

RESOLUTION # _____

RESOLUTION AUTHORIZING THE EXECUTION OF NON-WARRANTY DEED

- WHEREAS, Buncombe County acquired title to property located at 27 Chatham Road (the "Property") in Asheville from the Buncombe County Board of Tax Supervision by deed recorded in Book 1371, Page 414 Buncombe County Registry on November 5, 1984 (the Board of Tax Supervision having acquired title by Sheriff's Deed following a tax foreclosure in 1974 by deed recorded in Book 1106, Page 364 in said registry);
- WHEREAS, this Property is shown on the records of the Buncombe County Tax Office as PIN#: 9649-38-1562, and was previously labeled PIN#: 9649.06-38-0487;
- WHEREAS, records of the Clerk to the Board indicate that a Tucker Windover submitted a bid for this Property in the amount of \$4,950 and this Board declared its intent to accept this bid by resolution #: 95-6-7 on June 6, 1995 after directing the Clerk to "advertise said property for upset bids" as was and is required by law;
- WHEREAS, be that as it may, on September 18, 1997 at 3:00 p.m. a Quitclaim Deed was recorded from County of Buncombe to Nicholas S. Apostolopoulos and wife, Eula V. Apostolopoulos in Book 1985, Page 318, whereby the County ostensibly conveyed a parcel "described by deed recorded in the Buncombe County Registry[,] in Deed Book 1099 at Page 579 reference to which is hereby made for a more particular description and being further identified as PIN 9649.06-38-0487;"
- WHEREAS, no deed from Buncombe County to Tucker Windover appears of record in the Office of the Buncombe County Register of Deeds;
- WHEREAS, no record of an upset bid appears in the Clerk's records and there is no record of an assignment of the Windover bid;
- WHEREAS, the reference in Book 1985, Page 318 to Deed Book 1099 at Page 579 does not match the identified PIN 9649.06-38-0487, and, furthermore, no records of the Clerk to the Board indicate that either a Nicholas S. Apostolopoulos or a Eula V. Apostolopoulos submitted a bid for any parcel that might be referenced as either Deed Book 1099 at Page 579 or PIN 9649.06-38-0487;
- WHEREAS, Buncombe County Tax Collector's records show that Nicholas S. Apostolopoulos paid taxes on the Property for many years, Mr. Apostolopoulos having been the single listed owner of the Property per Buncombe County Tax records since the year 2000 when a series of deeds were traded and recorded between Mr. and Mrs. Apostolopoulos demonstrating the intent to "sever the tenancy in common, formerly tenancy by the entireties, which heretofore ha[d] existed" between the parties;
- WHEREAS, Mr. Apostolopoulos died on or about December 17, 2019 and his heirs are attempting to sell the Property, however the buyer's title insurance company will not insure over the description defects described above in Book 1985, Page 318, and require either a quiet

title action be brought in the General Courts of Justice or a non-warranty deed from the County to the heirs of Mr. Apostolopulos in order to cure the defect;

WHEREAS, County Legal has advised this Board that by granting a non-warranty deed, or quitclaim deed, a seller or grantor is merely giving a buyer or grantee only such rights, if any, that the grantor has in a piece of property and makes no warranties of any nature of the grantor's rights in and to such property;

WHEREAS, the ad valorem taxes on the Property for 2019 are now delinquent, and a sale by the heirs to the Property has been delayed;

WHEREAS, County Legal advises this Board that given Mr. Apostolopoulos apparently had open, notorious, exclusive and continuous possession of the Property under "color of title" for over 21 years his heirs would in all likelihood succeed in a quiet title action through litigation, but that this process would be costly and delay further beneficial occupancy of the Property; and

WHEREAS, this Board is of the opinion that it is in the best interests of the citizens and residents of the County to correct the error appearing in Book 1985, Page 318.

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners for the County of Buncombe as follows:

1. That this Board hereby authorizes the Chairman of the Board of Commissioners and the County Manager, or either of them, to execute a North Carolina Non-Warranty Deed to _____, a copy of which is attached to the Board agenda of this date.
2. All acts and doings of officers, employees and agents of the County, whether taken prior to, on, or after the date of this Resolution, that are in conformity with and in the furtherance of the purposes and intents of this Resolution as described above shall be, and the same hereby are, in all respects ratified, approved and confirmed.
3. That this resolution shall be effective upon its adoption.

This the ____ of March, 2020.

ATTEST

BOARD OF COMMISSIONERS FOR THE
COUNTY OF BUNCOMBE

Lamar Joyner, Clerk

By: _____
Brownie Newman, Chairman

APPROVED AS TO FORM

County Attorney