

Department of Revenue  
State of Georgia  
1800 Century Center Bldg.  
Suite 15300  
Atlanta, Georgia 30345  
(404) 417-2100

Bart L. Graham  
Commissioner

March 15, 2004

[REDACTED]

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

Dear [REDACTED]

I have carefully considered your protest and claim for refund of intangible recording tax paid in the amount of [REDACTED] when the security deed between the parties was recorded on January 14, 2004. It is my determination that an exemption from intangible recording tax on the outstanding principal balance of the original loan between [REDACTED] (Borrower) 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 the unpaid principal on a previous instrument if all intangible recording tax due on the previous instrument has been paid.

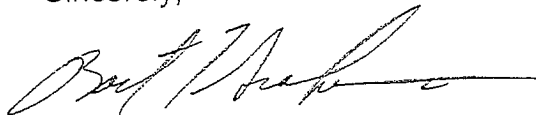
Department of Revenue Rule 560-11-8-.05 provides, in pertinent part, that intangible recording tax is not required to be paid on that part of the face amount of a new instrument securing a long-term note, which represents a refinancing between the original lender and original borrower of unpaid principal 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) was shown as the grantee on the original security instrument between the parties. The Terms and Conditions that are a part of the 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

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recorded in the appropriate public records as the Mortgagee of Record. Since MERS was the Mortgagee of Record for the original security instrument and the mortgage had been assigned by [REDACTED] to them, it cannot be said that [REDACTED] is the original lender, who owned the mortgage at the time of the refinancing. The requirement stated in Department of Revenue Rule 560-11-8-.05 was not met.

Sincerely,



Bart L. Graham

BLG/JWM/jt

cc: Clerk of Superior Court, [REDACTED]