



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

Bart L. Graham  
Commissioner

July 19, 2004

[REDACTED]  
[REDACTED]  
[REDACTED]  
RE: Protest and Claim for Refund of Intangible Recording Tax pursuant to O.C.G.A. 48-6-76; [REDACTED] (Grantee) and [REDACTED] (Grantor)

Dear [REDACTED]:

In reply to your request pursuant to O.C.G.A. 48-6-76 for a refund of intangible recording tax paid under protest to the Clerk of Superior Court, [REDACTED], it is my determination that your Protest and Claim for Refund of intangible recording tax in the amount of [REDACTED] is denied. In reaching my determination, the information contained in your letter dated June 15, 2004, your Protest, Georgia Intangible Recording Tax, Claim for Refund, Georgia Intangible Recording Tax and all supporting documentation was considered.

Department of Revenue Rule 560-11-8-.03 (d) provides in pertinent part that a short-term note, with an option to renew or extend by the borrower, where any part of the principal or interest of the note becomes due, or may become due, more than three years from the date of execution is classified as a long-term note.

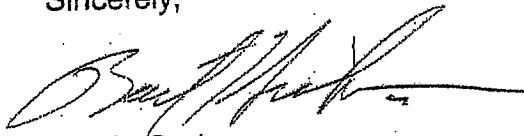
While the Deed to Secure Debt, Assignment of Rents and Security Agreement between the parties is for a period of no more than three years, the Construction Loan Agreement between the parties under Section 4.3 Term of the Loan provides that upon satisfying certain conditions the Borrower shall have the right to extend the Maturity Date for two (2) additional twelve (12) month periods, thereby extending the Maturity Date for payment of principal and interest beyond three years.

Page Two  
July 19, 2004

While you have contended that the Borrower cannot fulfill the stated conditions and thus has no option to renew and extend, Department of Revenue Rule 560-11-8-.03 does not provide that upon a borrower's failure to meet certain conditions, the Rule does not apply. The Borrower has an absolute option to renew or extend upon satisfying the conditions stated in the Construction Loan Agreement. Should the Borrower exercise either or both of the options, payment of principal and interest would extend beyond three years; therefore the note is considered long-term and intangible recording tax in the amount of [REDACTED] was due at the time of recording. The intangible recording tax may not be refunded.

A copy of this determination is being provided to the Clerk of Superior Court, [REDACTED] in accordance with the provisions of O.C.G.A. 48-6-76 as authority to disburse the tax being withheld in a special escrow fund as provided by law.

Sincerely,



Bart L. Graham

BLG/JWM/jt

cc: Clerk of Superior Court, [REDACTED]