

218 Front Street Realty Corp.
New York City Commercial Development Corp.
Small Business Admin.
STATE OF NEW YORK

DEPARTMENT OF TAXATION AND FINANCE

BEFORE THE STATE TAX COMMISSION

Case No.

In the Matter of the Mortgage executed by :

218 FRONT STREET REALTY CORPORATION :

to

ORDER

NEW YORK CITY COMMERCIAL DEVELOPMENT CORPORATION :

simultaneously assigned to :

SMALL BUSINESS ADMINISTRATION
_____ :

A petition having been filed by 218 Front Street Realty Corporation (hereinafter called "Front Street") for review of the determination of the recording officer of Kings County imposing mortgage recording tax in the amount of Nine Hundred Thirty Dollars, (\$930), upon the mortgage dated December 6, 1966, executed by 218 Front Street Realty Corporation to New York City Commercial Development Corporation, (hereinafter called "CDC"), and simultaneously assigned to Small Business Administration, an agency duly created under and by virtue of an Act of Congress, (hereinafter called "SBA"), which mortgage was recorded in the office of said recording officer on December 9, 1966. in Book 313 of Records, Page 55, and

APPLICATION having also been made for refund of the mortgage recording tax paid as aforesaid;

AND HEARING having been held before Samuel Lorvan, Hearing Officer, designated as such by this Commission, on December 6, 1967, at the office of the State Tax Commission at the State Office Building, 80 Centre Street, New York, New York, and the applicant having appeared by its attorneys, Sheldon & Tarnoff, Esqs., Jerome Tarnoff, Esq., of Counsel; Small Business Administration appeared by Robert M. Morgenthau,

United States Attorney for the Southern District of New York, Brian J. Gallagher, Esq., Assistant United States Attorney, of Counsel; and the City of New York appeared by J. Lee Rankin, Esq., its Corporation Counsel. Samuel K. Handel, Esq., Special Assistant Corporation Counsel, of Counsel; and a report having been made by said Hearing Officer

NOW THEREFORE after examination of the record, the proofs and various documents submitted in the proceeding and after due deliberation, it is hereby found

(1) That on June 15, 1966, SBA authorized among other things a loan by CDC to Front Street in the sum of \$186,000 secured by a first mortgage on its real property known as 218 Front Street, Brooklyn, New York, the proceeds to be advanced by SBA and the mortgage to be simultaneously assigned to SBA.

(2) That on December 6, 1966, CDC, among other things, agreed to loan to Front Street the sum of \$186,000 to be secured by a first mortgage on its said real property; said \$186,000 to be obtained from SBA under its commitment dated June 15, 1966.

(3) That on December 6, 1966, Front Street executed and delivered to CDC its note for \$186,000 and simultaneously therewith, Front Street executed and delivered to CDC a first mortgage in the sum of \$186,000 on its property.

(4) That pursuant to previous agreement, SBA advanced to CDC the sum of \$186,000 and CDC executed an assignment of said first mortgage to SBA; that said assignment was simultaneously made with the making by Front Street of the note and the first mortgage.

(5) That said first mortgage was recorded on December 9, 1966; that mortgage recording tax of \$930 was paid thereon at recording and that the assignment of mortgage by CDC to SBA was recorded simultaneously therewith.

Based upon the foregoing findings and all of the evidence presented herein, the State Tax Commission hereby

DETERMINES:

1. That said mortgage was not subject to the mortgage recording tax imposed by Article Eleven of the Tax Law.
2. That the recording officer of Kings County erroneously collected the sum of Nine Hundred Thirty Dollars, (\$930), as mortgage recording tax thereon.
3. That the determination of the recording officer be and the same hereby is cancelled and annulled, and it is hereby

O R D E R E D

(1) That the recording officer of Kings County be, and he hereby is, authorized and directed to deduct the sum of Nine Hundred Thirty Dollars, (\$930), from mortgage tax moneys in his hands or which shall come to his hands and to refund said amount to 218 Front Street Realty Corporation.

(2) That two certified copies of this order be mailed to the recording officer of Kings County, one of which he is directed to file with the records of his office and the other with the treasurer of the City of New York as a warrant for the disbursement.

DATED Albany, New York

January 11, 1971

STATE TAX COMMISSION

Norman G. Gilman

COMMISSIONER

COMMISSIONER

Milton Korman

COMMISSIONER

STATE OF NEW YORK
STATE TAX COMMISSION

IN THE MATTER OF THE ~~INSTRUMENT BY~~
~~XXXXXXXXXXXXXXXXXXXX~~ :

AFFIDAVIT OF
MAILING

218 FRONT STREET REALTY CORPORATION
NEW YORK CITY COMMERCIAL DEVELOPMENT CORPORATION
~~simultaneously assigned to~~
~~SMALL-BUSINESS ADMINISTRATION~~

State of New York) ss.
City and County of Albany)

Louis C. Johnson, being duly sworn, deposes and
says:

That your deponent is over the age of eighteen and
an employee in the Office of the State Tax Commission, Depart-
ment of Taxation and Finance, Mortgage & Real Estate Transfer
Tax Section.

That on the *19th* day of *February* 1971, your
deponent deposited in a letter box exclusively maintained and
controlled by the United States Government at *Fuller Road*
in the Town of Coxsack ~~in the City and County of~~
Albany, New York, a copy of the determination of the State Tax
Commission in this proceeding, copy of which is hereto annexed,
contained in a securely closed, postpaid cover, directed to the
herein below named parties in this proceeding, their representa-
tives and the recording officer of *Kings* County at the
addresses set forth below:

Louis C. Johnson

Sworn to before me this *22nd* day
of *February* 1971.

Arthur Mahwell

218 Front Street Realty Corporation
218 Front Street
Brooklyn, New York

New York City Commercial
Development Corporation
415 Madison Avenue
New York, New York

Small Business Administration
42 Broadway
New York, New York 10004

Sheldon & Tarnoff, Esqs.
292 Madison Avenue
New York, New York 10017

Mr. Victor M. Rivera
City Register of Kings
Municipal Building
Room 1000
Brooklyn, New York 11201