

# **REQUEST FOR BOARD ACTION**

## **HENDERSON COUNTY**

### **BOARD OF COMMISSIONERS**

**MEETING DATE:** 2 August 2010

**SUBJECT:** West request for refund of deed excise tax

**ATTACHMENT(S):** Affidavit

#### **SUMMARY OF REQUEST:**

Attorney D. Samuel Neill has requested, on behalf of Fred E. West and wife, Doris M. West, the refund of the sum of Three Hundred Dollars (\$300.00) in real property conveyance excise tax ("deed stamps"). The deed in question represented real estate located in Transylvania County, not Henderson County, but was incorrectly recorded in the Henderson County Register of Deeds Office.

Pursuant to N.C. Gen. Stat. § 105-228.37, a request for refund of overpayment of real property conveyance excise tax must be made within six months of the date of payment. The payment was made on or about 17 April 2010. The Henderson County Register of Deeds Office was first notified of the alleged overpayment by letter from Mr. Neill shortly thereafter. An Affidavit of Correction was filed with the Register of Deeds 26 May 2010. A letter to the Board of Commissioners to the same effect was received 20 July 2010, and the person making the request has agreed to waive notice (see below) of the consideration of their request.

If the Board determines that a refund is in order, the refund will be of the County's portion (1/2) of the tax paid, plus interest.

County staff will be present and prepared if requested to give further information on this matter.

#### **BOARD ACTION REQUESTED:**

Approval of the refund.

If the Board is so inclined, the following motion is suggested:

***I move that the Board grant the refund requested insofar as it conforms to the requirements of N.C. Gen. Stat. §105-228.37(b).***

B1430 P428

FILED IN HENDERSON COUNTY REGISTER OF DEEDS  
OFFICE. NEDRA W. MOLES, REGISTER *ch*DATE: 5/26/10 TIME: 11:10 AM

EXCISE TAX STAMP: \_\_\_\_\_

BOOK: 1430 PAGE: 428STATE OF NORTH CAROLINA  
COUNTY OF HENDERSON**Affidavit of Correction**

Comes now, D. Samuel Neill, Attorney, after being duly sworn and states the following:

1. On April 17, 2010 my office prepared a deed for West Rentals, a sole proprietorship, Fred E. West and wife, Doris M. West conveying property to Hector Refugio Flores Lopez and wife Teresa Rocha Martinez for property located in Brevard, NC.
2. This deed was incorrectly recorded in Henderson County in Deed Book 1427 at Page 591.
3. Excise tax of \$300.00 was incorrectly paid to Henderson County.
4. This property is located in Transylvania and this deed should have been presented in Transylvania County for recording.
5. By copy of this Affidavit of Correction, I am requesting that the \$300.00 in excise tax paid to Henderson County in error be returned to my office so that this deed can be recorded correctly in Transylvania County and the excise tax be paid there.

Further the affiant sayeth naught.

This the 26<sup>th</sup> day of May, 2010.  
D. Samuel Neill (SEAL)Sworn to and subscribed before me  
this 26<sup>th</sup> day of May, 2010. Notary PublicNotary Public  
Henderson County, NC  
Linda B WalkerMy commission expires: 8/21/2010