

932 Hendersonville Road  
Suite 201  
Asheville, NC 28803-1761

April 24, 2012

Buncombe County Board of County Commissioners  
205 College Street, Suite 200  
Asheville NC 28801

**Re: Refund Request of Overpayment of Excise Tax (G.S. §105-228.37)**

Dear Board of County Commissioners:


On November 1, 2011, my attorney, David E. Matney, III, caused to be recorded a general warranty deed dated October 27, 2011 from FI Realty, LLC to M Realty, LLC, as evidenced by the deed recorded in Book 4927, Page 666, of the Buncombe County Registry and enclosed herein ("Deed"). Mr. Matney inadvertently made a clerical or other minor error in reporting the excise tax for said conveyance. He reported the tax to be \$7,400, when it should have been \$6,640, since the purchase price for the property conveyed by the Deed was \$3,320,000.

Pursuant to N.C.G.S. §105-228.37, I am writing on behalf of FI Realty, LLC, as the taxpayer who paid more tax than was due under Article 8E of Chapter 105 of the NC General Statutes, and hereby request a refund in the amount of \$760, which amount represents the overpayment of the excise tax to the Buncombe County Register of Deed's office. This request is being filed with you within six months after the date the tax was paid, which was on November 1, 2011.

I believe that FI Realty, LLC is entitled to a refund in the above stated amount because Article 8E imposes an excise tax rate for the consideration or value of the real property interest conveyed. In this case, the consideration or value of the real property was \$3,320,000, not \$3,700,000, as evidenced by the Notice of Typographical Or Other Minor Error in Previously Recorded Instrument executed by Mr. Matney and recorded in the Office of the Register of Deeds for Buncombe County enclosed herein.

Should you need any additional information from me, please direct your inquiries to my attorney, David Matney, at (828) 258-3395, as he may be more suitable to provide the information you require. Also, please inform us of the next steps we need to take to obtain the requested refund amount. Thank you for your time and consideration in this matter. We look forward to hearing from you. With warm regards,

Sincerely,



George W. Morosani  
Managing Member of FI Realty, LLC

cc: David E. Matney, III  
Enclosures (2)

Doc ID: 02592386002 Type: CRP  
Recorded: 11/01/2011 at 01:14:20 PM  
Fee Amt: \$7,428.00 Page 1 of 2  
Revenue Tax: \$7,400.00  
Workflow# 00p003568-0002  
Buncombe County, NC  
Drew Reisinger Register of Deeds  
BK 4927 Pg 666-667

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

Date 11-1-11 Tax Collector [Signature]

**NORTH CAROLINA GENERAL WARRANTY DEED**

Excise Tax \$ 7,400.00 Tax Parcel Identifier No. 9654-42-1174

Mail after recording to Matney & Associates, P.A., P. O. Box 7345, Asheville, NC, 28802 (Box 68)  
This instrument was prepared by Matney & Associates, P.A.  
The property conveyed does not include the primary residence of a Grantor.

Brief Description for the index 3909 Sweeten Creek Road

THIS DEED made this 27<sup>th</sup> day of October, 2011, by and between

GRANTOR	GRANTEE
FI Realty, LLC a North Carolina limited liability company 932 Hendersonville Road, Suite 201 Asheville, NC 28803	M Realty, LLC a North Carolina limited liability company 932 Hendersonville Road, Suite 201 Asheville, NC 28803

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

**Parcel A:**  
BEGINNING at an iron pin in the western margin of the right of way of Sweeten Creek Road, said pin being the southern corner in said right of way of property of Mian Real Estate, LLC as described in Book 4614, at Page 279; thence, with said margin of Sweeten Creek Road, South 17° 48' 32" East 248.80 feet to an iron pin, northeast corner of property of Joel K. Jensen as described in Book 4559, at Page 903, thence, with the Jensen line, South 69° 10' 36" West 311.42 feet to an iron pin, southeast corner of Parcel B described below; thence, with the Parcel B line, North 22° 48' 48" West 186.90 feet to a point; North 39° 00' 49" East 59.99 feet to an iron pin; North 22° 54' 20" West 209.92 feet to an iron pipe near a concrete right of way monument located 0.65 feet west of said boundary line, in the southern margin of Weston Road Extension, formerly known as Barbecue Lane; thence, with the southern margin of Weston Road Extension, North 66° 53' 01" East 122.74 feet to an iron pin in the line of property of Ark Co., Inc. described in Book 2264 at Page 402; thence with the Ark Co., Inc. line South 22° 24' 23" East 94.20 feet to an iron pin; North 68° 47' 40" East 20.00 feet to an iron pin corner of Mian Real Estate, LLC property described above; thence, with the Mian Real Estate, LLC line, South 26° 13' 55" East 90.37 feet to an iron pin; North 68° 49' 24" East 133.00 feet to the point and place of BEGINNING, containing 2.334 acres more or less and being more particularly shown on that certain plat or map entitled "Survey for George's Storm Realty, LLC" dated September 2, 2011, and prepared by J. Glenn Haynes P.L.S., as Job No. PIN# 9654-42-1174 and PIN# 9654-42-9106 reference to which is hereby made for a more particular description.

**Parcel B:**

BEGINNING at an iron pin in the line of the property of Joel K. Jensen as described in Deed Book 4559, at Page 903, said pin being located at the Southwest corner of Parcel A described above; thence, with the Jensen line, South 69° 10' 36" West 172.31 feet to an iron pin in the right of way of Norfolk Southern Railway; thence, along and through the Norfolk Southern Railway right of way, North 30° 53' 14" West 249.03 feet to an iron pin; North 26° 41' 03" West 201.76 feet to a railroad spike in Weston Road Extension, formerly known as Barbeque Lane; thence, along and through Weston Road Extension, North 67° 53' 00" East 214.02 feet to an iron pin; North 63° 36' 00" East 59.41 feet to an iron pin; thence South 22° 54' 20" East 29.80 feet to an iron pin, northwest corner of the Parcel A property above-described; thence, with the line of the Parcel A, South 22° 54' 20" East 209.92 feet to an iron pin; South 39° 00' 49" West 59.99 feet to an iron pin; South 22° 48' 48" East 186.98 feet to the point and place of BEGINNING, containing 2.373 acres, more or less, and being more particularly shown on that certain plat or map entitled "Survey for George's Stor-Mor Realty, LLC" dated September 2, 2011, and prepared by J. Glenn Haynes P.L.S., as Job No. PIN# 9654-42-1174 and PIN# 9654-42-9106 reference to which is hereby made for a more particular description.

The property hereinabove described was acquired by Grantor by instrument recorded in Book 2732, Page 295.

A map showing the above described property is recorded in Plat Book 24, Page 55,

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 Grantor covenants with 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.

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

2010 ad valorem taxes, easements, restrictions and rights of way of record or in use as such may cross or otherwise affect the premises; deed of trust securing an indebtedness to BB&T.

IN WITNESS WHEREOF, Grantor has caused this instrument to be executed in its name by its duly authorized manager, as the act and deed of such limited liability company, the day and year first above written.

FI Realty, LLC  
a North Carolina limited liability company

By: \_\_\_\_\_  
George W. Morosani, Manager

SEAL-STAMP STATE OF NORTH CAROLINA, COUNTY OF HENDERSON.



I, a Notary Public of the County and State aforesaid, certify that George W. Morosani, personally came before me this day and acknowledged the due execution of the above instrument by him as Manager of FI Realty, LLC, a North Carolina limited liability company and that he executed the same on behalf of said limited liability company the act and deed of said limited liability company, with proper authority duly given.

Witness my hand and official stamp or seal, this 27<sup>th</sup> day of October, 2011.  
\_\_\_\_\_  
Notary Public  
Print Name: Jennifer Laforêt

My commission expires: 11/26/2011

4

KIR

Doc ID: 024508620004 Type: CRP  
 Recorded: 04/26/2012 at 09:21:32 AM  
 Fee Amt: \$26.00 Page 1 of 4  
 Workflow# 0000108044-0002  
 Buncombe County, NC  
 Drew Reisinger Register of Deeds  
 BK 4976 PG 619-622

Prepared by and return to:  
 Matney & Associates, P.A., P.O. Box 7345, Asheville, NC 28802 Box #68

STATE OF NORTH CAROLINA

COUNTY OF BUNCOMBE

**NOTICE OF TYPOGRAPHICAL OR OTHER MINOR ERROR  
 IN PREVIOUSLY RECORDED INSTRUMENT**  
 (PURSUANT TO NORTH CAROLINA GENERAL STATUTES §47-36.1)

The undersigned, being first duly sworn, deposes and says:

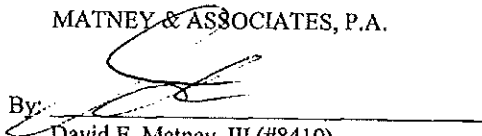
1. That Matney & Associates, P.A. prepared and caused to be recorded an instrument ("Deed") more particularly described as a North Carolina General Warranty Deed by and between FI Realty, LLC, as Grantor, and M Realty, LLC, as Grantee, dated October 27, 2011 and recorded November 1, 2011 in Deed Book 4927, Page 666, Buncombe County Registry.
2. That an error was made in reporting the excise tax, and the excise tax is incorrectly stated on the Deed.
3. That the excise tax reflected in the public record should be \$6,640.00, and not \$7,400.00.
4. That this Affidavit is prepared, executed and recorded, pursuant to North Carolina General Statutes §47-36.1 (the "Statute"), for the purpose of giving notice of the error in the instrument pursuant to the Statute.

Further this Affiant sayeth not.

This the 24<sup>th</sup> day of April, 2012.

MATNEY & ASSOCIATES, P.A.

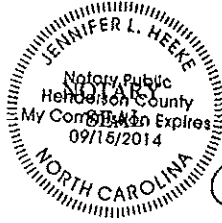
By:



David E. Matney, III (#8410)  
 P.O. Box 7345  
 Asheville, NC 28802  
 828-258-3395

STATE OF NORTH CAROLINA, COUNTY OF HENDERSON

I, the undersigned, a Notary Public in and for the County and State aforesaid, hereby certify that David E. Matney, III, Attorney at Law and Affiant, personally known to me, personally appeared before me this day and acknowledged the due and voluntary execution of the foregoing Affidavit.



Witness my hand and official stamp or seal this the 24<sup>th</sup> day of April, 2012.

Jennifer L. Heeke Notary Public  
Print name: JENNIFER L. HEEKE  
My commission expires: 9/16/2014

Copy