

To Mr. Rook

Determination to be signed by the Commission,
upon your approval.

June 27, 1969

LAN:pw

A handwritten signature in black ink, consisting of a stylized 'L' and 'N' with a long horizontal stroke extending to the right.

From Lawrence A. Newman

RECEIVED 10/10/1964

DEPARTMENT OF TAXATION AND FINANCE

MEMORANDUM

TO: Mr. Rook
FROM: Lawrence A. Newman
SUBJECT: Mortgage Recording Tax, Section 260;
Rules I to VI as revised July 14, 1924.
Apportionment within and without New
York State - Default
W. M. G. Realty Company Inc. to Howard Coal
and Coke Company, Inc.

DATE June 26, 1969
OFFICE Hearing Unit

*W. M. G. Realty
Company
Inc.*

The attached determination and apportionment is based substantially upon a preliminary draft by Mr. Sam Lorvan on March 12, 1965. The total amount of tax determined to be due (\$6909.23) has been paid to the recording officer, partly at the time the instrument was recorded, and the balance during the pendency of this proceeding.

The parties defaulted in appearance on three separately scheduled dates set for the hearing. The material submitted by the parties was not substantially responsive to Mr. Lorvan's request that they comply with the Rules of the Commission relating to apportionment proceedings.

Consequently, the value of any real property situated outside the State of New York has been excluded from consideration in this order of apportionment. The final apportionment concerns two counties within the City of New York.

I offer the attached determination and apportionment for the approval of the Commission.

Lawrence A. Newman
LAWRENCE A. NEWMAN
Hearing Officer

LAN/lh

In the Matter of the Mortgage executed by
W. M. G. REALTY COMPANY, INC.
to
HOWARD COAL AND COKE COMPANY, INC.

DETERMINATION
and
APPORTIONMENT

(b) A statement of relative values within and without the State, prescribed by Article 11, Section 260 of the Tax Law, sworn to July 3, 1962 by Howard Ross, the mortgagor's president, was filed at recording; and based thereon mortgage recording tax of Four Hundred Eighty-nine and 50/100 Dollars, (\$489.50), was deposited with said recording officer and was entered under mortgage Serial Number BF-1571. Additional tax of Six Thousand Four Hundred Nineteen and 73/100 Dollars, (\$6,419.73), was deposited with said recording officer on February 1, 1965, and was entered under mortgage Serial Number BF-1571S. That the total tax deposited is Six Thousand Nine Hundred Nine and 23/100 Dollars, (\$6,909.23). The statement by the president of the mortgagor, specifying the net value of the property within and without the State was received from the recording officer on July 11, 1962.

(c) Notices of hearing pursuant to Section 260 were given by mail to the State Comptroller; W. M. G. Realty Company, Inc., mortgagor; Howard Coal and Coke Company, Inc., mortgagee; Chemical Bank New York Trust Company, Aetna Life Insurance Company and Frank Leavitt, Esq., fixing January 14, 1964, at two o'clock in the afternoon, at the office of the State Tax Commission, State Campus, Albany, N. Y. as the time and place.

Request was made for adjournment by counsel for W. M. G. Realty Company, Inc., because of the unavailability of its witnesses. All others to whom notice was given defaulted in appearance.

On February 17, 1964, the date set for the purpose of hearing the mortgagor's witnesses, counsel for the mortgagor appeared; but no other persons appeared for the purpose of giving testimony.

(d) Notice of hearing pursuant to Section 260 was again given by mail to the parties listed in paragraph (c) above, fixing January 28, 1965, at two o'clock in the afternoon, at the office of the State Tax Commission, State Campus, Albany N.Y., as the time and place.

At the time set for the hearing, all parties defaulted in appearance.

(e) As a result of the non-appearance 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 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 that:

(1) The mortgage dated July 3, 1962, executed by W. M.G. Realty Company, Inc., to Howard Coal and Coke Company, Inc., was first recorded in this State in the office of the recording officer of New York County on July 9, 1962, and secures principal indebtedness of One Million Two Hundred Thousand Dollars (\$1,200,000).

(2) A mortgage recording tax of Six Thousand Dollars, (\$6000), was due and payable at recording.

(3) Mortgage Recording tax of Four Hundred Eighty-nine and 50/100 Dollars (\$489.50), was paid at time of recording.

(4) Additional Mortgage Recording tax of Five Thousand Five Hundred Ten Dollars and 50/100, (\$5,510.50), was due and unpaid at recording. The additional mortgage recording tax was paid to the recording officer of New York County on February 1, 1965.

(5) Additional amount based upon the tax due and unpaid at recording pursuant to Section 258 (from the date of recording of mortgage to the day of payment) is Nine Hundred Nine and 23/100 Dollars, (\$909.23), and was paid to the recording officer of New York County on February 1, 1965.

(6) The total tax and additional amount due upon the mortgage is Six Thousand Nine Hundred Nine and 23/100 Dollars (\$6,909.23).

(7) The real property covered by the mortgage within the State of New York is situated in the Counties of New York and Kings.

THEREFORE, IT IS ORDERED that:

A. The Mortgage Recording Tax and additional amount apportioned to the respective counties shall be transmitted to the recording officers thereof by the recording officer of New York County as follows:

	<u>Assessed Valuation</u>	<u>Apportionment</u>
County of New York	\$ 275,000	\$ 4313.37
County of Kings	165,500	2595.86

B. The recording officers shall enter this mortgage and give it a serial number on the mortgage tax record book and credit the respective tax districts with the sum apportioned, as follows:

	<u>Assessed Valuation</u>	<u>Apportionment</u>
County of New York City of New York	\$275,000	\$ 4313.37
County of Kings City of New York	165,500	2595.86

Dated: Albany, New York, this 15th day of July, 1969.
STATE TAX COMMISSION

Norman Gallman
PRESIDENT

Bruce Mauley
COMMISSIONER

Wilton Krumer
COMMISSIONER