

*218 Front Street Realty Corp.*  
*vs.*  
*New York City Commercial Development Corp.*

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 partially 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 Eight Hundred Seventy-five and 50/100 Dollars, (\$875.50), 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 partially 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 68, 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, Esq., 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 December 6, 1966, Front Street executed and delivered to CDC its note for \$175,124 and simultaneously therewith, Front Street executed and delivered to CDC a subordinate mortgage in the sum of \$175,124 on its property.

(2) That pursuant to previous agreement, SBA advanced to CDC the sum of \$114,000 and CDC executed a partial assignment of said subordinate mortgage to SBA to the extent of \$114,000 only; that said assignment was simultaneously made with the making by Front Street of the note and the first mortgage; and that CDC retained an interest in said subordinate mortgage to the extent of \$61,124.

(3) That said subordinate mortgage was recorded on December 9, 1966; that mortgage recording tax of \$875.50 was paid thereon at recording and that the partial assignment of mortgage by CDC to SBA was recorded simultaneously therewith.

(4) That there was presented to the recording officer an affidavit of the Small Business Administration claiming exemption from tax; that no such affidavit was presented to the recording officer concerning the New York City Commercial Development Corporation and no information concerning such corporation was presented at the hearing.

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

DETERMINES:

1. That said mortgage was subject to the mortgage recording tax imposed by Article Eleven of the Tax Law to the extent of \$61,124 and that mortgage recording tax of \$305.50 was due thereon at recording.

2. That the recording officer of Kings County erroneously collected excess mortgage recording tax thereon in the amount of \$570.

3. That the determination of the recording officer to that extent 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 Five Hundred Seventy Dollars, (\$570), 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

Isrovan Gellman  
COMMISSIONER

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COMMISSIONER

Milton Koenig  
COMMISSIONER