. § 48-6-1 provides, in pertinent part, that real estate transfer tax is imposed on each deed, instrument, or other writing by which any lands, tenements or other realty sold is granted, assigned, transferred, or otherwise conveyed when the consideration or value of the interest or property conveyed (exclusive of the value of any lien or encumbrance existing prior to the sale and not removed by the sale) exceeds \$100.00.

O.C.G.A. § 48-6-7 provides, in pertinent part, that "In any case in which the clerk of superior court erroneously or illegally collects the tax imposed by this article and remits the tax to the commissioner, the taxpayer from whom the tax was collected may file a claim for refund with the commissioner at any time within one year after the date of collection."

With respect to your Claim for Refund, on August 3, 2010, a PT-61 form was executed with a Limited Warranty Deed recorded by the Clerk of Superior Court, [REDACTED] (the "collecting officer") on August 10, 2010. Real estate transfer tax in the amount of [REDACTED] was paid by the claimant to [REDACTED]

Subsequent to a Civil Action proceeding in [REDACTED], the subject property at issue was sold again with another PT-61 form executed [REDACTED] on May 5, 2011, [REDACTED] records], and a Limited Warranty Deed recorded with payment of [REDACTED] in transfer tax on May 9, 2011 [REDACTED], to [REDACTED]

Given that the Clerk of Superior Court, [REDACTED] fulfilled its statutory function on both August 10, 2010, and May 9, 2011, its collection of real estate transfer tax was neither erroneously assessed or illegally collected. However, based on the judge's order setting aside the original transfer, the original transfer was nullified by operation of law and therefore this Claim for Refund in the amount of [REDACTED] is granted.

A copy of this decision is being provided to the Clerk of Superior Court, [REDACTED] so that they may issue the refund to your office on behalf of the claimant.

Sincerely,


Frank O'Connell

FOC/RJL/me

cc: Clerk of Superior Court, [REDACTED]