



Bart L. Graham  
Commissioner

State of Georgia  
**Department of Revenue**

Suite 15300  
1800 Century Boulevard  
Atlanta, Georgia 30345  
(404) 417-2100

July 6, 2006

[REDACTED]

Re: Request for Commissioner's Determination pursuant to O.C.G.A. § 48-6-71 regarding a Deed to Secure Debt from [REDACTED] (Grantor) in favor of [REDACTED] (Grantee) holding that the parties should be exempt from payment of intangible recording tax based upon additional indebtedness extended by Grantee to Grantor secured by the Security Deed, as amended

Dear [REDACTED]

I have carefully considered your request for determination pursuant to O.C.G.A. § 48-6-71 that the above mentioned parties should be considered exempt from payment of Georgia intangible recording tax in connection with any future indebtedness, as amended, based upon the maximum amount of \$25,000 per security instrument having already been paid. Your request has been based upon your letter dated May 22, 2006 plus multiple letters dated June 6, 2006 with all supporting documentation.

Because neither of the above parties can be construed to meet any of the definitions covered by Revenue Rule 560-11-8-.14, Exemptions, your request for a determination that the above parties will be exempt from payment of future Georgia intangible recording tax imposed by O.C.G.A. § 48-6-61 based upon an increase in the existing indebtedness, as amended, is denied.

The legal determination as to whether or not payment of intangible recording tax is due is made, in the first instance, by the Clerk of Superior Court, or in some cases by the County Tax Commissioner, based upon the documents that are presented to them at the time of recording. A claimant must file a protest at the time they pay the tax pursuant to O.C.G.A. § 48-6-76(a), if they feel that collection of the tax is either erroneous or illegal. That code section, at (c),

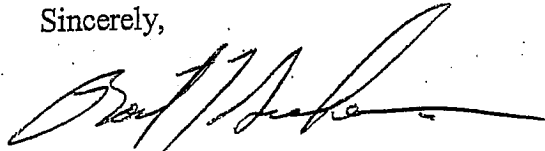
[REDACTED]  
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provides that a claim for refund must be filed within thirty days of payment of the tax in order to perfect the protest.

Should any future amendments of the Deed to Secure Debt between the above parties evidence an increase in the existing indebtedness, with the Clerk of Superior Court, [REDACTED] making a determination that payment of additional tax is required, the legal remedy at hand is for either of the parties to file a contemporaneous protest at the time the tax is paid. Per O.C.G.A. § 48-6-76(b), the payment will be deposited into an escrow account as provided by law, and only then is the Revenue Commissioner authorized by law to consider matter and issue his Letter of Determination.

For information purposes, a copy of this Determination is being provided to the Clerk of Superior Court, [REDACTED]

Sincerely,



Bart L. Graham

BLG/RJL/mb

cc: Clerk of Superior Court, [REDACTED]