



17-00016

# BOARD OF APPEALS APPLICATION

RECEIVED  
APPLICATION FOR VARIANCE, APPEAL, OR WAIVER

JAN 09 2017

CITY OF SNELVILLE  
PLANNING & DEVELOPMENT

City of Snellville  
Planning & Development Department  
2342 Oak Road, 2<sup>nd</sup> Floor  
Snellville, GA 30078  
Phone 770.985.3514 Fax 770.985.3551  
[www.snellville.org](http://www.snellville.org)

1965 OAK RD  
#1700016 BOA VARIANCE #17-02  
PARCEL- 5025 001  
Mid Century Investors (Jeff Timler)

**Applicant** is: (check one)  
 Owner's Agent  
 Contract Purchaser  
 Property Owner

Mid Century Investors, LLC  
Name (please print)  
P.O. Box 388  
Address  
Snellville, GA 30078  
City, State, Zip Code  
678-336-7063 678-336-7063  
Phone Number(s) Fax

**Owner** (if not the applicant):  check here if there are additional property owners and attach additional sheets.

Brenda Butler  
Name (please print)  
1000 Lakeview Road  
Address  
Grayson, GA 30017  
City, State, Zip Code  
678-475-7848  
Phone Number(s) Fax

Contact Person: Jeff Timler Phone: \_\_\_\_\_ Fax: 678-336-7063  
Cell Phone: 678-772-0202 E-mail: timlerj@bellsouth.net

**Application for:** (check one)  
 Appeal  Variance from Zoning Ordinance  Variance from Municipal Code  Waiver of Development Regulations

Section(s) of Zoning Ordinance VARIANCE request is for: Exhibit "A"  
Section(s) of Municipal Code VARIANCE request is for: \_\_\_\_\_  
Section(s) of Development Regulations WAIVER request is for: Exhibit "A"  
Property Address/Location: 1965 Oak Road District 5 Land Lot 25 Parcel(s) 001  
State the purpose of this request: Please see letter of Intent.

## At a minimum, the following items are required with submittal of this application. INCOMPLETE APPLICATIONS WILL NOT BE ACCEPTED.

- ✓ Pre-submittal appointment shall be requested and completed a minimum of five (5) business days prior to Application deadline to ensure application is complete, accurate, and includes all required attachments/exhibits and required signatures;
- ✓ Payment of the appropriate application and public notice sign fees. Make checks payable to *City of Snellville*;
- ✓ Letter of Intent explaining the reason for the request for the variance, appeal, or waiver;
- ✓ The names, addresses, and original signatures of the owners of the subject parcel(s) and their agents, if any;
- ✓ Analysis of impact (if variance application) or details of grievance (if appeal) or details of waiver request (if waiver) as per Section 14.5;
- ✓ A current legal description of the subject parcel(s). If the property proposed for a variance, appeal, or waiver includes multiple parcels, provide a separate legal description for each individual parcel, together with a composite legal description for all parcels;
- ✓ Verification from county Tax Assessor that all property taxes have been paid and account is current (for all parcels subject to this application). Applicant to obtain confirmation of taxes paid using original Verification Sheet (attached);
- ✓ A Certificate of Title (for all parcels subject to this application);
- ✓ Map indicating the subject parcel(s) and the adjoining parcel(s), identified by property owner(s) name and tax parcel number;
- ✓ VARIANCE or WAIVER applications only: Nine (9) copies and one (1) original of the proposed Site and Concept Plan and one (1) 11" x 17" (or smaller) reduction of the plan, drawn to scale, showing: (a) north arrow; (b) district, land lot(s) and parcel number(s); (c) the dimensions with bearing and distance; (d) acreage; (e) location of the tract(s), (f) the present zoning and land use classification of all adjacent parcels, (g) the proposed location of structures, driveways, parking and loading areas; (h) the location and extent of required buffer areas; and (i) location of floodplains. Site and Concept Plan shall be prepared by an architect, engineer, landscape architect, or land surveyor whose Georgia state registration is current and valid. Site plan must be stamped and sealed by one of the four above-mentioned professionals no more than six (6) months prior to the date of submittal. All documents must be folded to 8-1/2" x 11";
- ✓ Nine (9) stapled or bound copies of: (a) completed application; (b) Letter of Intent; and (c), Any and all supporting documents. In addition, one (1) unbound application (original) bearing original signatures and all other required documents.
- ✓ A CD-ROM containing a digital file of: (a) site plan in .pdf and .dwg file formats, (b) legal description(s) in .pdf file format, and (c) completed and signed Variance, Appeal, and Waiver application (and all supporting documents) in .pdf file format;

If request is for an APPEAL, please discuss your grievance in detail. You may attach additional sheets and provide additional documentation as appropriate:

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A VARIANCE from the terms of the Snellville Zoning Ordinance or Development Regulations shall not be granted by the Board of Appeals unless and until the applicant has **demonstrated** the following. You may attach additional sheets and provide additional documentation as appropriate:

1) **Demonstrate** that special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other land, structures, or buildings in the same zoning district.

Exhibit "B"

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2) **Demonstrate** that literal interpretation of the provisions of the Zoning Ordinance or Development Regulations would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the Zoning Ordinance or Development Regulations.

Exhibit "B"

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3) **Demonstrate** that the special conditions and circumstances do not result from the actions of the applicant.

Exhibit "B"

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4) **Demonstrate** that granting the variance (or waiver) requested will not confer on the applicant any special privilege that is denied by the Zoning Ordinance or Development Regulations to other lands, structures, or buildings in the same zoning district.

Exhibit "B"

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**Please Note:** Non-conforming uses of adjacent properties cannot be considered as grounds to justify a variance. Peculiar conditions or circumstances which are the result of actions of the owner of property covered by this application cannot be considered as grounds justifying a variance. A "use variance", i.e. a variance for the purpose of using land or a structure, or combination thereof for a purpose prohibited by the present zoning classification of the property covered by this application will not be granted.

## **EXHIBIT "B"**

Special conditions do exist which are peculiar to the land and proposed buildings due to the floodplain and impervious setback restrictions.

Literal interpretation will not allow economic revitalization to this area.

The City of Snellville does not have an infill subdivision district that will allowed this type of successful development and therefore the need for the requested variances.

No special privilege will be granted to the owner as all property owners have the right to apply for variances.

**BOARD OF APPEALS CERTIFICATIONS**

In the event an owner's agent or contract purchaser is filing this application, both of the certifications below must be completed. If the owner is filing the application, only the Owner's Certification must be completed.

APPLICANT'S CERTIFICATION

The undersigned below, or as attached, is authorized to make this application. The undersigned is aware that, should this request be denied by Board of Appeals, no application affecting any portion of the same property shall be submitted less than twelve months from the date of denial.

*Jeffrey Dale Timber* 11/9/2017  
Signature of Applicant Date

Jeffrey Dale Timber, Partner  
Type or Print Name and Title

*Ammie L. Elliott* 1-9-2017  
Signature of Notary Public Date



OWNER'S CERTIFICATION

The undersigned below, or as attached, is the owner of the property considered in this application. The undersigned is aware that, in granting any variance or waiver, the Board of Appeals may prescribe appropriate conditions and safeguards in conformity with the Zoning Ordinance and/or Development Regulations. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of the Zoning Ordinance and punishable under Section 16.3 of the Zoning Ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the waiver is granted, shall be deemed a violation of the Development Regulations and punishable under Section 13.5.2 of the Development Regulations. If an application for a variance or waiver is denied by the Board of Appeals, a reapplication for such for such variance or waiver may not be made earlier than twelve (12) months from the date of the original application.

Check here if there are additional property owners and attach additional "Owner's Certification" sheets.

*Brenda Butler* 12-13-16  
Signature of Owner Date

Brenda Butler, Executor  
Type or Print Name and Title

*Melissa E. Smith* 12/13/16  
Signature of Notary Public Date  
*Exp. 1/5/2019*



STATE OF GEORGIA

2015 JUN 15 PM 1:30

IN RE: ESTATE OF ) ESTATE NO. 15-E-000135 YG  
 )  
THELMA M. BROWNLEE, )  
DECEASED ) CLERK

PETITION TO PROBATE WILL IN SOLEMN FORM

The petition of *BRENDA BUTLER*, whose domicile is 1000 Lakeview Road, Grayson, Georgia 30017 and whose mailing address is the same shows:

1.

Thelma M. Brownlee, whose place of domicile was 1965 Oak Road, Snellville, Gwinnett County, Georgia, departed this life on January 15, 2015.

2.

While alive, decedent duly made and published a Last Will and Testament dated April 28, 1998, which was previously offered for probate in Common Form. The Petitioner now wishes to probate the will in Solemn Form. Your Petitioner is named as the Executor.

3.

Listed below are all of the decedent's heirs at law, with the age or majority status, address and relationship to the decedent set opposite the name of each:

Name	Age (Or over 18)	Address	Relationship
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Unknown

4.

Provide enough sufficient factual information to enable the court to conclude that all of the heirs of the decedent are included and that there are no heirs of similar or higher degree according to O.C.G.A. §53-2-1. Provide the names of any deceased heirs and include the date of death for each. (See instructions for further clarification.) Also, state here all pertinent facts which may govern the method of giving notice to any party and which may determine whether or not a guardian ad litem should be appointed for any party. If any heirs listed above are cousins, grandchildren, nephews or nieces of the decedent, indicate the deceased ancestor through whom they are related to the decedent.

The decedent was unmarried at the time of her death and had no children. She had one deceased brother, Horace McCart, who was rumored to have a daughter, Laquita McCart, but Horace was not close to his family and no one knows for certain if this is true. We have been unable to find proof of a child's existence despite several efforts. The Petitioner's attorney sent a letter to the Veterans Administration in Texas where Horace died, but they were unable to be of assistance. The Petitioner hired Heir Search, an international genealogical search company, to attempt to locate Laquita McCart and/or determine whether Horace had any children or other heirs at law, but they were unable to find evidence of any heirs. The Petitioner and her attorney also questioned relatives of the decedent, but were unable to get any definitive information regarding Laquita McCart or any other heirs. The Petitioner requests that this purported heir and any other unknown heirs be served by publication pursuant to O.C.G.A. §53-11-4.

5.

(initial one)

\_\_\_\_\_ a) To the knowledge of the petitioner, no other proceedings with respect to this estate are pending, or have been completed, in any other probate court in this state.

\_\_\_\_\_ b) The probate of another purported Will of the decedent is pending in the State of \_\_\_\_\_, in the \_\_\_\_\_ County Probate Court. The names and address(es) of the propounder(s) and the names, addresses, and ages or majority status of the beneficiaries under the other purported Will to whom notice is required under O.C.G.A. §53-5-22(b) are listed on the attachment hereto, which is expressly made a part hereof, as if fully set forth herein.

BB  
XX

c) An Probate is pending in the State of Georgia, in the Gwinnett County Probate Court. The name(s) and address(es) of the Petitioner(s) and the name(s) and address(es) of the appointed Administrator(s), if any, are listed on the attachment hereto, which is expressly made a part hereof, as if fully set forth herein.

\*\*\*See Estate #15-E-000135\*\*



WHEREFORE, Petitioner prays:

1. leave to prove said Will (and Codicil) in solemn form,
2. that due and legal notice be given as the law requires,
3. that said Will be admitted to record on proper proof,
4. that Letters of Testamentary Guardianship and/or Letters of Testamentary Conservatorship issue, if applicable,
5. that Letters Testamentary issue, and
6. that this Court order such other relief as may be proper under the circumstances.

*Brenda Butler*

**BRENDA BUTLER**

1000 Lakeview Road  
Grayson, GA 30017  
(770) 962-0100

Signature of Attorney:

*Charles A. Tingle*

Typed/printed name of Attorney:

Charles A. Tingle  
Tingle and Associates, P.C.

Address:

538 Scenic Hwy.  
Lawrenceville, GA 30046

Telephone:

(770) 822-5635 State Bar #712825

**VERIFICATION**

GEORGIA, GWINNETT COUNTY

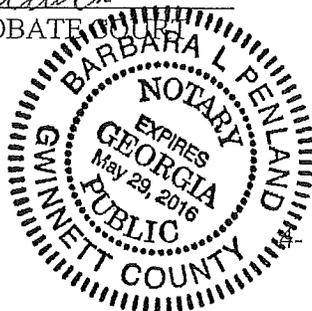
Personally appeared before me the undersigned petitioner who on oath states that the facts set forth in the foregoing petition (and any attached exhibits) are true.

Sworn to and subscribed before me  
this 10<sup>th</sup> day of June, 2015.

*Brenda Butler*  
First Petitioner

*Barbara L. Penland*  
NOTARY/CLERK OF PROBATE

BRENDA BUTLER



IN THE PROBATE COURT OF GWINNETT COUNTY

STATE OF GEORGIA

IN RE: ESTATE OF

ESTATE NO. 15-E-000135

THELMA M. BROWNLEE,  
DECEASED

)  
)  
)  
)

ACKNOWLEDGMENT OF SERVICE  
AND ASSENT TO PROBATE INSTANTER

We, the undersigned, being 18 years of age or older, laboring under no legal disability and being heirs of the above-named decedent, hereby acknowledge service of a copy of the petition to probate the Will in solemn form, purported Will, and notice, waive copies of same, waive further service and notice, and hereby assent to the probate of said Will in solemn form instanter.

SIGNATURE(S) OF HEIRS

Sworn to and subscribed before  
me this 18<sup>th</sup> day of June, 2015

Brenda Butler

Barbara L Penland  
NOTARY/CLERK OF PROBATE COURT

BRENDA BUTLER  
Printed Name



IN THE PROBATE COURT  
COUNTY OF GWINNETT  
STATE OF GEORGIA

FILED IN OFFICE  
CLERK PROBATE COURT  
GWINNETT COUNTY, GA

2015 AUG 18 PM 1:02

IN RE: ESTATE OF  
  
THELMA M. BROWNLEE,  
DECEASED

)  
)  
)  
)

ESTATE NO. 15-E-000135

  
CLERK

**ORDER ADMITTING WILL TO PROBATE IN SOLEMN FORM**

An alleged Last Will and Testament dated APRIL 28, 1998 was propounded.

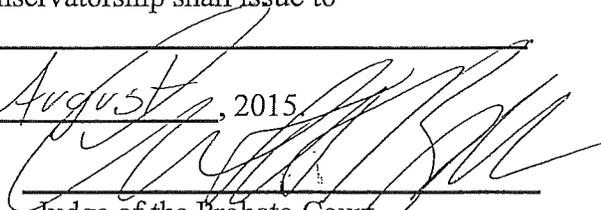
BRENDA BUTLER was nominated Personal Representative by the Testator. The Court finds that the Decedent died domiciled within, or domiciled outside the State of Georgia but owning property within, the above County. The Court further finds that all of the heirs at law were served or acknowledged service. The Court further finds that no objection has been filed, and all requirements of law have been fulfilled. The Court further finds that the propounded Will is self-proving.

ACCORDINGLY, IT IS ORDERED that the Will dated APRIL 28, 1998 is established as the Last Will and Testament of the Decedent; that the Will be admitted to record as proven in Solemn Form; and, that the nominated Executor named above has/have leave to qualify as Personal Representative by taking the required oath, after which Letters Testamentary shall issue. The Clerk shall serve the Personal Representative with copies of this Order and the Letters upon qualification.

IT IS FURTHER ORDERED that the Personal Representative shall disburse all property according to the terms of the Decedent's Will and shall maintain all records of income and disbursements until discharged by Order of this Court.

- IT IS FURTHER ORDERED that: *[initial if applicable]*
- N/A (a) An inventory shall be filed.
  - N/A (b) Annual returns shall be filed.
  - N/A (c) Letters of Testamentary Conservatorship shall issue to

SO ORDERED this 17 day of August, 2015

  
\_\_\_\_\_  
Judge of the Probate Court

FILED IN OFFICE  
CLERK PROBATE COURT  
GWINNETT COUNTY, GA

2015 AUG 18 PM 1:02

ESTATE NO. 15-E-000135

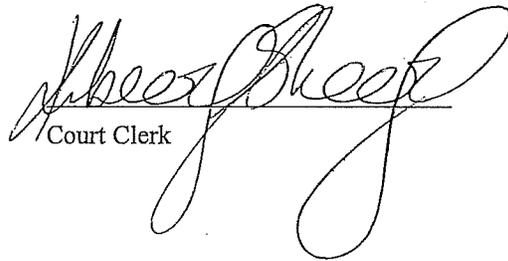
CERTIFICATE OF SERVICE

The undersigned clerk of Probate Court hereby certifies that she has mailed a copy of the August 18, 2015 Order upon all parties by depositing the same in the United States Mail with adequate postage affixed thereto to insure delivery addressed as follows:

CHARLES A TINGLE JR  
538 SCENIC HIGHWAY  
LAWRENCEVILLE, GA 30046

LAUREN BRYANT  
390 WEST CROGAN STREET  
SUITE 230  
LAWRENCEVILLE, GA 30046

This 18 Day of August, 2015.

  
Court Clerk

**Notice to Interested Individuals:** Occasionally, hearings are continued (rescheduled) due to court conflicts, illness, or other reasons. If you receive notice of a hearing and the Order does not require you to appear at the hearing, please call the Probate Court (770) 822-8250 (the law clerk or calendar clerk) prior to the hearing to confirm the hearing date and time if you plan to attend the hearing. If you have been subpoenaed to a hearing, please call the party (or their attorney) who subpoenaed you to confirm the hearing date and time. If you have been cited to appear and you wish to continue the case, you must file a written request for continuance three business days prior to the hearing. If you move to continue the case, you must notify ALL involved in the hearing. Requests or Motions for continuances must be approved by the Court before they are effective.

BOOK 7064 PAGE 121

DEED OF ASSENT

FILED & RECORDED  
CLERK SUPERIOR COURT  
GWINNETT COUNTY, GA.

1992 JAN 21 AM 10:06

GARY R. YATES, CLERK

STATE OF GEORGIA  
COUNTY OF GWINNETT

THIS INDENTURE, made this 15th day of January, 1992, between MARIAN BRITT, as Executrix of the Last Will and Testament of GERALD BROWNLEE, late of Gwinnett County, Georgia (hereinafter called "Grantor") and THELMA LORENE BROWNLEE (hereinafter called "Grantee"); the words "Grantor" and "Grantee" to include their respective heirs, successors and assigns where the context requires or permits:

The said Grantor (acting under and by virtue of the power and authority contained in the said Will, the same having been duly probated and recorded in the Probate Court of Gwinnett County, Georgia), for and in consideration of the provisions of Item V of the said Last Will and Testament of GERALD BROWNLEE, has granted, bargained, sold and conveyed, and by these presents does grant, bargain, sell and convey unto the said Grantee the following property, to-wit:

All that tract or parcel of land lying and being in the 408 G.M. District of Gwinnett County, Georgia, and being more particularly described as follows:

BEGINNING at a point on the South side of the Snellville and Gloster road at the line of S. R. Mullenax and running in a southern direction along the line of S. R. Mullenax 508 feet to the intersection or corner of L. B. Ford and S. R. Mullenax; thence in an easterly direction up the branch 136 feet; thence in a northern direction 332 feet to the Snellville and Gloster road; thence in a western direction 438 feet along the Snellville and Gloster road to the beginning point the same is bounded as follows: On the West by S. R. Mullenax; On the South by branch and lands of J. Sawyer; On the East by J. Sawyer; On the North by the Snellville and Gloster road.

This is the same property conveyed by J. H. Brownlee to Gerald Brownlee by warranty deed dated February 9, 1952, recorded in Deed Book 99, page 551, Gwinnett County Records.

ALSO, a one-half (1/2) undivided interest in and to:

All that tract or parcel of land lying and being in Land Lot No. 25 of the 5th Land District of Gwinnett County, Georgia, and containing 86 rods, more or less, and described as follows:

BEGINNING at rock corner at road; thence running south 31 rods, more or less to Creek; thence west 6-1/2 rods, more or less, down creek to rock; thence north 10 rods, more or less to rock; thence east 5-1/2 rods, more or less to rock; thence

WEBB, TANNER & POWELL  
P.O. Box 27  
Lawrenceville, Ga. 30246

5149

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GWINNETT CO., GEORGIA  
REAL ESTATE TRANSFER TAX  
Date: 1/15/92  
Clerk of Superior Court

BOOK 7064 PAGE 122

north 21 rods more or less, to said road and rock; thence southeast 1 rod, more or less to beginning corner and bounded, now or formerly as follows: North by main road and Julius Cates; East by old road; South by creek and west by Julius Cates.

This is the same tract of land conveyed by Mrs. S. R. Millinax, Frances Edmark and James Mullinax to Thelma M. and Gerald Brownlee by warranty deed dated January 24, 1980, recorded in Deed Book 2108, page 153, Gwinnett County Records.

This deed is given as a Deed of Assent to the devise to Grantee pursuant to the provisions of the Last Will and Testament of GERALD BROWNLEE, and is not for an independent valuable consideration other than the carrying out of said Will.

TO HAVE AND TO HOLD the said tract or parcel of land, with all and singular the rights, members and appurtenances thereof, to the same being, or in anywise appertaining, to the only proper use, benefit and behoof of the said Grantee forever, IN FEE SIMPLE; in as full and ample a manner as the same was held, possessed and enjoyed, or might have been held, possessed and enjoyed, by the said deceased.

IN WITNESS WHEREOF, the Grantor herein has hereunto set her hand and seal, the day and year first above written.

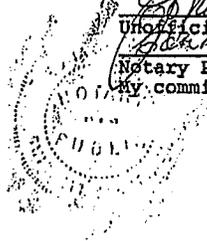
*Marian Britt* (SEAL)  
MARIAN BRITT, Executrix  
of the Last Will and Testament  
of Gerald Brownlee

Signed, sealed and delivered  
in the presence of:

Unofficial Witness

Notary Public

My commission expires: 9-21-94.





**CITY OF SNELLVILLE**

Department of Planning & Development  
2342 Oak Road, 2<sup>nd</sup> Floor  
Snellville, GA 30078  
Phone 770.985.3514 Fax 770.985.3551

**APPLICANT - PLEASE HAND DELIVER THIS VERIFICATION SHEET TO THE GWINNETT COUNTY TAX ASSESSORS OFFICE (SEE ADDRESS AND PHONE NUMBER BELOW) TO OBTAIN WRITTEN CONFIRMATION THAT REAL PROPERTY TAXES HAVE BEEN PAID-IN-FULL AND PROPERTY TAX ACCOUNT IS CURRENT. ATTACH COMPLETED ORIGINAL TO APPLICATION.**

APPLICANT NAME: Brenda Butler

CHECK HERE, IF THERE ARE MORE THAN FOUR (4) SUBJECT PARCELS AND ATTACH ADDITIONAL SHEETS.

PROPERTY OWNER NAME(S): Thelma Lorene Brownlee TAX PARCEL NO.: R5025 001

AMOUNT OF CURRENT TAXES PAID: \$ 1824.10 PAYMENT DATE: 10/12/16 ACCOUNT CURRENT?  YES  NO

PROPERTY OWNER NAME(S): \_\_\_\_\_ TAX PARCEL NO.: \_\_\_\_\_

AMOUNT OF CURRENT TAXES PAID: \$ \_\_\_\_\_ PAYMENT DATE: \_\_\_\_\_ ACCOUNT CURRENT?  YES  NO

PROPERTY OWNER NAME(S): \_\_\_\_\_ TAX PARCEL NO.: \_\_\_\_\_

AMOUNT OF CURRENT TAXES PAID: \$ \_\_\_\_\_ PAYMENT DATE: \_\_\_\_\_ ACCOUNT CURRENT?  YES  NO

PROPERTY OWNER NAME(S): \_\_\_\_\_ TAX PARCEL NO.: \_\_\_\_\_

AMOUNT OF CURRENT TAXES PAID: \$ \_\_\_\_\_ PAYMENT DATE: \_\_\_\_\_ ACCOUNT CURRENT?  YES  NO

\*\*\* INFORMATION VERIFIED BY GWINNETT COUNTY TAX ASSESSOR'S OFFICE \*\*\*

COUNTY TAX DEPARTMENT REPRESENTATIVE (PRINT NAME): <u>Deidra Pitts</u>	DATE: <u>12/13/16</u>
COUNTY TAX DEPARTMENT REPRESENTATIVE (SIGNATURE): <u>[Signature]</u>	

**ONLY ORIGINAL VERIFICATION SHEET CAN BE USED TO CONFIRM PROPERTY TAX ACCOUNT STATUS**

