

# REQUEST FOR BOARD ACTION

## HENDERSON COUNTY

### BOARD OF COMMISSIONERS

**MEETING DATE:** February 1, 2021

**SUBJECT:** Van Winkle Law Firm request for refund of deed excise tax

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

**SUMMARY OF REQUEST:**

Attorney Michael M. Thompson has requested, on behalf of The Van Winkle Law Firm, the refund of the sum of Four Hundred Twenty-Nine Dollars (\$429.00) in real property conveyance excise tax (“deed stamps”). The instrument in question was recorded with an incorrect amount of excise tax stamps fee paid. The instrument can be found at Henderson County Book 3602, Page 411, *et al.* These details have been verified by Lee King, Register of Deeds.

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 November 5, 2020. A letter to the Board of Commissioners requesting refund is attached, as is an email waiving further notice of your determination in this matter.

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).***



THE  
VAN WINKLE  
LAW FIRM

January 22, 2021

Charles Russell Burrell  
County Attorney for Henderson County, North Carolina  
1 Historic Courthouse Sq, Suite 5  
Hendersonville, NC 28792

RE: Petition for Refund of Overpayment of Taxes and Fees on Lots B, E, Cart Family  
Tract Lake Summit, Zirconia, NC 28790  
Our File #48778-0001- MMT

Dear Russ,

This letter constitutes my petition for refund of overpayment of taxes and fees, citing N.C. G.S. 105-228.37 for a transaction recorded in Henderson County, North Carolina. I have enclosed a copy of the North Carolina Special Warranty Deed transferring the subject property from LUCILE C. BOYLE AND SOUTH STATE BANK, N.A. formerly known as SOUTH CAROLINA BANK AND TRUST, NATIONAL ASSOCIATION, AS CO-TRUSTEES OF THE WALTER MONTGOMERY CART GST-EXEMPT TRUST FBO LUCILE C. BOYLE And KATHARINE C. CRAWFORD, And husband, JOHN M. CRAWFORD to KATHARINE C. CRAWFORD, And husband, JOHN M. CRAWFORD recorded in Henderson County Register of Deeds in Deed Book 3602 Page 714 and corrected and re-recorded in Deed Book 3639 Page 410, Henderson County Registry. I have also enclosed the cost printout from the Simplifile website that gives the breakdown of costs for recording in Henderson County, North Carolina.

This transaction was recorded in Henderson County, North Carolina with the incorrect excise tax stamps on the deed. The correct amount of tax stamps for this transaction should have been \$393.00 and copies with recording information and costs for recording in Henderson County, North Carolina have also been included.

I respectfully request a refund of the costs of the erroneous recording in the amount of \$429.00. Thank you for your consideration and please do not hesitate to contact me should you have any questions.

Sincerely yours

Michael M. Thompson

4852-0827-4648, v. 1

**E-recording Report of Recorded Documents**

Itemized Fee View

Prepared for: Van Winkle Law Firm (NCTPTK)

Cost center: NCTPTK

Report generated: 01/21/2021 01:51 PM MST

**Documents Recorded**

NAME	TYPE	PG	ENTRY	RECORD DATE	AMT	SF	TOTAL	PROCESSED	
<b>Henderson County, NC</b>									
<b>Nov 20, 2020</b>									
<b>Cart-48778-0001</b>									
2020_11_20_09_38_58	DEED	5	E 938689 B 3602 P 714	11/20/2020 10:18 AM EST	Excise Tax Recording Fee Portal Fee	822.00 26.00 2.00	Submission Fee 0.00 0.00	827.00 26.00 2.00	11/20/2020 11/20/2020 11/20/2020
						<b>850.00</b>	<b>5.00</b>	<b>855.00</b>	
2020_11_20_09_38_34	DEED	5	E 938690 B 3603 P 001	11/20/2020 10:18 AM EST	No fee Recording Fee Portal Fee	0.00 26.00 2.00	Submission Fee 0.00 0.00	5.00 26.00 2.00	11/20/2020 11/20/2020 11/20/2020
						<b>28.00</b>	<b>5.00</b>	<b>33.00</b>	
<b>Totals for Henderson County, NC</b>						<b>878.00</b>	<b>10.00</b>	<b>888.00</b>	

**Recording Fee Totals**

COUNTY	RECORD DATE	AMT	SF	TOTAL
Henderson County, NC	11/20/2020	878.00	10.00	888.00
<b>Totals for Henderson County, NC</b>		<b>878.00</b>	<b>10.00</b>	<b>888.00</b>
<b>Total of All Recording Fees</b>		<b>878.00</b>	<b>10.00</b>	<b>888.00</b>

Document Count: 2

Package Count: 1

**Questions Contact:**

Simplifile Support 800.460.5657, option 3

5072 North 300 West

Provo, UT 84604



This document presented and filed:  
01/22/2021 10:46:11 AM

**COPY**

*wlk*

WILLIAM LEE KING, Henderson COUNTY, NC

**CORRECTIVE OR SCRIVENER'S AFFIDAVIT FOR NOTICE OF TYPOGRAPHICAL OR OTHER MINOR ERROR**  
[N.C.G.S. 47-36.1]

Prepared By and Return To: Van Winkle, Buck, Wall, Starnes, and Davis, P.A. (MMT)  
422 S. Main St, Hendersonville, NC 28792

The undersigned Affiant, being first duly sworn, hereby swears or affirms that the North Carolina Special Warranty Deed recorded on November 20, 2020 in Deed Book 3602, Pages 714, of the Office of the Register of Deeds, Henderson County, North Carolina, by and between LUCILE C. BOYLE AND SOUTH STATE BANK, N.A. formerly known as SOUTH CAROLINA BANK AND TRUST, NATIONAL ASSOCIATION, AS CO-TRUSTEES OF THE WALTER MONTGOMERY CART GST-EXEMPT TRUST FBO LUCILE C. BOYLE And KATHARINE C. CRAWFORD, And husband, JOHN M. CRAWFORD, Grantors, and KATHARINE C. CRAWFORD, And husband, JOHN M. CRAWFORD, as Grantees, contained the following typographical or other minor errors(s); and this Affidavit is made to give notice of the below corrective information.

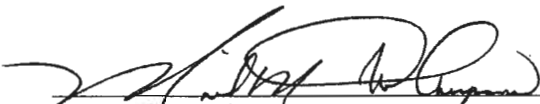
The previously recorded North Carolina Special Warranty Deed provided an erroneous excise tax of \$822.00.

Affiant makes this Affidavit for the purpose of correcting the above-described instrument as follows:

The corrected excise tax should read \$393.00 on the North Carolina Special Warranty Deed recorded on 11/20/2020 in Deed Book 3602 Page 714, Henderson County Registry.

Affiant is knowledgeable of the agreement and the intention of the parties in this regard. Affiant is the (check one)

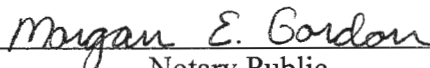
- Drafter or preparer of the previously recorded instrument
- Closing attorney for transaction involving the previously recorded instrument
- Attorney for grantor/mortgagor named above in the previously recorded instrument
- Owner of the property described in the previously recorded instrument
- Other (Explain: \_\_\_\_\_)

  
\_\_\_\_\_  
Michael M. Thompson, Attorney

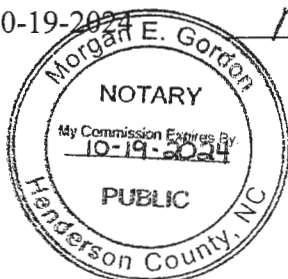
State of North Carolina  
County of Henderson

Signed and sworn to (or affirmed) before me, this the 22 day of January, 2021.

My Commission Expires: 10-19-2024

  
\_\_\_\_\_  
Morgan E. Gordon  
Notary Public

SEAL/ STAMP  
4837-0553-4168, v. 1



**NORTH CAROLINA SPECIAL WARRANTY DEED**

Excise Tax \$ ~~327.00~~ 393.00 <sup>MMT</sup>

Parcel Identifier No.

Mail after recording to Van Winkle, Buck, Wall, Starnes & Davis, P.A. Attorney's Initials: MMT  
422 S. Main St. Hendersonville, NC 28792

This instrument was prepared by: Van Winkle, Buck, Wall, Starnes & Davis, P.A. DOC PREP ONLY

Brief description for the Index: Lots B, E, Cart Family Tract Lake Summit

THIS DEED made this 5<sup>th</sup> day of November 2020, by and between:

GRANTOR	GRANTEE
<p>LUCILE C. BOYLE AND SOUTH STATE BANK, N.A. formerly known as SOUTH CAROLINA BANK AND TRUST, NATIONAL ASSOCIATION, AS CO-TRUSTEES OF THE WALTER MONTGOMERY CART GST-EXEMPT TRUST FBO LUCILE C. BOYLE And KATHARINE C. CRAWFORD, And husband, JOHN M. CRAWFORD</p>	<p>KATHARINE C. CRAWFORD, And husband, JOHN M. CRAWFORD  927 Middle Street Sullivan's Island, SC 29482</p>

Enter in appropriate block for each Grantor and Grantee: name, mailing 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.

*This instrument was prepared by Michael M. Thompson, a licensed North Carolina attorney. Delinquent taxes, if any, to be paid by the closing attorney to the county tax collector upon disbursement of closing proceeds.*

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

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

**SEE EXHIBIT A ATTACHED HERETO AND  
INCORPORATED HEREIN BY REFERENCE**

The property hereinabove described was acquired by Grantor by instrument recorded in Deed Book 1446 at Page 126 and Book 1446 Page 117, Henderson County Registry.

All or a portion of the property herein conveyed does not include the primary residence of a Grantor.

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

And the Grantor covenants with the Grantee, that Grantor has done nothing to impair such title as Grantor received, and Grantor will warrant and defend the title against the lawful claims of all persons claiming by, and under or through Grantor, except for the exceptions hereinafter stated.

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

Easements, covenants, conditions and restrictions of record; 2020 ad valorem taxes; and utilities physically located on the property

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

**SOUTH STATE BANK, N.A. formerly known as SOUTH CAROLINA BANK AND TRUST,  
NATIONAL ASSOCIATION AS CO-TRUSTEE OF THE WALTER MONTGOMERY CART GST-  
EXEMPT TRUST FBO LUCILE C. BOYLE**

By: *M. Franklin Sanders*  
Marion Franklin Sanders, J. D., CTFA  
Title: Senior Vice President

**STATE OF SOUTH CAROLINA  
COUNTY OF SPARTANBURG**

I, *Lynne E. Moore*, a Notary Public of the County and State aforesaid, certify that Marion Franklin Sanders personally came before me this day and acknowledged that he is Senior Vice President of **SOUTH STATE BANK, N.A. formerly known as SOUTH CAROLINA BANK AND TRUST, NATIONAL ASSOCIATION AS CO-TRUSTEE OF THE WALTER MONTGOMERY CART GST-EXEMPT TRUST FBO LUCILE C. BOYLE** and that he/she being authorized as such to do so, executed the foregoing on behalf of the Association. *This November 5, 2020.*

My commission expires: *May 2023*

*Lynne E. Moore*  
Notary Public



Lucile C. Boyle (SEAL)

**LUCILE C. BOYLE, AS CO-TRUSTEE OF THE  
WALTER MONTGOMERY CART GST-EXEMPT TRUST  
FBO LUCILE C. BOYLE**

STATE OF South Carolina  
COUNTY OF Spartanburg

I, Lynne C. Monroe, a Notary Public of the County and State aforesaid, certify that **LUCILE C. BOYLE, AS CO-TRUSTEE OF THE WALTER MONTGOMERY CART GST-EXEMPT TRUST/FBO LUCILE C. BOYLE**, personally appeared before me this day and acknowledged the execution of the foregoing instrument for the purposes therein expressed. Sworn to and subscribed to before me. Witness my hand and official stamp or seal, this 5<sup>th</sup> day of November 2020.

My commission expires: May 1 2023

Lynne C. Monroe  
Notary Public



## **EXHIBIT A**

**BEING all of Lots B and E as shown on that plat entitled "Plat of Minor Subdivision for Owners: Katharine Cart Crawford, Lucile Cart Boyle, and Walter Montgomery Cart, Jr." dated August 31, 2020 by C. O. Hampton & Company- Professional Land Surveyors Point File No. 2020011 and recorded in Plat Book 2020 Slide 12813, Henderson County Registry, reference to which is hereby made and incorporated for greater certainty of description.**

**Subject to easements, setback lines, right of ways and any other facts shown on that plat recorded in Plat Book 2020 Slide 12813, Henderson County Registry, reference to which is hereby made and incorporated herein for greater certainty of description.**

**BEING a portion of that property described in Deed Book 1191 at Page 223, Deed Book 1200 at Page 319, and Deed Book 1446 at Page 117, and Deed Book 3599 at Page 364, Henderson County Registry.**

**THIS PROPERTY IS CONVEYED TOGETHER WITH AND SUBJECT TO the following restrictions and easements:**

- 1. The presently existing structure that accommodates four garbage cans and located near the gravel circular drive at "L19" as shown on the above referenced plat shall continue in its presently existing location and shall be expanded to accommodate six garbage cans. The garbage cans are allocated as two for the owners of Lot A, two for the owners of Lot B, and two for the owners of Lot C.**
- 2. Subject to the rights of the owners of Lots A, B, E and F to the use of the presently existing rock walk, rock steps and rock wall located at the northeastern corner of Lot A and the northwestern corner of Lot B. The steps, wall and walk shall remain as located and the owners of Lots A, B, E and F may go upon the lands of the other for purposes of maintenance and repair of said wall, steps and/or walk.**
- 3. No structure shall be placed and/or constructed within 10 feet of the common boundary line between Lots A and B.**
- 4. The owners of Lots A, B, E and F are subject to a reciprocal view easement and are therefore prohibited from constructing, planting and/ or placing anything on their respective lots which would obstruct or impede the current lake view from the house located on Lot A and the house to be located on Lot B, the goal to provide clear unobstructed lake views from each house. Further, if requested by the owner of Lot A or B, the owner of Lot A and/or Lot B shall cut and trim any trees, bushes and/or vegetation that may impede the lake view from the other lot. The trimming shall be allowed if needed to protect the lakeview and the cost of the trimming and any maintenance shall be the responsibility of the party requesting said trimming.**
- 5. Together with and subject to those rights of way and driveways as shown on Plat Book 2020 Slide 12813, Henderson County Registry and described in Deed Book 1043 Page 670, Henderson County Registry, reference to said plat and deed being hereby made and incorporated herein for greater certainty of description.**

**Parcels 9961593 & 9961596**

4842-7600-4304, v. 1



**From:** [Michael M. Thompson](#)  
**To:** [Russ Burrell](#)  
**Subject:** RE: Excise tax refund  
**Date:** Monday, January 25, 2021 2:43:49 PM

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I waive notice and yes, Lee is on board. Thank you for your help.  
Michael

Michael M. Thompson  
Attorney

The Van Winkle Law Firm  
422 S. Main St  
Hendersonville, NC 28792  
828-697-6196  
828-693-3999 (fax)  
[mthompson@vwlawfirm.com](mailto:mthompson@vwlawfirm.com)

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**From:** Russ Burrell <[rburrell@hendersoncountync.gov](mailto:rburrell@hendersoncountync.gov)>  
**Sent:** Monday, January 25, 2021 2:42 PM  
**To:** Michael M. Thompson <[mthompson@vwlawfirm.com](mailto:mthompson@vwlawfirm.com)>  
**Subject:** Excise tax refund

Michael,

Could you send me an email stating that you waive notice of the Board hearing this matter on February 1? (I'm presuming Lee is on-board, and I have no reason to suspect he won't be.) If no, I'll put it on the mid-month meeting (February 17), but I'd just as soon get it done.

Russ

**Charles Russell Burrell**  
County Attorney



**Office of the County Attorney**  
**Henderson County**

1 Historic Courthouse Square, Suite 5  
Hendersonville, North Carolina 28792  
Telephone (828) 697-4719  
Facsimile (828) 697-4536

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