

FORSYTH COUNTY

BOARD OF COMMISSIONERS

MEETING DATE: FEBRUARY 24, 2014 AGENDA ITEM NUMBER: 11-A&B

- SUBJECT: A. HEARING ON A REQUEST FOR REFUND OF OVERPAYMENT OF EXCISE TAX
- B. RESOLUTION AUTHORIZING REFUND OF EXCISE TAX OVERPAYMENT AS RECOMMENDED BY THE COUNTY REVIEW OFFICER

COUNTY MANAGER'S RECOMMENDATION OR COMMENTS: Recommend Approval

SUMMARY OF INFORMATION:

See attached

ATTACHMENTS: YES NO

SIGNATURE: *J. Kimberly Watts, Jr. CM* DATE: February 19, 2014
COUNTY MANAGER

**RESOLUTION AUTHORIZING REFUND OF
EXCISE TAX OVERPAYMENT AS RECOMMENDED
BY THE COUNTY REVIEW OFFICER**

WHEREAS, pursuant to N.C.G.S. 105-228.37, the Forsyth County Board of Commissioners is required to conduct a hearing upon any timely request by a taxpayer for a refund of overpayment of an excise tax on the conveyance of property and to make a decision regarding the County's portion of any overpayment; and

WHEREAS, on January 15, 2014, Jeffrey J. Berg, Attorney, submitted an Affidavit for Refund of Real Estate Excise Tax to the Register of Deeds requesting a refund of \$120.00, stating that he had overpaid the excise tax on the conveyance of property in Forsyth County as a result of recording the instruments in the wrong County; and

WHEREAS, based on the investigation of the designated County Review Officer, it is the opinion of the Review Officer that Mr. Berg is entitled to a refund of the excise tax overpayment and it is recommended that the Forsyth County Board of Commissioners authorize a refund of excise tax in the amount requested; and

WHEREAS, the North Carolina Department of Revenue has authorized Forsyth County to refund its share of the excise tax overpayment to Mr. Berg and has agreed to reimburse the County for its share of the refund;

NOW, THEREFORE, BE IT RESOLVED that the Forsyth County Board of Commissioners hereby grants the request of Jeffrey J. Berg, Attorney for a refund of overpayment of excise tax in the amount of \$120.00.

BE IT FURTHER RESOLVED that Forsyth County Board of Commissioners hereby authorizes the Forsyth County Chief Financial Officer to refund the excise tax overpayment to Mr. Jeffrey J. Berg in the amount of \$120.00 and inform the N.C. Department of Revenue of the refund based on the Affidavit recorded by Mr. Berg stating that no tax is owed because the instrument was recorded in the wrong County, all as required by N.C.G.S. 105-228.37.

Adopted this the 24th day of February 2014.

C. Norman Holleman



Register of Deeds
RECEIVED

FEB 04 2014

COUNTY MANAGER'S/
COMMISSIONERS' OFFICE

February 3, 2014

201 North Chestnut Street, 5th Floor, Winston-Salem, NC 27101

Dear Dudley Watts, County Manager,

The purpose of this letter is to recommend for approval the refund of excise tax on the conveyance of property paid to the office of the Register of Deeds in error. The document was recorded in the wrong county; it should have been recorded in Davidson County.

There is documentary evidence to prove that the taxpayer, Jeffrey J. Berg of Jeffrey J. Berg Attorney at Law of 200 Fair Oaks Lane, Winston-Salem, NC 27127 did present and record a North Carolina General Warranty Deed on January 2, 2014 in Book 3161 Page 1655. The fees assessed and collected were \$26.00 for the recording fee and \$120.00 for the excise tax.

Attached herewith is the request from the taxpayer and copies of documents supporting the recordation of the said document.

1. Request for refund;
2. Certified copy of recording;
3. Copies of deposited checks for payment of recording;
4. Reprinted receipt of recording;
5. Copy of recording of subsequent document on January 8, 2012 in Davidson County (the correct county).
6. Certified Copy of Affidavit For Refund of Real Estate Excise Tax on February 3, 2014.

It is therefore, being duly authorized as such, upon careful investigation and consideration my recommendation as Review Officer of the said request of refund of excise tax that it be granted after review, deliberation and the required hearing of you the County Manager of Forsyth County and the Forsyth County Board of Commissioners.

Sincerely,

A handwritten signature in black ink, appearing to read "Timothy R. Williams", with a long, sweeping horizontal line extending to the right.

Timothy R. Williams
Review Officer

Cc: C. Norman Holleman

Forsyth County Government Center

JEFFREY J. BERG

ATTORNEY AT LAW

EMAIL: LAWYER@JBERGLAW.COM

200 FAIR OAKS LANE
WINSTON-SALEM, NC 27127
(336) 775-1063
FAX (336) 775-1065

401 WEST CENTER STREET
LEXINGTON, NC 27292
(336) 249-3870
FAX (336) 243-3059

January 31, 2014

Forsyth County Register of Deeds
Attn: Timothy Williams
201 N. Chestnut Street, 2nd Floor
Winston-Salem, NC 27101

Re: Request for Refund of Excise Stamps

Dear Mr. Williams:

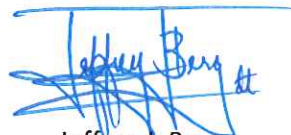
I had sent in earlier an Affidavit for Refund of Release for Estate Excise Tax. I am requesting a refund of the \$120.00 paid into your office on January 2, 2014 when deed was recorded inadvertently in Forsyth County instead of Davidson County.

I am enclosing with this letter a copy of the front and back of the check presented for payment to your office and a copy of the Deed and Deed of Trust recorded in Davidson County showing the excise tax was paid to Davidson County.

Once this refund has been approved, please take from my escrow account the \$26.00 for cost of recording the Affidavit.

Thank you for your assistance in this matter.

Sincerely,



Jeffrey J. Berg

JJB:dct
Enclosures



2014000092 00092

FORSYTH CO, NC FEE \$26.00
STATE OF NC REAL ESTATE EXT
\$120.00

PRESENTED & RECORDED
01-02-2014 01:27:05 PM

C. NORMAN HOLLEMAN
REGISTER OF DEEDS
BY: RANDY L SMITH
DPTY

BK: RE 3161
PG: 1655-1657

Excise Tax \$120.00 | Recording Time, Book and Page
Tax Lot No. _____ Parcel Identifier No. 1131200000075
Verified by _____ County on the ____ day of _____, 20
by _____

This instrument was prepared by Jeffrey J. Berg, Attorney, Lexington, NC 27292 Box 42

Brief Description for the index 1.5 acres, Michael Road

NORTH CAROLINA GENERAL WARRANTY DEED

THIS DEED made December 31, 2013 by and between

GRANTOR	GRANTEE
James David Owen and wife, Linda J. Owen, by and through her attorney-in-fact, James D. Owen 228 Holton Drive Winston-Salem, NC 27127	Wilmer Geovany Cruz and wife, Rosa Amelia Amador Cardenas 340 Michael Road Lexington, NC 27292

Enter in appropriate block for each party: name, address, and, if appropriate, character of entity, e.g., corporation or partnership.

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee, in fee simple, all that certain lot or parcel of land situated in the Davidson County, North Carolina and more particularly described as follows:

Beginning at a persimmon, thence about North 11-1/2 rods to a stone; thence about East 20 rods to a poplar tree; thence about South 12 rods to a stone on J.E. Everhart's line; thence about West 20 rods and 10 ft to the beginning, containing 1-1/2 acres more or less.

For reference see Deed Book 2114, Page 1791, Davidson County Registry, North Carolina.

TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple.

And the Grantor covenants with the Grantee, that Grantor is seized of the premises in fee simple, has the right to convey the same in fee simple, that title is marketable and free and clear of all encumbrances, and that Grantor will warrant and defend the title against the lawful claims of all persons whomsoever except for the exceptions hereinafter stated.

This property has xx has not been used as the primary residence of the Grantor. NCGS§105-317.2.

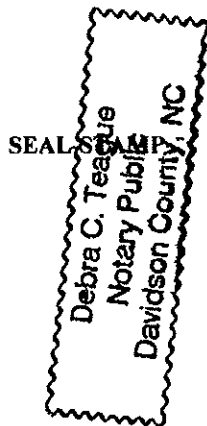
Title to the property hereinabove described is subject to the following exceptions:

IN WITNESS WHEREOF, the Grantor has hereunto set his hand and seal, or if corporate, has caused this instrument to be signed in its corporate name by its duly authorized officers and its seal, if any, to be hereunto affixed by authority of its Board of Directors, the day and year first above written.

James David Owen (SEAL)
James David Owen

Linda J. Owen By (SEAL)
Linda J. Owen, by and through her Attorney-In-Fact,
James D. Owen

James D. Owen
POA



STATE OF NORTH CAROLINA - COUNTY OF DAVIDSON

I, the undersigned, a Notary Public of said County, do hereby certify that **James David Owen**, personally appeared before me this day, and being by me duly sworn, executed the foregoing instrument.

Witness my hand and notarial seal/stamp, this the 31st day of December, 2013.

Debra C. Teague
Notary Public

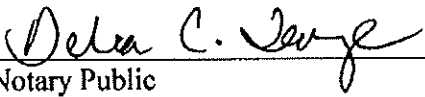
My Commission Expires: 7/14/2016

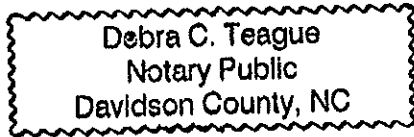
STATE OF NORTH CAROLINA
COUNTY OF DAVIDSON

I, Debra C. Teague, a Notary Public of said County, do hereby certify that **James D. Owen**, Attorney-In-Fact, for **Linda J. Owen**, personally appeared before me this day, and being by me duly sworn, says that he executed the foregoing and annexed **Deed** for and in behalf of **Linda J. Owen**, as Attorney-in-Fact, and that her authority to execute and acknowledge said instrument is contained in a power of attorney, duly executed, acknowledged, and recorded in the Office of the Register of Deeds for Forsyth County, North Carolina in **Book 2896, Page 1712**, and that this instrument was executed under and by virtue of the authority given by said instrument granting her Power of Attorney; that the said, **James D. Owen**, acknowledged the due execution of the foregoing and annexed instrument for the purposes therein expressed for and on behalf of the said **Linda J. Owen**.

Witness my hand and notarial this the 31st day of December, 2013.

My Commission Expires: 7/14/2016


Notary Public



C. NORMAN
HOLLEMAN
Register of Deeds

Forsyth County Register of Deeds

Forsyth County Government Center • WINSTON-SALEM, NORTH CAROLINA 27101-4120
Telephone 336 703 2701 • Fax 336 703 8599 • E-Mail no-reply@bislandrecords.com

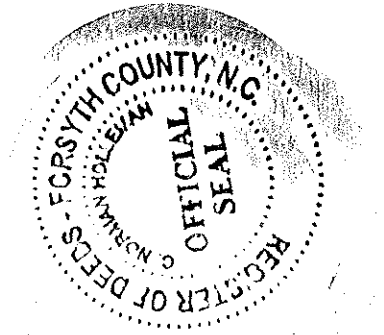
State of North Carolina, County of Forsyth

I certify that this is a true and accurate copy which appears on record in the office of the Register of Deeds of Forsyth County, North Carolina in Book 3161 Page 1655.

Witness my hand and seal this 3rd day of FEBRUARY 2014.

C. NORMAN HOLLEMAN, REGISTER OF DEEDS

By: 
OLIVIA DOYLE, ASSISTANT/DEPUTY REGISTER OF DEEDS



THIS CERTIFICATION SHEET IS A PART OF THE DOCUMENT.



201400093 00093

FORSYTH CO. NC FEE \$56.00
PRESENTED & RECORDED

01-02-2014 01:27:05 PM

C. NORMAN HOLLEMAN
REG. STER. OF DEEDS
BY: RAZZY L. SMITH
DFTY

BK: RE 3161
PG: 1658-1660

SATISFACTION: The debt secured by the within Deed of Trust together with the note(s) secured thereby has been satisfied in full.

This the _____ day of _____, 20

Signed:

Recording: Time, Book and Page

Tax Lot No. _____ Parcel Identifier No. _____
Verified by _____ County on the _____ day of _____, 20
by _____

Mail after recording to:
This instrument prepared by Jeffrey J. Berg, Attorney, Lexington, NC. Box 42

Brief Description for the index 1 1/2 acre Tract, Michael Road

NORTH CAROLINA DEED OF TRUST

THIS DEED of TRUST made December 31, 2013, by and between:

GRANTOR	TRUSTEE	BENEFICIARY
Wilmer Geovany Cruz and wife, Rosa Amelia Amador Cardenas	Jeffrey J. Berg	James D. Owens and wife, Linda J. Owens

Enter in appropriate block for each party: name address, and, if appropriate, character of entity, e.g. corporation or partnership

The designation Grantor, Trustee, and Beneficiary as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH, That whereas the Grantor is indebted to the Beneficiary in the principal sum of Fifty Four Thousand and no/100— Dollars (\$54,000.00), as evidenced by a Promissory Note of even date herewith, the terms of which are incorporated herein by reference. The final due date for payments of said Promissory Note, if not sooner paid, is January 1, 2024.

NOW, THEREFORE, as security for said indebtedness, advancements and other sums expended by Beneficiary pursuant to this Deed of Trust and costs of collection (including attorneys fees as provided in the Promissory Note) and other valuable consideration, the receipt of which is hereby acknowledged, the Grantor has bargained, sold, given and conveyed and does by these presents bargain, sell, give, grant and convey to said Trustee, his heirs, or successors, and assigns, the parcel(s) of land situated in the Davidson County, North Carolina, (the "Premises") and more particularly described as follows:

Beginning at a persimmon, thence about North 11-1/2 rods to a stone; thence about East 20 rods to a poplar tree; thence about South 12 rods to a stone on J.E. Everhart's line; thence about West 20 rods and 10 ft to the beginning, containing 1-1/2 acres more or less.

TO HAVE AND TO HOLD said Premises with all privileges and appurtenances thereunto belonging, to said Trustee, his heirs, successors, and assigns forever, upon the trusts, terms and conditions, and for the uses hereinafter set forth.

64632

JEFFREY J. BERG, ATTORNEY AT LAW

REAL ESTATE TRUST ACCOUNT
401 WEST CENTER STREET
LEXINGTON, NC 27292
(336) 249-3870

NEWBRIDGE BANK
66-987-631

Member FDIC
Equal Housing Lender

CRUZ-731WS

--Two Hundred Two and 00/100--

Government Charges

DATE

Dollars
AMOUNT

January 2, 2014

\$ *****202.00

PAY
TO THE
ORDER
OF

Register of Deeds



Debra C. Jazy
AUTHORIZED SIGNATURE

Security features. Details on back.

⑈00284632⑈ ⑆053109877⑆ 0002316609⑈

DDA On Us DR - 1/6/2014

● ENDORSE HERE

FOR DEPOSIT ONLY
C. HARLAN BELLEMAN
TREASURER, CREDIT ASSOCIATES
SHELBY COUNTY, TN
01/07/2014
\$202.00

DO NOT WRITE, STAMP OR SIGN BELOW THIS LINE
RECEIVED FROM FINANCIAL INSTITUTION ONLY

MELLS FARGO BANK NA CLY
20140103 E0017 PKT 04
⑆0510⑉00019⑆
3353604100

DDA On Us DR - 1/6/2014

**** Official Receipt ****
----- Duplicate -----
C. NORMAN HULLMAN
Register - FORSTH County, NC
by BK11HKL, JH11
Payment Receipt Batch 050102

01/02/2014

TR # 201400009: 01127105 PM
GREN 426.00
Excise Tax 1120.00
Bk 3161 P 1655

TR # 201400003: 01127105 PM
SEED OF TRUST 556.00
Bk 3161 P 1655

Total \$ 202.00

Check \$ 202.00

*** \$25.00 fee ***
*** for all returned checks ***

Happy New Year



201400092 00092
 FORSYTH CO, NC FEE \$26.00
 STATE OF NC REAL ESTATE EXTX
 \$120.00
 PRESENTED & RECORDED
 01-02-2014 01:27:05 PM
 C. NORMAN HOLLEMAN
 REGISTER OF DEEDS
 BY: RANDY L SMITH
 DPTY
BK: RE 3161
PG: 1655-1657

Excise Tax \$120.00 | Recording Time, Book and Page
 Tax Lot No. _____ Parcel Identifier No. 113120000075
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 by _____

This instrument was prepared by Jeffrey J. Berg, Attorney, Lexington, NC 27292 *Box 42*

Brief Description for the index

1.5 acres, Michael Road

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Enter in appropriate block for each party: name, address, and, if appropriate, character of entity, e.g., corporation or partnership.

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee, in fee simple, all that certain lot or parcel of land situated in the Davidson County, North Carolina and more particularly described as follows:

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N. C. Bar Assoc. Form No. 3 © 1977
 Printed by Agreement with the N.C. Bar Assoc.#003

For reference see Deed Book 2114, Page 1791, Davidson County Registry, North Carolina.

TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple.

And the Grantor covenants with the Grantee, that Grantor is seized of the premises in fee simple, has the right to convey the same in fee simple, that title is marketable and free and clear of all encumbrances, and that Grantor will warrant and defend the title against the lawful claims of all persons whomsoever except for the exceptions hereinafter stated.

This property has xx has not been used as the primary residence of the Grantor. NCGS§105-317.2.

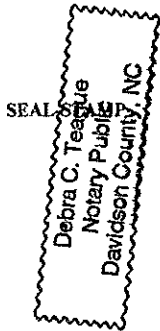
Title to the property hereinabove described is subject to the following exceptions:

IN WITNESS WHEREOF, the Grantor has hereunto set his hand and seal, or if corporate, has caused this instrument to be signed in its corporate name by its duly authorized officers and its seal, if any, to be hereunto affixed by authority of its Board of Directors, the day and year first above written.

James David Owen (SEAL)
James David Owen

Linda J. Owen By (SEAL)
Linda J. Owen, by and through her Attorney-In-Fact,
James D. Owen

James D. Owen
POA



STATE OF NORTH CAROLINA - COUNTY OF DAVIDSON

I, the undersigned, a Notary Public of said County, do hereby certify that James David Owen, personally appeared before me this day, and being by me duly sworn, executed the foregoing instrument.

Witness my hand and notarial seal/stamp, this the 31st day of December, 2013.

Debra C. Teague
Notary Public

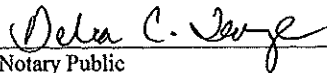
My Commission Expires: 7/14/2016

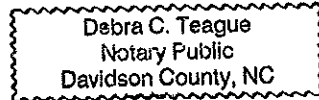
STATE OF NORTH CAROLINA
COUNTY OF DAVIDSON

I, Debra C. Teague, a Notary Public of said County, do hereby certify that **James D. Owen**, Attorney-In-Fact, for **Linda J. Owen**, personally appeared before me this day, and being by me duly sworn, says that he executed the foregoing and annexed **Deed** for and in behalf of **Linda J. Owen**, as Attorney-in-Fact, and that her authority to execute and acknowledge said instrument is contained in a power of attorney, duly executed, acknowledged, and recorded in the Office of the Register of Deeds for Forsyth County, North Carolina in **Book 2896, Page 1712**, and that this instrument was executed under and by virtue of the authority given by said instrument granting her Power of Attorney; that the said, **James D. Owen**, acknowledged the due execution of the foregoing and annexed instrument for the purposes therein expressed for and on behalf of the said **Linda J. Owen**.

Witness my hand and notarial this the 31st day of December, 2013.

My Commission Expires: 7/14/2016


Notary Public





2014000093 00093

FORSYTH CO, NC FEE \$56.00

PRESENTED & RECORDED

01-02-2014 01:27:05 PM

C. NORMAN HOLLEMAN

REGISTER OF DEEDS
BY: RANDY L. SMITH
DFTY

BK: RE 3161

PG: 1658-1660

SATISFACTION: The debt secured by the within Deed of Trust together with the note(s) secured thereby has been satisfied in full.

This the _____ day of _____, 20

Signed:

Recording: Time, Book and Page

Tax Lot No. _____ Parcel Identifier No. _____
Verified by _____ County on the _____ day of _____, 20
by _____

Mail after recording to: _____
This instrument prepared by Jeffrey J. Berg, Attorney, Lexington, NC. *Box 42*

Brief Description for the index 1 1/2 acre Tract, Michael Road

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Enter in appropriate block for each party: name address, and, if appropriate, character of entity, e.g. corporation or partnership

The designation Grantor, Trustee, and Beneficiary as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH, That whereas the Grantor is indebted to the Beneficiary in the principal sum of Fifty Four Thousand and no/100— Dollars (\$54,000.00), as evidenced by a Promissory Note of even date herewith, the terms of which are incorporated herein by reference. The final due date for payments of said Promissory Note, if not sooner paid, is January 1, 2024.

NOW, THEREFORE, as security for said indebtedness, advancements and other sums expended by Beneficiary pursuant to this Deed of Trust and costs of collection (including attorneys fees as provided in the Promissory Note) and other valuable consideration, the receipt of which is hereby acknowledged, the Grantor has bargained, sold, given and conveyed and does by these presents bargain, sell, give, grant and convey to said Trustee, his heirs, or successors, and assigns, the parcel(s) of land situated in the Davidson County, North Carolina, (the "Premises") and more particularly described as follows:

Beginning at a persimmon, thence about North 11-1/2 rods to a stone; thence about East 20 rods to a poplar tree; thence about South 12 rods to a stone on J.E. Everhart's line; thence about West 20 rods and 10 ft to the beginning, containing 1-1/2 acres more or less.

TO HAVE AND TO HOLD said Premises with all privileges and appurtenances thereunto belonging, to said Trustee, his heirs, successors, and assigns forever, upon the trusts, terms and conditions, and for the uses hereinafter set forth.

If the Grantor shall pay the Note secured hereby in accordance with its terms, together with interest thereon, and any renewals or extensions thereof in whole or in part, all other sums secured hereby and shall comply with all of the covenants, terms and conditions of this Deed of Trust, then this conveyance shall be null and void and may be canceled of record at the request and the expense of the Grantor. If, however, there shall be any default (a) in the payment of any sums due under the Note, this Deed of Trust or any other instrument securing the Note and such default is not cured within ten (10) days from the due date, or (b) if there shall be default in any of the other covenants, terms or conditions of the Note secured hereby, or any failure or neglect to comply with the covenants, terms or conditions contained in this Deed of Trust or any other instrument securing the Note and such default is not cured within fifteen (15) days after written notice, then and in any of such events, without further notice, it shall be lawful for and the duty of the Trustee, upon request of the Beneficiary, to sell the land herein conveyed at public auction for cash, after having first giving such notice of hearing as to commencement of foreclosure proceedings and obtained such findings or leave of court as may then be required by law and giving such notice and advertising the time and place of such sale in such manner as may then be provided by law, and upon such and any resales and upon compliance with the law then relating to foreclosure proceedings under power of sale to convey title to the purchaser in as full and ample manner as the Trustee is empowered. The Trustee shall be authorized to retain an attorney to represent him in such proceedings.

The proceeds of the Sale shall after the Trustee retains his commission, together with reasonable attorneys fees incurred by the Trustee in such proceedings, be applied to the costs of sale, including, but not limited to, costs of collection, taxes, assessments, costs of recording, service fees and incidental expenditures, the amount due on the Note hereby secured and advancements and other sums expended by the Beneficiary according to the provisions hereof and otherwise as required by the then existing law relating to foreclosures. The Trustee's commission shall be five percent (5%) of the gross proceeds of the sale or the minimum sum of \$500.00 whichever is greater, for a completed foreclosure. In the event foreclosure is commenced, but not completed, the Grantor shall pay all expenses incurred by Trustee, including reasonable attorneys fees, and a partial commission computed on five per cent (5%) of the outstanding indebtedness or the above stated minimum sum, whichever is greater, in accordance with the following schedule, to-wit: one-fourth (¼) thereof before the Trustee issues a notice of hearing on the right to foreclosure; one-half (½) thereof after issuance of said notice, three-fourths (¾) thereof after such hearing; and the greater of the full commission or minimum sum after the initial sale.

And the said Grantor does hereby covenant and agree with the Trustee as follows:

1. **INSURANCE.** Grantor shall keep all improvements on said land, now or hereafter erected, constantly insured for the benefit of the Beneficiary against loss by fire, windstorm and such other casualties and contingencies, in such manner and in such companies and for such amounts, not less than that amount necessary to pay the sum secured by this Deed of Trust, and as may be satisfactory to the Beneficiary. Grantor shall purchase such insurance, pay all premiums therefor, and shall deliver to Beneficiary such policies along with evidence of premium payments as long as the Note secured hereby remains unpaid. If Grantor fails to purchase such insurance, pay premiums therefor or deliver said policies along with evidence of payment of premiums thereon, then Beneficiary, at his option, may purchase such insurance. Such amounts paid by Beneficiary shall be added to the principal of the Note secured by this Deed of Trust, and shall be due and payable upon demand of Beneficiary. All proceeds from any insurance so maintained shall at the option of Beneficiary be applied to the debt secured hereby and if payable in installments, applied in the inverse order of maturity of such installments or to the repair or reconstruction of any improvements located upon the Property.

2. **TAXES, ASSESSMENTS, CHARGES.** Grantor shall pay all taxes, assessments and charges as may be lawfully levied against said Premises within thirty (30) days after the same shall become due. In the event that Grantor fails to so pay all taxes, assessments and charges as herein required, then Beneficiary, at his option, may pay the same and the amounts so paid shall be added to the principal of the Note secured by this Deed of Trust, and shall be due and payable upon demand of Beneficiary.

3. **ASSIGNMENTS OF RENTS AND PROFITS.** Grantor assigns to Beneficiary, in the event of default, all rents and profits from the land and any improvements thereon, and authorizes Beneficiary to enter upon and take possession of such land and improvements, to rent same, at any reasonable rate of rent determined by Beneficiary, and after deducting from any such rents the cost of reletting and collection, to apply the remainder to the debt secured hereby.

4. **PARTIAL RELEASE.** Grantor shall not be entitled to the partial release of any of the above described property unless a specific provision providing therefor is included in this Deed of Trust. In the event a partial release provision is included in this Deed of Trust, Grantor must strictly comply with the terms thereof. Notwithstanding anything herein contained, Grantor shall not be entitled to any release of property unless Grantor is not in default and is in full compliance with all of the terms and provisions of the Note, this Deed of Trust, and any other instrument that may be securing said Note.

5. **WASTE.** The Grantor covenants that he will keep the Premises herein conveyed in as good order, repair and condition as they are now, reasonable wear and tear excepted, and will comply with all governmental requirements respecting the Premises or their use, and that he will not commit or permit any waste.

6. **CONDEMNATION.** In the event that any or all of the Premises shall be condemned and taken under the power of eminent domain, Grantor shall give immediate written notice to Beneficiary and Beneficiary shall have the right to receive and collect all damages awarded by reason of such taking, and the right to such damages hereby is assigned to Beneficiary who shall have the discretion to apply the amount so received, or any part thereof, to the indebtedness due hereunder and if payable in installments, applied in the inverse order of maturity of such installments, or to any alteration, repair or restoration of the Premises by Grantor.

7. **WARRANTIES.** Grantor covenants with Trustee and Beneficiary that he is seized of the Premises in fee simple, has the right to convey the same in fee simple, that title is marketable and free and clear of all encumbrances, and that he will warrant and defend the title against the lawful claims of all persons whomsoever, except for the exceptions hereinafter stated. Title to the property hereinabove described is subject to the following exceptions:

8. **SUBSTITUTION OF TRUSTEE.** Grantor and Trustee covenant and agree to and with Beneficiary that in case the said Trustee, or any successor trustee, shall die, become incapable of acting, renounce his trust, or for any reason the holder of the Note desires to replace said Trustee, then the holder may appoint, in writing, a trustee to take the place of the Trustee; and upon the probate and registration of the same, the trustee thus appointed shall succeed to all rights, powers and duties of the Trustee.

X

THE FOLLOWING PARAGRAPH, 9. SALE OF PREMISES, SHALL NOT APPLY UNLESS THE BLOCK TO THE LEFT MARGIN OF THIS SENTENCE IS MARKED AND/OR INITIALED.

9. **SALE OF PREMISES.** Grantor agrees that if the Premises or any part thereof or interest therein is sold, assigned, transferred, conveyed or otherwise alienated by Grantor, whether voluntarily or involuntarily or by operation of law [other than: (i) the creation of a lien or other encumbrance subordinate to this Deed of Trust which does not relate to a transfer of rights of occupancy in the Premises; (ii) the creation of a purchase money security interest for household appliances; (iii) a transfer by devise, descent, or operation of law on the death of a joint tenant or tenant by the entirety; (iv) the grant of a leasehold interest of three (3) years or less not containing an option to purchase; (v) a transfer to a relative resulting from the death of a Grantor; (vi) a transfer where the

spouse or children of the Grantor become the owner of the Premises; (vii) a transfer resulting from a decree of a dissolution of marriage, legal separation agreement, or from an incidental property settlement agreement, by which the spouse of the Grantor becomes an owner of the Premises; (viii) a transfer into an inter vivos trust in which the Grantor is and remains a beneficiary and which does not relate to a transfer of rights of occupancy in the Premises], without the prior written consent of Beneficiary, Beneficiary, at its own option, may declare the Note secured hereby and all other obligations hereunder to be forthwith due and payable. Any change in the legal or equitable title of the Premises or in the beneficial ownership of the Premises, including the sale, conveyance or disposition of a majority interest in the Grantor if a corporation or partnership, whether or not of record and whether or not for consideration, shall be deemed to be the transfer of an interest in the Premises.

10. ADVANCEMENTS. If Grantor shall fail to perform any of the covenants or obligations contained herein or in any other instrument given as additional security for the Note secured hereby, the Beneficiary may, but without obligation, make advances to perform such covenants or obligations, and all such sums so advanced shall be added to the principal sum, shall bear interest at the rate provided in the Note secured hereby for sums due after default and shall be due from Grantor on demand of the Beneficiary. No advancement or anything contained in this paragraph shall constitute a waiver by Beneficiary or prevent such failure to perform from constituting an event of default.

11. INDEMNITY. If any suit or proceeding be brought against the Trustee or Beneficiary or if any suit or proceeding be brought which may affect the value or title of the Premises, Grantor shall defend, indemnify and hold harmless and on demand reimburse Trustee or Beneficiary from any loss, cost, damage or expense and any sums expended by Trustee or Beneficiary shall bear interest as provided in the Note secured hereby for sums due after default and shall be due and payable on demand.

12. WAIVERS. Grantor waives all rights to require marshaling of assets by the Trustee or Beneficiary. No delay or omission of the Trustee or Beneficiary in the exercise of any right, power or remedy arising under the Note or this Deed of Trust shall be deemed a waiver of any default or acquiescence therein or shall impair or waive the exercise of such right, power or remedy by Trustee or Beneficiary at any other time.

13. CIVIL ACTION. In the event that the Trustee is named as a party to any civil action as Trustee in this Deed of Trust, the Trustee shall be entitled to employ an attorney at law, including himself if he is a licensed attorney, to represent him in said action and the reasonable attorney's fee of the Trustee in such action shall be paid by the Beneficiary and added to the principal of the Note secured by this Deed of Trust and bear interest at the rate provided in the Note for sums due after default.

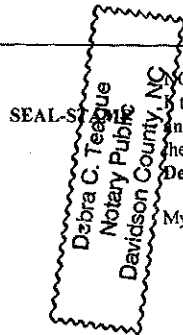
14. PRIOR LIENS. Default under the terms of any instrument secured by a lien to which this Deed of Trust is subordinate shall constitute default hereunder.

15. OTHER TERMS.

IN WITNESS WHEREOF, the Grantor has hereunto set his hand and seal, or if corporate, has caused this instrument to be signed in its corporate name by its duly authorized officers and its seal to be hereunto affixed by authority of its Board of Directors, the day and year first above written.

Wilmer Geovany Cruz (SEAL)
Wilmer Geovany Cruz

Rosa Amelia Amador Cardenas (SEAL)
Rosa Amelia Amador Cardenas



NORTH CAROLINA, Davidson County.

I, the undersigned, a Notary Public of the County and state aforesaid, certify that Wilmer Geovany Cruz, and Rosa Amelia Amador Cardenas Grantors, personally appeared before me this day and acknowledged the execution of the foregoing instrument. Witness my hand and official stamp or seal, this 31st day of December, 2013.

My commission expires: 7/14/2016

Debra C. Teague Notary Public



2014004021 00129

FORSYTH CO, NC FEE \$26.00
PRESENTED & RECORDED:

02-03-2014 01:29:00 PM

C. NORMAN HOLLEMAN
REGISTER OF DEEDS
BY: OLIVIA DOYLE

ASST

BK: RE 3165

PG: 1079-1079

State of North Carolina
County of Forsyth

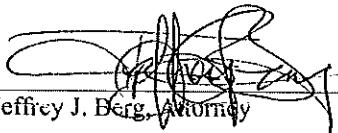
Berg Box 42

Affidavit for Refund of Real Estate Excise Tax

On this 15th day of January, 2014, the undersigned, who, being duly sworn on his oath, in conjunction with the payment of \$120.00 in real estate excise tax on a deed at Deed Book 3161, Page 1655, did say that:

1. On January 2, 2014, my office recorded a deed in Forsyth County from James David Owen and wife, Linda J. Owen to Wilmer Geovany Cruz and wife, Rosa Amelia Amador Cardenas. This deed is recorded at Deed Book 3161, Page 1655. Recording with this deed was a Deed of Trust (Deed Book 3161, Page 1658).
2. The real estate excise tax paid on the deed at Deed Book 3161, Page 1655 was \$120.00.
3. Unfortunately, the documents were inadvertently recorded in Forsyth County rather than the proper county which was Davidson County,
4. Once the recording error was realized, the above referenced two original documents were properly recorded in Davidson County. The Davidson County recorded deed is at Deed Book, 2129, Page 2031 and the Deed of Trust is at Deed Book 2129, Page 2034. The \$120.00 real estate excise tax on the deed and all related recording fees were paid to Davidson County out of my office account.
5. It is respectfully requested that the \$120.00 inadvertently paid to Forsyth County on January 2, 2014 be refunded to: Jeffrey J. Berg, so that it can be placed back into my office account.


This the 15th day of January, 2014.


Jeffrey J. Berg, Attorney

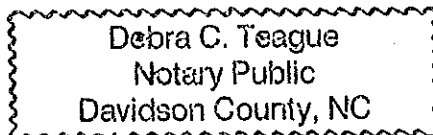
State of North Carolina
Davidson County

I, Debra C. Teague, a Notary Public in and for Davidson County, State of North Carolina, do hereby certify that Jeffrey J. Berg, personally appeared before me this day and acknowledged the execution of the foregoing Affidavit.

Witness my hand and Notarial Seal, this the day of 15th day of January, 2013.

 (Seal)
Notary Public

My Commission Expires: 7/14/2016



Forsyth County Register of Deeds

Forsyth County Government Center • WINSTON-SALEM, NORTH CAROLINA 27101-4120
Telephone 336 703 2701 • Fax 336 703 8599 • E-Mail no-reply@bislandrecords.com

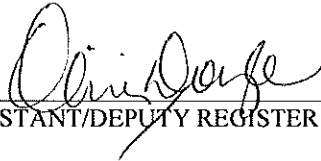
State of North Carolina, County of Forsyth

I certify that this is a true and accurate copy which appears on record in the office of the Register of Deeds of Forsyth County, North Carolina in Book 3165 Page 1079.

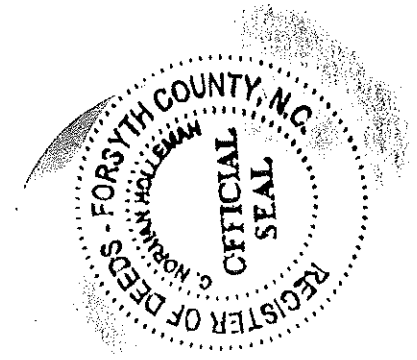
Witness my hand and seal this 3rd day of FEBRUARY 2014.

C. NORMAN HOLLEMAN, REGISTER OF DEEDS

By: _____



OLIVIA DOYLE, ASSISTANT/DEPUTY REGISTER OF DEEDS



THIS CERTIFICATION SHEET IS A PART OF THE DOCUMENT.