



State of Georgia

Department of Revenue

Suite 15300

1800 Century Boulevard

Atlanta, Georgia 30345

(404) 417-2100

Bart L. Graham
Commissioner

August 8, 2007

[REDACTED]
[REDACTED]
[REDACTED]

Re: Intangible Recording Tax Protest and Claim for Refund per O.C.G.A. § 48-6-76(a) in the amount of [REDACTED] paid upon recording a Security Deed with the Clerk of Superior Court, [REDACTED] on May 24, 2007. Parties are [REDACTED] (Grantor) and [REDACTED] (Lender)

Dear [REDACTED]

I am in receipt of your request for a refund of intangible recording tax penalty and interest paid to the Clerk of Superior Court, [REDACTED] pursuant to the above-captioned matter and O.C.G.A. § 48-6-76(a). Your Protest and Claim for Refund, and your letters of June 20, 2007, and July 9, 2007, with accompanying enclosures, were all considered in the review. It is my determination based on your request and accompanying documentation that your claim for refund in the amount of [REDACTED] representing payment of penalty and interest be upheld.

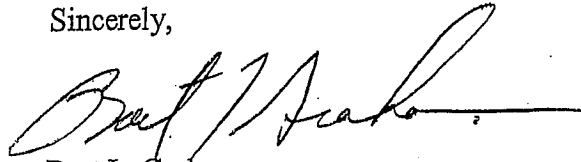
O.C.G.A. § 48-6-61 states in pertinent part that, "Every holder of a long-term note secured by real estate shall, within 90 days from the date of the instrument executed to secure the note, record the security instrument in the county in which is located the real estate conveyed or encumbered or upon which a lien is created to secure the note . . ."

The security instrument sent to [REDACTED] for recording was received, and rejected, on May 16, 2007, as evidenced by the accompanying notation on a form used by the Clerk of Superior Court, [REDACTED] "Received 5-16-07; over 90 days". With regard to the 90-day requirement set forth in O.C.G.A. § 48-6-61, however, the Department has always interpreted the phrase *within 90 days* [emphasis added] as being "prospective", i.e., going forward. Because the month of February 2007 consisted of twenty-eight days, the 90-day stipulation therefore requires that, going forward, the instrument was subject to being recorded no later than May 16, 2007, the "ninetieth day." Documentation submitted by claimant has proven to the Department's satisfaction that overnight delivery in fact occurred.

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The Clerk of Superior Court, [REDACTED] is hereby directed to refund to claimant the protested amount that is currently being held in an escrow account under authority of the statute.

Sincerely,



Bart L. Graham

BLG/RJL/mb

cc: Clerk of Superior Court, [REDACTED]