

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of Application

of

CHENANGO COURT, INC.

for revision or refund of fran-
chise tax under Article 9-A of
the tax law for fiscal years
ended July 31, 1963 and 1964.

Chenango Court, Inc. having filed application for revision or refund of franchise tax under Article 9-A of the tax law for fiscal years ended July 31, 1963 and 1964 and a hearing having been held in connection therewith on July 29, 1971 at the office of the State Tax Commission, State Campus, Albany, New York, before John J. Genevich, Hearing Officer of the Department of Taxation and Finance, at which hearing John F. Stanley, Esq., of Counsel, appeared personally and testified on behalf of the taxpayer, and the record having been duly examined and considered by the State Tax Commission,

It is hereby found:

- (1) Chenango Court, Inc. was incorporated in New York under Article 2 of the Stock Corporation Law on May 6, 1963.
- (2) Its certificate of incorporation was amended under Section 805 of the Business Corporation Law on April 8, 1964.
- (3) The corporation was formed pursuant to Section 221-D-3 of the National Housing Act.
- (4) Reports were filed for fiscal years ended July 31, 1963 and 1964 without remittance, as the corporation claimed that it was exempt from franchise tax.
- (5) On November 1, 1968, notices of assessment were issued as follows:

Fiscal Year ended July 31, 1963

Minimum tax	\$25.00
Penalty and interest	16.00
Total	\$41.00

Fiscal Year ended July 31, 1964

Tax at 1 Mill on capital	\$600.00
Penalty and interest	312.00
Total	\$912.00

(6) Application for revision or refund was timely filed.

(7) The corporation is not a cooperative housing corporation as defined by Section 216 of the Internal Revenue Code.

(8) Section 71 of Article IV of the Private Housing Finance Law defines "housing company" as a limited-dividend housing corporation formed pursuant to Article IV of such law.

(9) Section 72 of Article IV provides for the incorporation of limited-dividend housing corporations.

(10) Section 93 of Article IV exempts from the franchise tax any housing company formed pursuant to such article.

The State Tax Commission hereby

DETERMINES:

(A) Chenango Court, Inc. was not incorporated as a limited-dividend housing corporation pursuant to the provisions of Section 72 of Article IV of the Private Housing Finance Law and, therefore, is not a "housing company" as defined by Section 71 of such law.

(B) Therefore, Chenango Court does not qualify for exemption from franchise tax in accordance with Section 93 of Article IV of the Private Housing Finance Law.

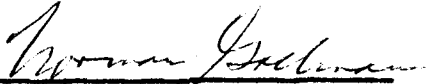
(C) The taxpayer is not a cooperative housing corporation as defined in Section 216 of the Internal Revenue Code and, therefore, does not qualify for the lower tax rate of one-quarter of a mill on capital provided for in Section 210.1(a)(2) of the tax law.

(D) The notices of assessment issued on November 1, 1968 for fiscal years ended July 31, 1963 and July 31, 1964 are affirmed.

Dated: Albany, New York

this 22nd day of October 1971.

STATE TAX COMMISSION



President



Commissioner



Commissioner