

WOODBURY COUNTY BOARD OF SUPERVISORS AGENDA ITEM(S) REQUEST FORM

Date: 8-18-2022 Weekly Agenda Date: 8-23-2022

ELECTED OFFICIAL / DEPARTMENT HEAD / CITIZEN: Diane Swoboda Peterson

WORDING FOR AGENDA ITEM:

Approval of a Request for a Refund of County portion of Transfer Tax

ACTION REQUIRED:

- Approve Ordinance Approve Resolution Approve Motion
Give Direction Other: Informational Attachments

EXECUTIVE SUMMARY:

Transfer Tax was collected in error on two deeds. Attorney's office has received the State portion of the Transfer Tax and is now requesting the County portion.

BACKGROUND:

See attached.

FINANCIAL IMPACT:

Total of \$220.52 of County portion of Transfer Tax refunded

IF THERE IS A CONTRACT INVOLVED IN THE AGENDA ITEM, HAS THE CONTRACT BEEN SUBMITTED AT LEAST ONE WEEK PRIOR AND ANSWERED WITH A REVIEW BY THE COUNTY ATTORNEY'S OFFICE?

Yes No

RECOMMENDATION:

Refund the \$220.52

ACTION REQUIRED / PROPOSED MOTION:

Motion to have the Treasurer's Office refund the County portion of Transfer Tax in the amount of \$220.52 to the Gehling Osborn Law Firm.

**Office Of The
AUDITOR/RECORDER/REGISTRAR
Of Woodbury County**
PATRICK F. GILL
Auditor/Recorder/Registrar



Courthouse — Room 106
620 Douglas
Sioux City, Iowa 51101

Recorder's Department (712) 279-6528
Vital Records Department (712) 279-6626
Real Estate Department (712) 279-6603
Fax (712) 233-8946

August 18, 2022

TO: Woodbury County Board of Supervisors
FR: Diane Swoboda Peterson; Real Estate/Recorder Deputy *DS*
RE: Request for refund of County portion of transfer Tax

The Gehling Osborn Law Firm is requesting that Woodbury County refund the County portion of transfer tax collected on deeds 2022-05068 and 2022-05069.

Both deeds were brought into our office for recording on April 21, 2022 close to closing time. Both deeds were submitted to us with a Declaration of Value and a Groundwater Hazard Statement which would indicate that transfer tax should be collected. Both deeds did have exemptions on them which would indicate that transfer tax should not be collected.

Transfer tax was collected as we erred on the side of assuming there was a transfer of money for the property. It appears that the exemptions listed on the deeds were "missed" by our office.

The law firm contacted our office inquiring as to why we collected transfer tax as there were exemptions on both deeds. We indicated that a Declaration of Value and Groundwater Hazard Statement were submitted with the deeds indicating a transfer of money. If there was not transfer of money, then the law firm should not have submitted those two forms.

It appears that there was a "comedy of errors" on the recording of these two deeds, with both parties being of some fault.

We concur that the County portion of the transfer tax collected on these two deeds should be refunded to the Gehling Osborn Law Firm. The County amount for deed 2022-05068 is \$82.66 and the County amount for deed 2022-05069 is \$137.86, for a total of \$220.52.

Thank you for your consideration.



GEHLING OSBORN LAW FIRM



600 4th Street, Suite 900
Sioux City, Iowa 51101
712.226.4600 (main)
712.226.4603 (fax)
www.GOLawfirm.com

dbolden@golawfirm.com

August 17, 2022

Woodbury County Recorder
Woodbury County Courthouse
620 Douglas St.
Sioux City, Iowa, 51101
Phone: 712-279-6465
Fax: 712-279-6629

Re: Woodbury County Recorder's Office

Appeal of: Transfer Tax Fees
Claimant: Emilee Gehling
Matter: Small Properties, L.L.C./Anita L. Small as Trustee of the Anita L. Small Revocable Trust
County: Woodbury County
Our File: 8264-1

To Whom it May Concern:

I am faxing an Affidavit of Emilee Gehling re: Appeal of Transfer Tax Fees concerning Small Properties, L.L.C./Anita L. Small as Trustee of the Anita L. Small Revocable Trust.

The total amount appealed is seven hundred ninety-nine dollars and 20/100 (**\$799.20**) with 82.75% or six hundred sixty-one dollars and 34/100 (**\$661.34**) from the State of Iowa and 17.25% or one hundred thirty-seven dollars and 86/100 (**\$137.86**) from Woodbury County. Our claim number with the State Appeal Board is G220142 and we have been awarded the **\$661.34** from the State of Iowa.

Should you need anything further during your review or consideration in this appeal process, please let us know.

Sincerely,

Demarjerae Bolden
Paralegal

Enclosures

collected the transfer tax fee of seven hundred ninety-nine dollars and 20/100 (\$799.20) but, rather, only the recording fee of twenty-seven dollars and no/100 (\$27.00).

8. Transfer tax collected under Iowa Code 428A.1 is an excise tax for the general fund of Iowa with the State retaining 82.75% and the County retaining 17.25%.

9. The total amount of transfer taxes appealed is six hundred sixty-one dollars and 34/100 (\$661.34) (\$799.20 x 82.75%) due by the State of Iowa and one hundred thirty-seven dollars and 86/100 (\$137.86) (\$799.20 x 17.25%) due by Woodbury County, with a total due of seven hundred ninety-nine dollars and 20/100 (\$799.20).

10. Therefore, the total amount appealed and due by the **State of Iowa** is six hundred sixty-one dollars and 34/100 (\$661.34).

11. Therefore, the total amount appealed and due by **Woodbury County** is one hundred thirty-seven dollars and 86/100 (\$137.86)

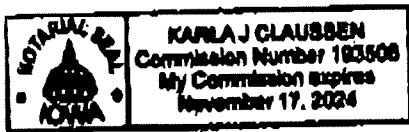
Further affiant sayeth not.

Dated this 9th day of June, 2022.

Emilee Gehling
Emilee Gehling

SUBSCRIBED AND SWORN to by the said Emilee Gehling this 9th day of June, 2022.

Karla J. Clausen
Notary Public in and for the State of Iowa



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August 17, 2022

Woodbury County Recorder
Woodbury County Courthouse
620 Douglas St.
Sioux City, Iowa, 51101
Phone: 712-279-6465
Fax: 712-279-6629

Re: Woodbury County Recorder's Office

Appeal of: Transfer Tax Fees
Claimant: Emilee Gehling
Matter: James R. Anderson, Jr./James Ray Anderson, Jr. as Trustee of Jake
Anderson Trust
County: Woodbury County
Our File: 8262-1

To Whom it May Concern:

I am faxing a copy of an Affidavit of Emilee Gehling re: Appeal of Transfer Tax Fees concerning James R. Anderson, Jr./James Ray Anderson, Jr. as Trustee of Jake Anderson Trust.

The total amount appealed is four hundred seventy-nine dollars and 20/100 (**\$479.20**) with 82.75% or three hundred ninety-six dollars and 54/100 (**\$396.54**) from the State of Iowa and 17.25% or eighty-two dollars and 66/100 (**\$82.66**) from Woodbury County. Our claim number with the State Appeal Board is G220143 and we have been awarded the **\$396.54** from the State of Iowa.

Should you need anything further during your review or consideration in this appeal process, please let us know.

Sincerely,

Demarjæe Bolden
Paralegal

Enclosures

**AFFIDAVIT OF EMILEE GEHLING
RE: APPEAL OF TRANSFER TAX FEES**

IN THE MATTER OF:

GRANTORS: JAMES R. ANDERSON,
JR.

GRANTEES: JAMES RAY ANDERSON,
JR. AS TRUSTEE OF JAKE ANDERSON
TRUST

STATE OF IOWA)
) ss
COUNTY OF WOODBURY)

I, Emilee Gehling, being first duly sworn, do upon my oath depose and state that the following facts are true and correct to the best of my knowledge and belief:

1. I am at least eighteen (18) years of age and am competent.
2. I am an attorney licensed to practice law in the states of Iowa, South Dakota and Nebraska.
3. My law office is Gehling Osborn Law Firm, PLC, 600 4th Street, Suite 900, Sioux City, Iowa 51101; (712) 226-4600; emilee@golawfirm.com.
4. I represent Jake Anderson in the above-referenced matter.
5. On or about April 22, 2022, our office recorded a Quit Claim Deed, Instrument #2002-05068, with the Woodbury County Recorder's Office, attached hereto as Exhibit 1, and incorporated herein.
6. Said recording fee for the Quit Claim Deed was seventeen dollars and no/100 (\$17.00) and the transfer tax fee for the Quit Claim Deed was four hundred seventy-nine dollars and 20/100 (\$479.20).
7. Consequently, an exemption code was indicated on paragraph two (2), page two (2), of the Quit Claim Deed: **"This deed is exempt according to Iowa Code 428A.2(21)."** And, therefore, the Woodbury County Recorder's Office should not have

collected the transfer tax fee of four hundred seventy-nine dollars and 20/100 (\$479.20) but, rather, only the recording fee of seventeen dollars and no/100 (\$17.00).

8. Transfer tax collected under Iowa Code 428A.1 is an excise tax for the general fund of Iowa with the State retaining 82.75% and the County retaining 17.25%.

9. The total amount of transfer taxes appealed three hundred ninety-six dollars and 54/100 (\$396.54) (\$479.20 x 82.75%) due by the State of Iowa and eighty-two dollars and 66/100 (\$82.66) (\$479.20 x 17.25%) due by Woodbury County, with a total due of four hundred seventy-nine dollars and 20/100 (\$479.20).

10. Therefore, the total amount appealed and due by the **State of Iowa** is three hundred ninety-six dollars and 54/100 (**\$396.54**).

11. Therefore, the total amount appealed and due by **Woodbury County** is eighty-two dollars and 66/100 (**\$82.66**)

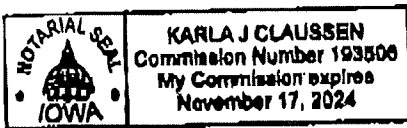
Further affiant sayeth not.

Dated this 9th day of June, 2022.

Emilee Gehling
Emilee Gehling

SUBSCRIBED AND SWORN to by the said Emilee Gehling this 9th day of June, 2022.

Karla J Clausen
Notary Public in and for the State of Iowa



Instrument #: 2022-05069
04/22/2022 08:04:34 AM Total Pages: 3
QCD QUIT CLAIM DEED
Recording Fee: \$ 27.00 Transfer Tax: \$799.20
Patrick F. Gill, Auditor/Recorder, Woodbury County Iowa



799.20x
0.8275=
State Portion 661.34*

799.20x
0.1725=
County Portion 137.86*

661.34+
137.86+
Total
Transfer
Tax Paid 799.20*

**QUIT CLAIM DEED
Recorder's Cover Sheet**

Preparer Information: Emilee Gehling, 600 4th Street, Suite 900, Sioux City, IA 51101, Phone: 7122264600

Taxpayer Information: The Anita L. Small Revocable Trust, 4629 46th Street, Sioux City, IA 51108

EW **Return Document To:** Emilee Gehling, 600 4th Street, Suite 900, Sioux City, IA 51101

Grantors: Small Properties, L.L.C.

Grantees: Anita L. Small as trustee of The Anita L. Small Revocable Trust

Legal Description: See Page 2

Document or instrument number of previously recorded documents:



QUIT CLAIM DEED

For the consideration of One Dollar(s) and other valuable consideration, Small Properties, L.L.C., a limited liability company organized and existing under the laws of Iowa, does hereby Quit Claim to Anita L. Small, Trustee of The Anita L. Small Revocable Trust, all our right, title, interest, estate, claim and demand in the following described real estate in Woodbury County, Iowa:

This deed is exempt according to Iowa Code 428A.2 (15).

Parcel 1: 3650-52 Glen Oaks Boulevard

Lot 3, Small Law's Addition to Sioux City, Woodbury County, Iowa

Parcel 2: 2018 Indian Hills Drive

Apartment Number 2018 of Small Office Centre #1 situated on the following described real estate: Lots One (1) and Two (2), Small Law's Subdivision, Sioux City, Woodbury County, Iowa.

This Declaration of covenants, conditions and restrictions was dated November 9, 2000 and filed for record November 13, 2000 on Roll 473, Image 598 in the Office of the Woodbury County, Iowa Auditor and Recorder.

As provided by Article II of the Declaration, ownership of each apartment shall include ownership of fifty percent (50%) of the entire horizontal property regime (or an undivided 50% interest in the common areas and facilities).

Apartment Number 2018 is more particularly described in Article II of the Declaration.

Each of the undersigned hereby relinquishes all rights of dower, homestead and distributive share in and to the real estate. Words and phrases herein, including acknowledgment hereof, shall be construed as in the singular or plural number, and as masculine or feminine gender, according to the context.

Dated: April 20, 2022.

Small Properties, L.L.C., an Iowa limited liability company

By Anita L. Small
Anita Small, Member-Manager

STATE OF IOWA, COUNTY OF WOODBURY

This record was acknowledged before me on April 20, 2022, by Anita Small, as Member-Manager, of Small Properties, L.L.C. a limited liability company.

Karla J. Clausen
Signature of Notary Public



Instrument #: 2022-05068
04/22/2022 08:04:34 AM Total Pages: 2
QCD QUIT CLAIM DEED
Recording Fee: \$ 17.00 Transfer Tax: \$479.20
Patrick F. Gill, Auditor/Recorder, Woodbury County Iowa

479.20x
0.8275=
State portion 396.54*
479.20x
0.1725=
County portion 82.66*
396.54+
82.66+
total
Transfer
Tax Paid 479.20*

**QUIT CLAIM DEED
Recorder's Cover Sheet**

Preparer Information: Emilee Gehling, 600 4th Street, Suite 900, Sioux City, IA 51101, Phone: 7122264600

Taxpayer Information: Jake Anderson Trust, 4615 Harrison Street, Sioux City, IA 51108

Return Document To: Emilee Gehling, 600 4th Street, Suite 900, Sioux City, IA 51101

Grantors: James R. Anderson, Jr.

Grantees: James Ray Anderson, Jr. as trustee of Jake Anderson Trust

Legal Description: See Page 2

Document or instrument number of previously recorded documents:



QUIT CLAIM DEED

For the consideration of One Dollar(s) and other valuable consideration, James R. Anderson, Jr., does hereby Quit Claim to James Ray Anderson, Jr., Trustee of Jake Anderson Trust, all my right, title, interest, estate, claim and demand in the following described real estate in Woodbury County, Iowa:

Lot Five (5), Moos Creek Addition to Sioux City, Iowa, Woodbury County, Iowa.

This deed is exempt according to Iowa Code 428A.2(21).

Each of the undersigned hereby relinquishes all rights of dower, homestead and distributive share in and to the real estate. Words and phrases herein, including acknowledgment hereof, shall be construed as in the singular or plural number, and as masculine or feminine gender, according to the context.

Dated: April 20, 2022

James R. Anderson, Jr., Grantor

STATE OF IOWA, COUNTY OF WOODBURY

This April 20, 2022 record was acknowledged before me on _____ by James R. Anderson, Jr., single.



Signature of Notary Public