



Legislation Details (With Text)

File #: 18-0701 **Version:** 1 **Name:**
Type: Action Item **Status:** Consent Agenda
File created: 3/9/2018 **In control:** Board of County Commissioners
On agenda: 3/26/2018 **Final action:**
Title: Modification of that Deed of Trust from NRP Alston Village, LLC in favor of Durham County dated September 1, 2004

Sponsors:

Indexes:

Code sections:

Attachments: 1. MAP NRP ALSTON VILLAGE, 2. NRP ALSTON VILLAGE MODIFICATION DEED, 3. MOUSTAFA MAP

Date	Ver.	Action By	Action	Result
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Item:

Title:

Modification of that Deed of Trust from NRP Alston Village, LLC in favor of Durham County dated September 1, 2004

Date of BOCC Meeting: March 26, 2018

Request for Board Action:

The Board is requested to authorize execution of a Modification of Deed of Trust to correct a survey error that occurred in 2000. In 2000 NRP ALSTON VILLAGE, LLC acquired 41.5 acres of land from the Barbee family upon which Falls Point at the Park Apartments and other improvements were constructed. The project was constructed as low income housing and assisted by Durham County as the Lender. In actuality, Durham County participated as the Conduit Issuer of the project's tax exempt bonds and appears as the Lender on the Deed of Trust. The tax exempt bonds total \$21,820,000 dollars. Based on Agreements connected with this transaction, Durham County has no obligation to pay or collect the money due under this transaction.

At the time the property was surveyed (41.5 acres) to make this transaction possible, a mistake was made by the surveyor. The survey was supposed to include property only owned by the Barbee family, but instead it also included a portion of 2.26 acres owned by Dr. Laila A. Moustafa. As a result a portion of the apartments were constructed on the Moustafa property. A portion of the Moustafa property is incorrectly included in the Deed of Trust which secures the overall transaction on which we are listed as the Lender.

In 2007 Dr. Moustafa with the assistance of Attorney Kenneth R. Embree commenced a law suit against NRP Alston Village, LLC and others to correct the problem and to make Dr. Moustafa whole. The law suit has been settled and the parties are in the final stages of signing the settlement agreement. Durham County needs to release the portion of property that was wrongfully included in the survey and thus appears in the Deed of Trust bearing our name. Counsel for Dr. Moustafa feels that this can best be accomplished by Durham County executing a Modification Deed of Trust. The Modification Deed of Trust description will include the portion

constructed upon and release the remainder that was wrongfully included. Of course Dr. Moustafa will be compensated by NRP Alston Village, LLC for the property which was wrongfully included in the original survey. All that is required of Durham County is a signature on the Modification Deed of Trust.

The Board is requested to execute the Modification Deed of Trust.

Alignment with Strategic Plan: This action aligns with Goal 5: Accountable, Efficient and Visionary Government.

Resource Persons: Willie S. Darby, Senior Assistant County Attorney and Kenneth Embree, Attorney for Dr. Laila Moustafa.

County Manager's Recommendation: The County Manager recommends that the Board authorize execution of the Modification Deed of Trust.

A handwritten signature in black ink, appearing to be 'J. V. O.' followed by a horizontal line.

County Manager: _____