

Department of Revenue

Suite 133000

1900 Century Center Bldg., N.E.

Atlanta, Georgia 30345-3205

Telephone 404-417-2000

Bari L. Graham  
Commissioner

January 8, 2004

[REDACTED]

RE: Protest of Intangible Recording Tax and Claim for Refund in the amount [REDACTED]  
[REDACTED] Paid on Recording Security Deed between [REDACTED]  
[REDACTED] (Lender), [REDACTED] (Borrowers)

Dear [REDACTED]:

I have carefully considered your protest and claim for refund of intangible recording tax paid in the amount [REDACTED] when the security deed between the parties was recorded on September 30, 2003. It is my determination that an exemption from intangible recording tax on the outstanding principal balance of the original loan between [REDACTED] (Borrowers) and [REDACTED] (Lender) was not authorized. Intangible recording tax in the amount [REDACTED] was due when the security deed between the parties was recorded and may not be refunded.

O.C.G.A. 48-6-65 (b) provides, in pertinent part, that no tax shall be collected on that part of the face amount of a new instrument securing a long-term note, which represents a refinancing by the original lender of unpaid principal on a previous instrument if all intangible recording tax due on the previous instrument has been paid.

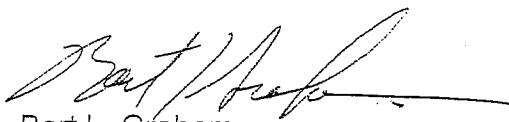
Department of Revenue Rule 560-11-8-.05 provides, in pertinent part, that intangible recording tax is not required to be paid on that part of the face amount of a new instrument securing a long-term note, which represents a refinancing

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between the original lender and original borrower of unpaid principal of an existing instrument, still owned by the original lender, if intangible recording tax that was due on the previous instrument has been paid.

Mortgage Electronics Registration Systems, Inc. (MERS) is shown as the grantee in the security deed between the parties for the refinancing. The Terms and Conditions that are part of a binding agreement between MERS and lenders who register loans on the MERS system requires that lenders must assign the loans to MERS and that MERS be recorded in the appropriate public records as the Mortgagee of Record. Since MERS was the Mortgagee of record at the time the outstanding principal balance of the original loan between the parties was refinanced, The requirement stated in Department of Revenue Rule 560-11-8-.05 was not met

Sincerely yours,



Bart L. Graham

BLG/JWM/jt

Cc: Clerk of Superior Court, [REDACTED]