

STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE  
BEFORE THE STATE TAX COMMISSION

Case No.

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In the Matter of the Mortgage executed by	:	
FOURTH TARBERT PROPERTIES, INC.	:	ORDER ON
to	:	DEFAULT
CONNECTICUT GENERAL LIFE INSURANCE COMPANY	:	

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A mortgage dated January 2, 1975, executed by Fourth Tarbert Properties, Inc. to Connecticut General Life Insurance Company, covering real property within and without the State of New York was first recorded in this State in the office of the Recording Officer of Erie County on January 15, 1975. The mortgage was given to secure the sum of \$2,200,000. Section 260, second paragraph, provides, in part, where the real property covered by a mortgage is located partly within and without the State and such mortgage is presented for record before the Tax Commission makes its determination of the taxable portion, there may be presented to the recording officer a statement verified by the mortgagor in which shall be specified the net value of the property within the State and the net value of the property without the State covered by the mortgage and that the tax payable before the Commission's determination shall be computed upon such portion of the principal indebtedness secured by the mortgage as the net value of the mortgage property within the State bears to the net value of the entire mortgaged property.

Determination by the Tax Commission of the taxable portion was not requested prior to recording the mortgage in this State. A statement showing book value and mortgage amount of the property within and without the state, sworn to January 14, 1975 by Milton Hecht, the mortgagor's Vice

President, was filed at recording. In said statement, it is recited that the book value and mortgage amount of the property covered by the mortgage located in the State of New York is \$152,595, that the book value and mortgage amount of the property without the State is \$2,046,103, mortgage recording was computed upon the sum of \$152,595 and \$1,144.50 was deposited with the Recording Officer of Erie County at recording of the mortgage. The statement was received from the Recording Officer of Erie County on January 25, 1975.

Notice of hearing pursuant to Section 260 of the Tax Law to the State Comptroller; Fourth Tarbert Properties, Inc., mortgagor, and Connecticut General Life Insurance Company, mortgagee; was given by mail October 6, 1975, fixing October 30, 1975, at ten o'clock in the forenoon, at the office of the State Tax Commission, Miscellaneous Tax Bureau, Mortgage & Real Estate Transfer Tax Section, Room 208 of Building Number Nine, State Campus, at Albany N.Y., as the time and place for hearing.

At said time set for hearing, all parties and those given notice of said hearing, defaulted in appearance and attendance.

As the result of the nonappearance of the parties, and witnesses on their behalf, at the time and place set for hearing, the said parties have, by their default rendered it not possible for the Tax Commission to proceed to ascertain and determine the relative net values within and without this State of the property covered by the mortgage, and accordingly are deemed to have waived any claim of right to such determination.

NOW THEREFORE, after due consideration, it is

DETERMINED BY THE COMMISSION

(1) That the mortgage dated January 2, 1975, executed by Fourth Tarbert Properties, Inc. to Connecticut General Life Insurance Company, first recorded in this State in the office of the Recording Officer of Erie County on January 15, 1975, secures principal indebtedness of Two Million Two Hundred Thousand Dollars (\$2,200,000).

(2) That mortgage recording tax of Sixteen Thousand Five Hundred Dollars (\$16,500) was due and payable thereon at recording.

(3) That mortgage recording tax of One Thousand One Hundred Forty Four and 50/100 (\$1,144.50) was deposited at recording.

(4) That the balance of mortgage recording tax in the sum of Fifteen Thousand Three Hundred Fifty-Five and 50/100 Dollars (15,355.50) was due and unpaid at recording.

(5) That additional tax computed upon said unpaid balance is due pursuant to Section 258 from the date of record of the mortgage to the date of payment.

(6) That the real property covered by the mortgage located within the State of New York is situated in the County of Erie.

(7) That the Recording Officer of Erie County shall enter this mortgage and give it a serial number on his mortgage tax record book and credit the entire basic tax collected at recording to the Town of Cheektowaga and the entire additional tax to the Niagara Frontier Transportation Authority.

DATED: Albany, N.Y.

December 3, 1975

STATE TAX COMMISSION

  
COMMISSIONER

  
COMMISSIONER

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COMMISSIONER