

# REQUEST FOR BOARD ACTION

## HENDERSON COUNTY

### BOARD OF COMMISSIONERS

**MEETING DATE:** 3 February 2020

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

**ATTACHMENT(S):** Request letter; copies of deeds; waiver of notice

**SUMMARY OF REQUEST:**

Attorney A. Scott McDuffie has requested, on behalf of Thomas A. Ruchalski and wife, Shari A. Ruchalski, the refund of the sum of Three Hundred Twenty Dollars (\$320.00) in real property conveyance excise tax (“deed stamps”). The deed in question represented real estate located in Buncombe County, not Henderson County, but was first 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 December 9, 2019. A letter to the Board of Commissioners requesting refund and waiving notice of the Board’s hearing of the consideration of their request.

If the Board determines that a refund is in order, the refund will be of the amount of the excise tax paid.

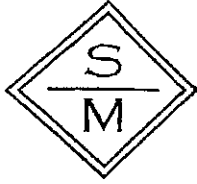
County staff will be present and prepared if requested to give further information on this matter.

**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).***



**MCDUFFEY LAW FIRM, PLLC**

A. SCOTT MCDUFFEY  
ATTORNEY AT LAW

OFFICE@MCDUFFEYLAW.COM  
WWW.MCDUFFEYLAW.COM

317 BANNER FARM ROAD, SUITE A  
MILLS RIVER, NC 28759

PHONE  
828.674.4802

January 6, 2020

Henderson County Attorney  
Charles Russell Burrell  
1 Historic Courthouse Square  
Suite #5  
Hendersonville, NC 28792

Re: Refund of Transfer Tax Paid to Wrong County in Error

Dear Mr. Burrell:

On December 9 2019 at 01:38 pm my office recorded a deed for Thomas S. Ruchalski and wife Shari A. Ruchalski in the Office of the Register of Deeds for Henderson County in error. The deed was recorded in Book 3424 at Page 153-155 and a copy of the same is attached hereto for your reference.

At the time this deed was recorded Transfer Tax in the amount of \$320.00 was paid.

Realizing that the property described in the above referenced deed was actually located in Buncombe County, we retrieved the original document from the Henderson County Registrar and re recorded the deed in the correct County.

Attached is a copy of the same deed described above that was rerecorded in Buncombe County on Thursday January 2, 2020 at 3:35:47 PM in Book 5850 at Page 1124-1126 in the Office of the Register of Deeds for Buncombe County.

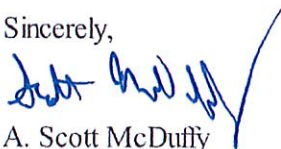
At the time of the rerecording, we again paid the Transfer Tax of \$320.00.

I would like to request, pursuant to the procedure set forth in North Carolina General Statute § 105-228.37, that the \$320.00 paid in error to the Henderson County Register of Deeds be refunded.

If any other information is required, I can be reached on my cell 828-674-4802 at any time.

I appreciate your consideration of this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "A. Scott McDuffy". The signature is stylized with a large, sweeping flourish at the end.

A. Scott McDuffy

BK 5850 PG 1124 - 1126

There are no delinquent taxes that are a lien  
the parcel(s) described in the deed which the  
Buncombe County Tax Collector is charged  
with collecting.

01-02-2020  
Date

Michelle Warner  
Deputy Tax Collector

**NORTH CAROLINA GENERAL WARRANTY DEED**

Excise Tax: \$320.00

Parcel Identifier No. \_\_\_\_\_ Verified by \_\_\_\_\_ County on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_  
By: \_\_\_\_\_

Mail/Box to: McDuffy Law Firm, PLLC

This instrument was prepared by: Atty. Scott McDuffy, 317 Banner Farm Rd. Ste. A, Mills River, NC 28759

2019 taxes are paid and there are no delinquent taxes. Delinquent taxes, if any, are to be paid by the closing attorney to the county tax collector upon disbursements of the closing proceeds.

Brief description for the Index: Lot 27 Grand Highlands at Waterford Lakes

THIS DEED made this 6 day of December 2019, by and between

GRANTOR

DANIEL STILLMAN and wife  
MICHELLE STILLMAN

2 Tuckaway Dr.  
Asheville, NC 28803

GRANTEE

THOMAS S. RUCHALSKI and wife  
SHARI A. RUCHALSKI,

855 70<sup>th</sup> Street (Gulf)  
Marathon, FL 33050

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 Buncombe County, North Carolina and more particularly described as follows:

**SEE ATTACHED EXHIBIT A**

The property hereinabove described was acquired by Grantor by instrument recorded in Book 5118 page 1708.  
All or a portion of the property herein conveyed \_\_\_\_\_ includes or X does not include the primary residence of a Grantor.  
A map showing the above described property is recorded in Plat Book 136 at Page 137.

NC Bar Association Form No. 3 © 1976, Revised © 1977, 2002  
Printed by Agreement with the NC Bar Association – 1981 - Chicago Title Insurance Company

submitted electronically by "The McDuffy Law Firm"  
in compliance with North Carolina statutes governing recordable documents  
and the terms of the submitter agreement with the Buncombe County Register of Deeds.


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, other than the following exceptions:

**Subject to Buncombe County ad valorem taxes.**

**Subject to Restrictions, Easements, and Rights of Way of Record.**

IN WITNESS WHEREOF, the Grantor has duly executed the foregoing as of the day and year first above written.

  
 \_\_\_\_\_ (SEAL)  
 DANIEL STILLMAN

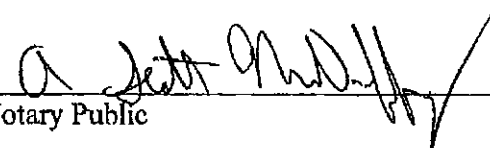
  
 \_\_\_\_\_ (SEAL)  
 MICHELLE STILLMAN

State of North Carolina - County of Henderson

I, the undersigned Notary Public of the County and State aforesaid, certify that DANIEL STILLMAN and wife MICHELLE STILLMAN personally appeared before me this day and acknowledged the due execution of the foregoing instrument for the purposes therein expressed. Witness my hand and Notarial stamp or seal this 6<sup>th</sup> day of December, 2019.

My Commission Expires: 11-9-2024

(Seal)

  
 \_\_\_\_\_  
 Notary Public

A Scott McDuff  
 \_\_\_\_\_  
 Print Name

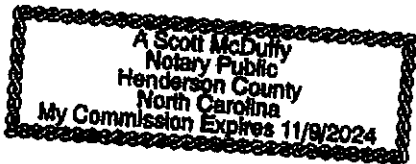


Exhibit A

Being all of Lot 27 of Grand Highlands of Waterford Lakes as shown on that plat recorded in Plat Book 136, at page 137 of the Buncombe County, NC Register's office ("Registry"), reference to which Plat is hereby made for a particular description of said Lot.

Together with those rights of way as set forth on the above-described plat and upon those plats of Grand Highland at Waterford Lakes and document of record as the same lead from the aforesaid Lot 27 to the nearest publicly maintained right-of-way.

Further, the above described lot is conveyed together with and subject to that Declaration of Terms, Conditions, Restrictions and Protective Covenants for Grand Highlands at Waterford Lakes as recorded in Record Book 4346 at Page 1517, and as amended in Record Book 5035 at Page 103 and Record Book 5035 at Page 121 any further amendments thereto, all of aforesaid Buncombe County, North Carolina Public Registry.

The above-described Lot is a portion of the property described in that deed recorded in Record Book 5060, at Page 924 of the aforesaid Buncombe County, North Carolina Public Registry.

BK 3424 PG 153 - 155 (3)

DOC# 916099

This Document eRecorded:

12/09/2019 01:38:17 PM

Fee: \$26.00

Henderson County, North Carolina  
William Lee King, Register of Deeds

**NORTH CAROLINA GENERAL WARRANTY DEED**

Excise Tax: \$320.00

Parcel Identifier No. \_\_\_\_\_ Verified by \_\_\_\_\_ County on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_  
By: \_\_\_\_\_

Mail/Box to: McDuffy Law Firm, PLLC

This instrument was prepared by: Atty. Scott McDuffy, 317 Banner Farm Rd. Ste. A, Mills River, NC 28759

Brief description for the Index: Lot 27 Grand Highlands at Waterford Lakes

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**GRANTOR**

**DANIEL STILLMAN and wife  
MICHELLE STILLMAN**

**2 Tuckaway Dr.  
Asheville, NC 28803**

**GRANTEE**

**THOMAS S. RUCHALSKI and wife  
SHARI A. RUCHALSKI,**

**855 70<sup>th</sup> Street (Gulf)  
Marathon, FL 33050**

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 Buncombe County, North Carolina and more particularly described as follows:

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Submitted electronically by "The McDuffy Law Firm"  
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and the terms of the submitter agreement with the Henderson County Register of Deeds.

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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, other than the following exceptions:

Subject to Buncombe County ad valorem taxes.  
Subject to Restrictions, Easements, and Rights of Way of Record.

IN WITNESS WHEREOF, the Grantor has duly executed the foregoing as of the day and year first above written.

[Signature] (SEAL)  
DANIEL STILLMAN

[Signature] (SEAL)  
MICHELLE STILLMAN

State of North Carolina - County of Henderson

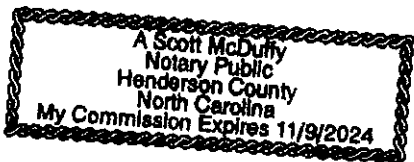
I, the undersigned Notary Public of the County and State aforesaid, certify that DANIEL STILLMAN and wife MICHELLE STILLMAN personally appeared before me this day and acknowledged the due execution of the foregoing instrument for the purposes therein expressed. Witness my hand and Notarial stamp or seal this 6<sup>th</sup> day of December, 2019.

My Commission Expires: 11-9-2024

(Seal)

[Signature]  
Notary Public

A Scott McDuffy  
Print Name





## Exhibit A

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## **Russ Burrell**

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**From:** McDuffy Law Firm <office@mcduffy.com>  
**Sent:** Thursday, January 9, 2020 3:08 PM  
**To:** Russ Burrell  
**Subject:** Re: Ruchalski

Mr. Burrell,

Regarding my request for the refund of the \$320.00 in excise tax that I paid to Henderson County in error for the deed to Thomas S. Ruchalski and wife Shari A. Ruchalski recorded in Book 3424 at page 153-155, Henderson County Registry, I do hereby waive any and all notice requirements imposed by North Carolina General Statute 105-228.37.

## **Scott McDuffy McDuffy Law Firm**

317 Banner Farm Rd. Ste A  
Mills River, NC 28759  
Office: (828) 674-4802  
Fax: (828) 435-2662  
[www.mcduffy.com](http://www.mcduffy.com)



**BEFORE SENDING ANY WIRE, CALL OUR OFFICE TO VERIFY THE INSTRUCTIONS. WE WILL NOT CHANGE WIRING INSTRUCTIONS. IF YOU RECEIVE WIRING INSTRUCTIONS FOR A DIFFERENT BANK, BRANCH LOCATION, ACCOUNT NAME OR ACCOUNT NUMBER, THEY SHOULD BE PRESUMED TO BE FRAUDULENT. DO NOT SEND ANY FUNDS AND CONTACT OUR OFFICE IMMEDIATELY. FAILURE TO FOLLOW THIS PROCEDURE ENDANGERS YOUR FUNDS.**

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