

APPRAISAL TASK FORCE UPDATE

Some Real Estate Sale Prices Reported Incorrectly In Public Records

There have been several instances recently where the MLS listing sheet closing price of a property does not match the closing price identified by public records of the Forsyth County Tax Department and Forsyth County Register of Deeds.

In an appraisal, the appraiser must have two data sources. In many cases, these are MLS as the primary source and public records as a verification source. In the past, typically when the MLS price did not match the public records price, the problem was an incorrect MLS price usually resulting from a simple typographical error.

However, in the recent cases, the Listing Realtor® has confirmed that the closing price in MLS is correct and furnished the HUD 1 statement as evidence of the transaction.

Research indicated that the problem resulted from the placement of an incorrect revenue tax amount on the deed at the time it was recorded, which creates the unusual situation where **the MLS closing price is correct and the Register of Deeds and Tax Department information reflecting the closing price is incorrect.**

Further research has revealed how this situation occurs. In the cases described above, a sales contract signed by the seller and buyer was presented to the lender and a real estate closing firm. An appraisal was ordered and preparation for closing proceeded normally, including preparation of the deed for the seller. The deed preparation is preformed by an attorney on behalf of the seller and in some cases, the closing firm is asked to handle this task. Typically, the preparing attorney indicates the amount of revenue “stamps” or excise tax to be attached to the deed at a space near the beginning of the document and the entry may be typed or written in pencil on the original deed. The amount of excise tax is based on the closing price of the transaction.

And here is where the problem occurs. The property does not appraise for the original contract price and the contract is subsequently modified to reflect a lower price. The HUD 1 is modified to reflect the new price and the transaction closing occurs. However, when the deed is presented for recording by a representative of the closing firm or an outside recording agent employed by the closing firm, deed excise tax revenue [the old term “deed stamps”] charged is based on the deed tax notation near the top of the deed and this number reflects the original, not the revised closing price, and is thus incorrect.

How to CORRECT a problem of this type

The closing firm can file an Affidavit of Correction, which modifies the tax revenue reporting for the property and allows the Tax Department to pick up the correct closing price. This is accomplished under a provision of the North Carolina General Statutes § 47-36.1. Correction of errors in recorded instruments. The closing firm has in-house the documents necessary to verify the error [the HUD 1 Statement and the original deed], after verifying the revenue tax assessed from the recorded deed image from the Register of Deeds online system.

Our experience has been that closing firms move quickly to correct these types of errors once they are identified. In the unlikely event that a closing firm will not correct the error, please contact Ms. Susan Jester at the Winston Salem Regional Association of Realtors® [WSRAR] at 336 768-5560 for help.

How to AVOID this type of problem

The best way to avoid this type of effort is through awareness that special handling is needed when there is a revision of the closing price of a sale subsequent to original purchase contract. Listing and Selling Realtors® should mention to the closing firm that this type of problem can occur and ask them to make sure that the **revised** closing price is reflected in the revenue tax indicated on the deed to be recorded.

How to IDENTIFY this type of problem

Selling Realtors® should search the Register of Deeds after deed recording to verify that the sale price of their Buyers’ property accurately reflects the transaction. This is especially important if the Realtor® is representing the buyer as a Buyer’s Agent.

Appraisers should report discrepancies in MLS and public records to Ms. Susan Jester of WSRAR for research and correction if needed.

Closing Legal Firms should be aware of this type of error and review the deed to verify that the noted excise tax to be paid matches the excise tax to be paid from the HUD 1 Statement. This should be performed before deed recording.