

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

ST. JOSEPH'S HEALTH CENTER
PROPERTIES, INC.

For a Redetermination of a Deficiency or
a Refund of Mortgage Recording
Taxes under Article (s) 11 of the
Tax Law, ~~for the year (x)~~ with reference
to an instrument recorded 11/29/73.

AFFIDAVIT OF MAILING
OF NOTICE OF ~~DECISION~~ DETERMINATION
BY ~~(CERTIFIED)~~ MAIL

State of New York
County of Albany

Janet Mack, being duly sworn, deposes and says that
she is an employee of the Department of Taxation and Finance, over 18 years of
age, and that on the 26th day of February, 1976, she served the within
Notice of ~~Decision~~ (or Determination) by ~~(certified)~~ mail upon St. Joseph's Health
Center Properties, Inc. ~~(representative of)~~ the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: St. Joseph's Health Center Properties, Inc.
301 Prospect Avenue
Syracuse, NY
and by depositing same enclosed in a postpaid properly addressed wrapper in a
(post office or official depository) under the exclusive care and custody of
the United States Post Office Department within the State of New York.

That deponent further says that the said addressee is the ~~(representative of)~~
~~(or)~~ petitioner herein and that the address set forth on said wrapper is the last
known address of the ~~(representative of the)~~ petitioner.

Sworn to before me this
26th day of February, 1976.

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of
ST. JOSEPH'S HEALTH CENTER
PROPERTIES, INC.

AFFIDAVIT OF MAILING
OF NOTICE OF ~~DECISION~~ DETERMINATION
BY ~~REGISTERED~~ MAIL

For a Redetermination of a Deficiency or
a Refund of Mortgage Recording
Taxes under Article ~~(s)~~ 11 of the
Tax Law, ~~for the year(s)~~ with reference
to an instrument recorded 11/29/73.

State of New York
County of Albany

Janet Mack, being duly sworn, deposes and says that
she is an employee of the Department of Taxation and Finance, over 18 years of
age, and that on the 26th day of February, 1976, she served the within
Notice of ~~XXXXXXXX~~ (or Determination) by ~~XXXXXXXX~~ mail upon Timothy E.
Gorman, Esq. (representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Timothy E. Gorman, Esq.
Costello, Cooney & Fearon, Esqs.
600 Monroe Building
Syracuse, NY 13202
and by depositing same enclosed in a postpaid properly addressed wrapper in a
(post office or official depository) under the exclusive care and custody of
the United States Post Office Department within the State of New York.

That deponent further says that the said addressee is the (representative
of) petitioner herein and that the address set forth on said wrapper is the last
known address of the (representative of the) petitioner.

Sworn to before me this
26th day of February, 1976.



STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of
ST. JOSEPH'S HEALTH CENTER
PROPERTIES, INC.

AFFIDAVIT OF MAILING
OF NOTICE OF ~~DECISION~~ DETERMINATION
BY ~~(CERTIFIED)~~ MAIL

For a Redetermination of a Deficiency or
a Refund of Mortgage Recording
Taxes under Article(s) 11 of the
Tax Law, ~~for the Year(s)~~ with reference
to an instrument recorded 11/29/73.

State of New York
County of Albany

Janet Mack, being duly sworn, deposes and says that
she is an employee of the Department of Taxation and Finance, over 18 years of
age, and that on the 26th day of February, 1976, she served the within
Notice of ~~Decision~~ (or Determination) by ~~(certified)~~ mail upon Onondaga
Savings Bank (representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Onondaga Savings Bank
101 South Salina Street
Syracuse, NY

and by depositing same enclosed in a postpaid properly addressed wrapper in a
(post office or official depository) under the exclusive care and custody of
the United States Post Office Department within the State of New York.

That deponent further says that the said addressee is the (representative
of) petitioner herein and that the address set forth on said wrapper is the last
known address of the (representative of the) petitioner.

Sworn to before me this

26th day of February, 1976.

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

ST. JOSEPH'S HEALTH CENTER
PROPERTIES, INC.

AFFIDAVIT OF MAILING
OF NOTICE OF ~~DECISION~~ DETERMINATION
BY ~~(CERTIFIED)~~ MAIL

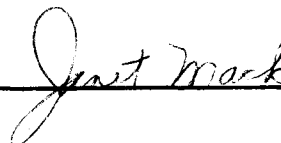
For a Redetermination of a Deficiency or
a Refund of Mortgage Recording
Taxes under Article ~~(§)~~ 11 of the
Tax Law, ~~for the year(s)~~ with reference:
to an instrument recorded 11/29/73.

State of New York
County of Albany

Janet Mack, being duly sworn, deposes and says that
she is an employee of the Department of Taxation and Finance, over 18 years of
age, and that on the 26th day of February, 1976, she served the within
Notice of ~~Decision~~ (or Determination) by ~~(certified)~~ mail upon Mr. Frank E.
Cywilko (representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Mr. Frank E. Cywilko
Commissioner of Finance
Onondaga County
Syracuse, NY
and by depositing same enclosed in a postpaid properly addressed wrapper in a
(post office or official depository) under the exclusive care and custody of
the United States Post Office Department within the State of New York.

That deponent further says that the said addressee is the (representative
of) petitioner herein and that the address set forth on said wrapper is the last
known address of the (representative of the) petitioner.

Sworn to before me this
26th day of February, 1976.





STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

TAX APPEALS BUREAU

STATE CAMPUS
ALBANY, N.Y. 12227

STATE TAX COMMISSION

ADDRESS YOUR REPLY TO

DATED: Albany, New York
February 26, 1976

TELEPHONE: (518) ~~457-3880~~

St. Joseph's Health Center
Properties, Inc.
301 Prospect Avenue
Syracuse, NY

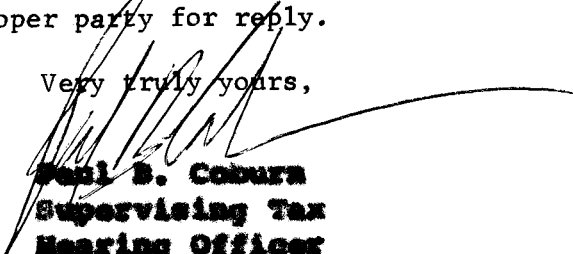
Gentlemen:

Please take notice of the **DETERMINATION**
of the State Tax Commission enclosed herewith.

Please take further notice that pursuant to
Section ~~251~~ **251** of the Tax Law, any
proceeding in court to review an adverse deci-
sion must be commenced within **4 months**
from the date of this notice.

Inquiries concerning the computation of tax
due or refund allowed in accordance with this
decision or concerning any other matter relative
hereto may be addressed to the undersigned. They
will be referred to the proper party for reply.

Very truly yours,


Paul S. Coburn
Supervising Tax
Hearing Officer

Enc.

cc: Petitioner's Representative:

Taxing Bureau's Representative:

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Application	:	
of	:	
ST. JOSEPH'S HEALTH CENTER	:	
PROPERTIES, INC.	:	DETERMINATION
to Review a Determination under Article 11	:	
of the Tax Law with reference to an	:	
instrument recorded November 29, 1973.	:	

Applicant, St. Joseph's Health Center Properties, Inc., 301 Prospect Avenue, Syracuse, New York, applied for a refund of mortgage recording tax under Article 11 of the Tax Law. The tax was originally paid under protest.

A formal hearing was held at the offices of the State Tax Commission, Syracuse, New York, on February 25, 1975, before L. Robert Leisner, Hearing Officer. The taxpayer was represented by Charles E. Cooney, Jr., Esq., and the Sales Tax Bureau was represented by Saul Heckelman, Esq., (Alexander Weiss, Esq., of counsel).

ISSUE

Was the mortgage executed by the St. Joseph's Health Center Properties, Inc., a mortgage executed by a voluntary nonprofit hospital corporation which was exempt from the mortgage recording tax pursuant to section 253 of the Tax Law?

FINDINGS OF FACT

1. St. Joseph's Hospital was incorporated on April 12, 1848 as "St. Joseph's Hospital" by Act of the Legislature of the State of New York entitled "An Act for the Incorporation of Benevolent Charitable, Scientific and Missionary Societies." Its name was changed to St. Joseph's Hospital Health Center pursuant to certificate of change of name filed March 11, 1970. From the time of its organization and incorporation, St. Joseph's Hospital has operated in Syracuse, New York as a charitable nonprofit hospital.

2. St. Joseph's Hospital Health Center (hereinafter St. Joseph's Hospital) undertook a major hospital expansion building program adding about seventy three acute short term care beds, and a fifty bed extended care unit to the presently existing 352 beds hospital, and obtained a \$17,000,000 Housing Finance Agency mortgage to finance the addition and the mortgage covers the hospital, the acute care hospital and the extended care unit.

3. The St. Joseph's Hospital Trustees also determined that a physician's office building and garage should be erected adjacent to the hospital.

4. The New York State Housing Finance Agency had great concern about the hospital corporation undertaking a second major construction

project at the time the hospital expansion was under way and the agency wanted to avoid any possibility of a lien being filed by virtue of the second construction which would impede the continuation of construction of the hospital under the \$17,000,000 mortgage.

5. To accomplish the construction of the office building and parking garage, the hospital arranged for the incorporation of St. Joseph's Health Center Properties, Inc. (hereinafter St. Joseph's Properties) the petitioner herein.

6. "St. Joseph's Properties" was incorporated pursuant to the Not-For-Profit Corporation Law of the State of New York on April 13, 1972. St. Joseph's Properties' purposes as stated in its certificate of incorporation are to receive and pay over monies to St. Joseph's Hospital Health Center (hereinafter "St. Joseph's Hospital") for its corporate purposes and to that end to hold, purchase, lease or otherwise administer properties real and personal, as well as to carry out such programs, research and activities as may be necessary or desirable to further the corporate interests of St. Joseph's Hospital. No officer, member or employee of St. Joseph's Properties may receive or is entitled to receive any pecuniary profit from its operations, except reasonable compensation for services in effecting its aforesaid purposes.

7. The officers and directors of St. Joseph's Properties are officers and trustees of St. Joseph's Hospital. Both corporations are exempt from Federal income tax under the provisions of Section 501(c)(3) of the Internal Revenue Code.

8. Prior to or about November 29, 1973, St. Joseph's Properties had acquired a parcel of land largely from St. Joseph's Hospital upon which is being constructed the physician's office building and garage to be used in conjunction with St. Joseph's Hospital's health care facilities. The site of the physician's office building and garage is within approximately 50 feet of the St. Joseph's Hospital main buildings and the two will be interconnected by enclosed walkways.

9. On or about November 29, 1973, St. Joseph's Properties obtained a loan to finance construction of the structures. The loan was in the amount of \$3,200,000 and was secured by a mortgage on the real estate given to the lender, Onondaga Savings Bank of Syracuse, New York.

10. On or about November 29, 1973, the mortgage was presented to the Onondaga County Clerk for recording at which time exemption from the recording tax pursuant to Section 253(3) of the Tax Law was claimed. However, the County Clerk maintained that such tax must be paid if the mortgage was to be recorded whereupon St. Joseph's

Properties paid the tax in the amount of \$24,000 under protest. St. Joseph's Properties applied to the Tax Commission to review the mortgage recording tax determination.

11. The office building of three stories will be on top of the parking garage and will be occupied by physicians on the staff of St. Joseph's Hospital and it is being built to encourage doctors to use the hospital facilities when their patients require hospital care or services. In turn the hospital will receive benefits from the use of its facilities by the physicians, in having better care for patients through a readily and conveniently available staff for emergencies, a better quality in medical care for many regular patients, and in educational programs. There are approximately 60 interns in residence and a varying number of medical students as well. There are graduate educational programs at the intern and residing level in many specialties and the hospital also functions as a teaching facility for undergraduate medical students who are enrolled in the Upstate Medical Center in Syracuse, New York. The offices will be leased to physicians whose patients may or may not use the hospital. Some patients may never require hospital care, services or facilities. In other cases the physicians in their own

judgment may send patients requiring hospital care, services or facilities to other hospitals as they see fit.

12. The five story 435 car parking garage will be for the tenants, employees and patients going into the office building or hospital.

13. St. Joseph's Properties, Inc. contends that it is the agent of the St. Joseph's Hospital Health Center and the alter ego of the hospital.

14. The Miscellaneous Tax Bureau asserts that the petitioner is not a hospital and the patients going to the office building may never go into the hospital.

15. While St. Joseph's Health Center Properties, Inc. is closely related to the St. Joseph's Hospital Health Center hospital, it is not a hospital corporation and the mortgage is for a physicians' office building and a parking garage. To a considerable extent the garage and the offices will serve the physicians and their private practices. There is little difference between the present arrangement and a nonprofit physicians' office building and parking garage.

CONCLUSIONS OF LAW

A. Petitioner, St. Joseph's Properties is not a voluntary, nonprofit hospital corporation.

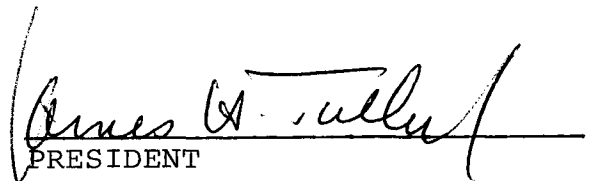
B. The combined office building and parking garage are not hospital buildings and they greatly benefit the physicians and their private practices.

C. Under Section 253(3) of the Tax Law and the circumstance of this case the petitioner's mortgage is not exempt from the mortgage recording tax. Tax exemptions must be strictly construed against those seeking a tax exemption.

D. The application for refund is denied.

DATED: Albany, New York
February 26, 1976

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER