

STATE OF NEW YORK  
STATE TAX COMMISSION  
ALBANY, NEW YORK 12227

December 3, 1982

Diane Scherillo  
d/b/a Central Vending Co.  
500 Hempstead Tpke.  
Elmont, NY 11003

Dear Ms. Scherillo:

Please take notice of the Decision of the State Tax Commission enclosed herewith.

You have now exhausted your right of review at the administrative level. Pursuant to section(s) 478 of the Tax Law, any proceeding in court to review an adverse decision by the State Tax Commission can only be instituted under Article 78 of the Civil Practice Laws and Rules, and must be commenced in the Supreme Court of the State of New York, Albany County, within 4 months from the date of this notice.

Inquiries concerning the computation of tax due or refund allowed in accordance with this decision may be addressed to:

NYS Dept. Taxation and Finance  
Law Bureau - Litigation Unit  
Albany, New York 12227  
Phone # (518) 457-2070

Very truly yours,

STATE TAX COMMISSION

cc: Petitioner's Representative  
Raymond F. Mineo  
Muscarella, Tomasone & Mineo  
1040 Hempstead Tpke.  
Franklin Square, NY 11010  
Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Petition  
of  
DIANE SCHERILLO  
d/b/a CENTRAL VENDING CO.  
for a Hearing to Review a Denial of an  
Application for a License as a Wholesale  
Cigarette Dealer under Article 20 of the  
Tax Law.

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DECISION

Petitioner, Diane Scherillo, d/b/a Central Vending Co., 500 Hempstead Turnpike, Elmont, New York 11103, filed a petition for a hearing to review a denial of an application for a license as a wholesale cigarette dealer under Article 20 of the Tax Law (File 33534).

A formal hearing was held before Robert A. Couze, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York on January 18, 1982 at 1:35 P.M. Petitioner appeared by Muscarella, Tomasone & Mineo, Esqs., (Raymond F. Mineo, Esq., of counsel). The Audit Division appeared by Paul B. Coburn, Esq., (Barry M. Bresler, Esq., of counsel).

ISSUE

Whether petitioner's application for a license as a wholesale cigarette dealer was properly denied.

FINDINGS OF FACT

1. The petitioner herein is Diane Scherillo and her husband is Ralph Scherillo.
2. Ralph Scherillo, exclusively, owned and operated a vending machine business under the name of Diane's Amusements. The machines Mr. Scherillo operated were such as pool tables, juke boxes, and video and pinball games.

3. Diane Scherillo, exclusively owns and operates a business known as Diane's Department Store a/k/a Diane's Superette. She had opened it as a clothing store but after 6 months changed it to a grocery store in which she is licensed to sell cigarettes, beer and other items. Her cigarette tax number for this business is No. 1124355678.

4. That on or about January 14, 1981 an undated Application for License as a Wholesale Dealer of Cigarettes (Form MT-343) was received from Diane Scherillo, d/b/a Central Vending Co., with the same address as Diane's Amusements. Central Vending Co. commenced business on December 18, 1980 and a business certificate was filed the same date with the Nassau County Clerk.

5. On May 15, 1981 the Special Investigations Bureau, Cigarette Tax Operations Section, advised Mrs. Scherillo by letter that her application had been denied for cause. The specific cause was not stated.

6. Mrs. Scherillo is the exclusive owner and operator of Central Vending Co.

7. Except as to her application, herein, Mrs. Scherillo has never been denied a license, nor has she had any license suspended or revoked.

#### CONCLUSIONS OF LAW

A. That in Matter of Granville Tobacco Co., Inc., State Tax Commission, November 23, 1976, it was held that the nonspecified cause cited by the Miscellaneous Tax Bureau for denial of license as wholesale cigarette dealer, pursuant to Tax Law section 480, was unreasonable and not sustained by sufficient evidence, where the Miscellaneous Tax Bureau did not inform the applicant of the cause of the denial.

B. That not only was petitioner not informed of the specific cause for denying her application, herein, but it appears the denial was unreasonable and

not sustained by sufficient evidence. Petitioner currently has a Retail Cigarette Vendors' License and a beer license and has a good record.

C. That the petition herein is granted and Diane Scherillo d/b/a Central Vending Co. is to be issued a License as a Wholesale Dealer of Cigarettes.

DATED: Albany, New York

DEC 03 1982

STATE TAX COMMISSION



ACTING PRESIDENT



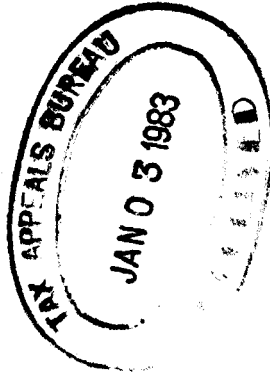
COMMISSIONER



COMMISSIONER

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STATE OF NEW YORK  
State Tax Commission  
TAX APPEALS BUREAU  
STATE CAMPUS  
ALBANY, N. Y. 12227



~~Diane Scherillo  
d/b/a Central Vending Co.  
500 Hempstead Tpke.  
Elmont, NY 11003~~

☐ Moved, full new address  
☐ No such number  
☒ Moved, not forwardable  
☐ Attempted - Not known

