



20060725000358720 1/4 \$20.00  
Shelby Cnty Judge of Probate,AL  
07/25/2006 03:09:29PM FILED/CERT

**BEFORE THE ALABAMA DEPARTMENT OF REVENUE**

In re:	)	A Proceeding Authorized
	)	by Section 40-22-2(2) and (8),
Wachovia Bank, National Association	)	CODE OF ALABAMA 1975
	)	
Petitioner.	)	

## **SUPPLEMENTAL MORTGAGE TAX ORDER**

Comes now Wachovia Bank, National Association, a national banking association (the “Petitioner”), pursuant to its certain Supplemental Petition for Ascertainment of Mortgage Tax dated June 13, 2006 (the “Petition”) and asks the Department of Revenue to fix and determine the amount of mortgage privilege tax due pursuant to Section 40-22-2(2) and (8), CODE OF ALABAMA 1975, for the privilege of recording that certain First Amendment to Alabama Leasehold Mortgage, Fixture Filing, Security Agreement and Assignment of Rents and Leases dated May 10, 2006 and those certain substantially identical First Amendments to Alabama Mortgage, Fixture Filing, Security Agreement and Assignment of Rents and Leases each dated May 10, 2006, executed by Evergreen Transportation, Inc., an Alabama corporation (collectively, the “Mortgage Amendments”) that amend that certain Alabama Leasehold Mortgage, Fixture Filing, Security Agreement and Assignment of Rents and Leases dated June 29, 2004 and those substantially identical Alabama Mortgages, Fixture Filings, Security Agreements and Assignments of Rents and Leases each dated June 29, 2004, all of which have been executed by Evergreen Transportation, Inc. and recorded in the Offices of the Judges of Probate of the Alabama counties identified in Exhibit A (as amended by the Mortgage Amendments, the “Amended Mortgages”). The Amended Mortgages, along with the other security documents (as amended by amendments substantially similar to the Mortgage Amendments, hereinafter called the “Amended Security Documents”) cover real and personal property and fixtures located both inside and outside of the State of Alabama.

Upon consideration of said Petition and evidence offered in support thereof, the State Department of Revenue finds as follows:

1. That the Mortgage Amendments amend the amount of indebtedness secured by the Amended Mortgages to include a new term loan in the principal amount of \$5,573,250 (the “New Term Loan”).
2. That the Amended Mortgages and the other Amended Security Documents cover property and fixtures located both inside and outside of the State of Alabama.
3. That the value of all real property, personal property and fixtures covered by the Amended Mortgages and other Amended Security Documents and located both inside and outside of the State of Alabama is \$47,075,404.



4. That the value of all real property, related personal property and fixtures covered by the Amended Mortgages and other Amended Security Documents and located inside of the State of Alabama is \$2,846,000, or 6.05% of the total value of all property and fixtures located both inside and outside of the State of Alabama.

5. That of the indebtedness secured by the Amended Mortgages (the "Amended Indebtedness"), mortgage filing privilege tax is to be calculated only upon the New Term Loan in connection with the recording of the Mortgage Amendments.

6. That the amount of indebtedness secured by the Security Documents and allocable to the State of Alabama and upon which the Alabama mortgage filing privilege tax is due is \$337,182.

7. That the mortgage privilege tax to be paid, at the rate of \$.15 per each \$100, or fraction thereof, upon the filing for record of the Mortgage in the office of the Judge of Probate the first Alabama county in which the Mortgage is filed for record is \$506.

8. That no additional recording tax will be due and payable, notwithstanding the fact that advances are made from time to time and repaid and reborrowed, so long as the aggregate principal amount of indebtedness at any one time outstanding secured by the Mortgage does not exceed \$35,573,250 (consisting of the \$30,000,000 upon which such tax was previously calculated and paid and \$5,573,250, upon which such tax is herewith being calculated and paid) although the Petitioner shall be required to comply with the bond and reporting requirements of § 40-22-2(2)b, CODE OF ALABAMA 1975, as amended.

9. The bond previously submitted by the Petitioner under § 40-22-2(2)b, CODE OF ALABAMA 1975, as amended, is hereby re-approved and accepted.

IT IS, THEREFORE, ORDERED that the mortgage privilege tax in the amount of \$506, plus any recording fees which may be due, shall be paid to the Judge of Probate of the first Alabama county in which a Mortgage Amendment is filed for record, and thereafter allocated by the Judge of Probate of said county to the other Alabama counties in which the properties and fixtures covered by the Amended Mortgages are located, in accordance with the percentages set forth in Exhibit A, and no additional recording tax will be due and payable notwithstanding the fact that advances are made from time to time, and repaid and reborrowed, under the Amended Indebtedness secured by the Amended Mortgages, so long as the maximum principal amount of such indebtedness secured by the Amended Mortgages does not exceed \$35,573,250 at any one time and such Amended Mortgages are not amended of record to increase the amount of the Amended Indebtedness or to change the maturity date of the Amended Indebtedness. IT IS FURTHER ORDERED that the Petitioner abide by the reporting requirements of § 40-22-2(2)b, CODE OF ALABAMA 1975, as amended, as to any additional indebtedness incurred with respect to the Amended Mortgages.

DONE at the Capitol, Montgomery, Alabama, this the 21<sup>st</sup> day of June, 2006.

**DEPARTMENT OF REVENUE**

By: Cynthia Underwood  
Its: ASST. COMMISSIONER OF REV.

ATTEST:

[Signature]

[Signature]  
Legal Division



**EXHIBIT A**

<u>County</u>	<u>Value</u>	<u>Percentage</u>
Conecuh	1,065,000	37%
Lawrence	205,000	7%
Mobile	726,000	26%
Shelby	850,000	30%
<b>Totals</b>	<b>\$2,846,000</b>	<b>100%</b>