



State of Georgia

Department of Revenue

Suite 15300

1800 Century Blvd.

Atlanta, Georgia 30345

(404) 417-2100

June 21, 2005

Bart L. Graham
Commissioner

[REDACTED]

RE: Protest and Claim for Refund of Intangible Recording Tax in the amount of [REDACTED]
Paid upon Recording a Modification of Deed to Secure Debt and Security Agreement
Between [REDACTED] (Borrower) and [REDACTED]
[REDACTED] collectively (Lender)

Dear [REDACTED]

I have carefully considered your Protest and Claim for Refund of intangible recording tax paid in the amount of [REDACTED] paid to the Clerk of Superior Court, [REDACTED] when you recorded a Modification of Deed to Secure Debt and Security Agreement between the parties on March 9, 2005. Your Protest, your Claim for Refund, your letter dated April 8, 2005 with supporting documentation and your Protest, and your Claim for Refund with supporting documentation filed with the Clerk of Superior Court, [REDACTED] was considered in the review.

Department of Revenue Rule 560-1 1-8-.02 provides in pertinent part that intangible recording tax is due on each instrument securing one or more long-term notes and that the maximum tax on a single security instrument is \$25,000.00. The instrument recorded between the parties that was recorded on March 9, 2005 only modified the original security instrument.

O.C.G.A. 48-6-69 (a) provides in pertinent part that when any instrument which creates a lien upon real property located in more than one county, the tax shall be paid to the collecting officer of the county in which the instrument is first recorded. When the certificate of the collecting officer acknowledges that the tax has been paid, the instrument may then be recorded in any other county without payment of any further tax.

Even though you failed to comply with the requirements of O.C.G.A. 48-6-69(a) which requires in pertinent part that the tax imposed be paid to the collecting officer of the county in which the instrument is first recorded, it is my determination that your request for a refund of the tax paid is

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approved. Failure to pay all tax due to the first county does not affect the determination as to whether the tax was due. It is my determination that the intangible recording tax was not due at the time you filed the Modification of Deed to Secure Debt and Security Agreement between the parties since the maximum intangible recording tax required on a single security instrument had already been paid when you recorded the original Deed to Secure Debt and Security Agreement between the parties with the Clerk of Superior Court, [REDACTED] on November 26, 2003.

A copy of this determination is being provided to the Clerk of Superior Court, [REDACTED] as their authority to refund the amount of [REDACTED]

Sincerely,



Bart L. Graham

BLG/JWM/jt

Cc: Clerk of Superior Court, [REDACTED]