

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

Case No.

In the Matter of the Instrument executed by :

C.K.S.S. ENTERPRISES, INC. :

to :

THE ROSLYN SAVINGS BANK :

ORDER OF REFUND

A petition having been filed by Leon M. Silberstein, Vice-president of C.K.S.S. Enterprises, Inc., for review of the determination of the recording officer of Suffolk County imposing mortgage recording tax in the amount of \$ 2,175.00 on the instrument in the form of a mortgage dated February 23, 1971, executed by C.K.S.S. Enterprises, Inc. to The Roslyn Savings Bank, recorded in the office of said recording officer on March 1, 1971, and

Application having also been made for refund of \$ 2,175.00, the mortgage recording tax paid to said recording officer at the time of recording said instrument; and

The petition and exhibit attached thereto having been duly examined and considered.

The State Tax Commission hereby finds:

(1) That on August 29, 1967, there was recorded in the office of the recording officer of Suffolk County, in Book 5216 of Mortgages, at page 495, a mortgage dated August 22, 1967, executed by C.K.S.S. Enterprises, Inc. to Security National Bank of Long Island.

(2) That said mortgage secured principal indebtedness in the sum of \$ 1,000,000.00; that said mortgage was made pursuant to a certain agreement for a building loan dated August 22, 1967; that only the sum of \$ 710,000.00 was advanced by the Security National Bank of Long Island.

(3) That mortgage recording tax of \$ 5,000.00 was paid at recording and was entered under mortgage Serial Number BK-9612.

(4) That said mortgage was assigned by mesne assignments to The

Roslyn Savings Bank.

(5) That the Roslyn Savings Bank advanced the balance of \$ 290,000. upon execution of an instrument in the form of a mortgage executed by C.K.S.S. Enterprises, Inc., dated February 23, 1971;

(6) That an affidavit, dated February 23, 1971, was filed on March 1, 1971, claiming exemption from further tax under the provisions of Section 255 of the Tax Law;

(7) That mortgage recording tax of \$ 2,175.00 was paid at recording on March 1, 1971 and was entered under mortgage Serial Number BN-20158.

Based upon the foregoing findings and all of the evidence presented herein,

The State Tax Commission hereby determines:

(A) Pursuant to the provisions of Section 255 of the Tax Law, the applicants were entitled at recording to exemption from mortgage recording tax.

(B) That the recording officer erroneously collected mortgage recording tax of Two Thousand One Hundred Seventy-Five and 00/100 Dollars (\$ 2,175.00) on said instrument.

Now therefore, it is ordered:

(1) That the recording officer of Suffolk County, be, and he hereby is authorized and directed to deduct the sum of Two Thousand One Hundred Seventy-Five and 00/100 Dollars (\$ 2,175.00), from mortgage tax moneys in his hands or which shall come to his hands and to refund said amount to C.K.S.S. Enterprises, Inc.

(2) That of said amount \$ 1,450.00 represents tax collected under Section 253 Subdivision 1 of the Tax Law and is to be charged back by the recording officer of Suffolk County on his mortgage tax records against the tax district to which it was credited; the balance of \$ 725.00 represents tax collected under Section 253 Subdivision 2 and is to be charged back against the Metropolitan Transportation Authority.

(3) That two certified copies of this order be mailed to the recording officer of Suffolk County, one of which he is directed to file with the records of his office and the other with the county treasurer as a warrant for the disbursement of the County's share of this refund.

(4) That one copy of this order be mailed to the Metropolitan Trans-

portation Authority as a warrant for the disbursement of the Authority's share of this refund.

DATED

September 17, 1971

STATE TAX COMMISSION

Norman Gallivan
Charles M. Muley
Milton Kaim