

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of
SLOVAK GYMNASTIC UNION
SOKOL, ASSEMBLY #36, INC.
For a Redetermination of a Deficiency or
a Revision of a Determination or a Refund
of Mortgage Tax
Taxes under Article ~~(x)~~ 11 of the
Tax Law for the Year ~~(x) or Period (x)~~
February 9, 1973

AFFIDAVIT OF MAILING

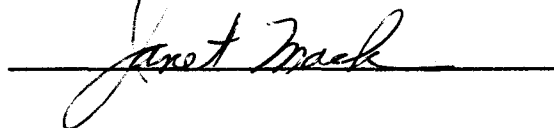
State of New York
County of Albany

Violet Walker, 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 24th day of June, 1977, she served the within Notice of Determination by ~~(certified)~~ mail upon Mr. Carlton G. Hilsinger (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Mr. Carlton G. Hilsinger
Commissioner of Finance - Broome County
Binghamton, New York 13901
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 Postal Service within the State of New York.

That deponent further says that the said addressee is the (representative of the) 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

24th day of June, 1977.





STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of
SLOVAK GYMNASTIC UNION SOKOL, : AFFIDAVIT OF MAILING
ASSEMBLY #36, INC. :
For a Redetermination of a Deficiency or :
a Revision of a Determination or a Refund :
of Mortgage Tax :
Taxes under Article(s) 11 of the :
Tax Law for the Year(s) ~~XXXX~~ Period(s) :
February 9, 1973

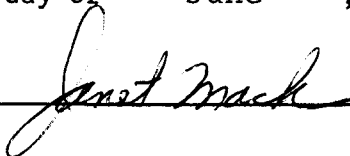
State of New York
County of Albany

Violet Walker, 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 24th day of June, 1977, she served the within
Notice of Determination by ~~(certified)~~ mail upon Slovak Gymnastic Union
Sokol of the United States of America
(representative of) the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: Slovak Gymnastic Union Sokol of the United States of America
285 Oak Street
Perth Amboy, New Jersey
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 Postal Service within the State of New York.

That deponent further says that the said addressee is the (representative
of the) 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

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STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of
SLOVAK GYMNASTIC UNION
SOKOL, ASSEMBLY #36, INC.
For a Redetermination of a Deficiency or
a Revision of a Determination or a Refund
of Mortgage Tax
Taxes under Article (s) 11 of the
Tax Law for the Year ~~(xxxxxx)~~ ~~Period(s)~~
February 9, 1973

AFFIDAVIT OF MAILING

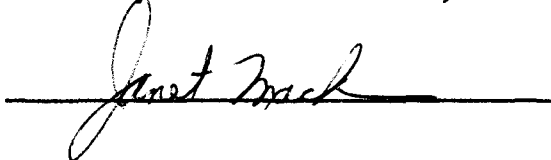
State of New York
County of Albany

Violet Walker, 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 24th day of June, 1977, she served the within Notice of Determination by ~~(certified)~~ mail upon Mr. Frederick J. Vavra (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Mr. Frederick J. Vavra
117 Hawley Street
Binghamton, New York 13901
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 Postal Service within the State of New York.

That deponent further says that the said addressee is the (representative of the) 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

24th day of June, 1977.





STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

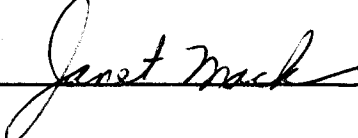
of
SLOVAK GYMNASTIC UNION : AFFIDAVIT OF MAILING
SOKOL, ASSEMBLY #36, INC. :
For a Redetermination of a Deficiency or :
a Revision of a Determination or a Refund :
of Mortgage Tax :
Taxes under Article (8) 11 of the :
Tax Law for the Year (~~1976~~) :
February 9, 1973

State of New York
County of Albany

Violet Walker, 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 24th day of June, 1977, she served the within Notice of Determination by (~~certified~~) mail upon Slovak Gymnastic Union Sokol, Assembly #36, Inc. (~~representative of~~) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Slovak Gymnastic Union, Sokol Assembly #36, Inc. 226 Clinton Street Binghamton, New York 13901 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 Postal Service within the State of New York.

That deponent further says that the said addressee is the (~~representative~~ ~~xxx~~) 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
24th day of June, 1977.







STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION

TAX APPEALS BUREAU

STATE CAMPUS
ALBANY, N.Y. 12227

June 24, 1977

ADDRESS YOUR REPLY TO

TELEPHONE: (518) **457-1723**

Slovak Gymnastic Union, Sokol
Assembly #36, Inc.
226 Clinton Street
Binghamton, New York 13901

Gentlemen:

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

Please take further notice that pursuant to
Section(~~8~~) **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 B. 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	:	
SLOVAK GYMNASTIC UNION	:	
SOKOL, ASSEMBLY # 36, INC.	:	DETERMINATION
to Review a Determination under Article 11 of the	:	
Tax Law with Reference to an Instrument Recorded	:	
February 9, 1973.	:	

Applicant, Slovak Gymnastic Union Sokol, Assembly # 36, Inc.,
having its principal place of business at 226 Clinton Street, Binghamton,
New York 13901, filed an application to review a determination under
Article 11 of the Tax Law with reference to a mortgage recorded
February 9, 1973. (File No. 01901).

A formal hearing was waived and the case was submitted to the
State Tax Commission upon the entire record contained in the file.
The State Tax Commission renders the following determination after
due consideration of said record.

ISSUE

Whether the mortgage executed by Slovak Gymnastic Union Sokol,
Assembly # 36, Inc. constituted a supplemental mortgage exempt from
taxation pursuant to section 255 of the Tax Law.

FINDINGS OF FACT

1. On January 22, 1962, the applicant, Slovak Gymnastic Union Sokol, Assembly # 36, Inc. (hereinafter "mortgagor"), executed and delivered to Slovak Gymnastic Union Sokol of the United States of America, (hereinafter "mortgagee"), a mortgage in the sum of \$32,000.00 which mortgage was recorded in the Broome County Clerk's Office in Book 754 of Mortgages at Page 527. The principal sum was to be paid on or before February 1, 1972, with interest at 4 1/2% per annum, the monthly payments being \$331.05. Each payment was to be applied toward interest and the balance towards principal indebtedness.

2. Upon recording this mortgage, applicant paid a mortgage recording tax of \$160.00.

3. On January 1, 1973 the mortgagor and the mortgagee entered into a Consolidation, Modification and Extension Agreement which was recorded in the Broome County Clerk's Office in Book 754 at Page 889 on February 9, 1973. It was accompanied by the affidavit of Fred J. Vavra, attorney for the applicant, which stated that neither the agreement nor a new bond and mortgage in the sum of \$26,440.18, which was the total of the remaining principal indebtedness on the mortgage described in paragraph 1 above (\$23,933.83) together with interest due and owing (\$2,506.35), secured any new or further indebtedness or obligation in addition or other than that secured by the mortgage described in paragraph 1.

4. On January 1, 1973, the applicant-mortgagor also executed a mortgage to the mortgagee in the principal sum of \$26,440.18, to be paid by January 1, 1993 at the rate of 6% per annum, payable in monthly installments of \$189.65 per month, which mortgage was recorded in the Broome County Clerk's Office in Book 874 at Page 885 on February 9, 1973.

5. The Broome County Clerk refused to record the Agreement and the Mortgage described in paragraphs 3 and 4 above unless mortgage recording tax in the amount of \$132.00 was paid, which tax was paid.

6. By letter of February 13, 1973, to the Miscellaneous Tax Bureau, the applicant's attorney advised that the \$132.00 mortgage recording tax had been paid under protest, and that pursuant to section 255 of the Tax Law, the instruments recorded, which neither created or secured a new or further indebtedness, are not subject to mortgage recording tax, and requested a determination thereon.

7. By letter of March 9, 1973, the Miscellaneous Tax Bureau responded to the February 13, 1973 letter stating that the new mortgage is not an instrument entitled to exemption as a supplemental instrument, and is in effect given in place of the prior mortgage. The Bureau concluded that the recording officer of Broome County had correctly collected mortgage recording tax on the new mortgage.

8. On June 21, 1973, applicant petitioned the State Tax Commission for review of the Broome County Clerk's determination.

CONCLUSIONS OF LAW

A. That the mortgage executed by the applicant mortgagor on January 1, 1973 and recorded on February 9, 1973 neither corrected or perfected the prior recorded mortgage, nor did it constitute an additional mortgage imposing a lien upon property not originally covered by or not described in the primary or prior mortgage.

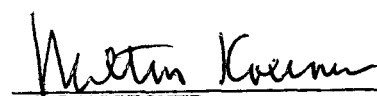
B. That said mortgage does not, therefore, constitute a supplemental mortgage within the meaning of section 255 of the Tax Law but was instead a new mortgage, despite the fact that the amount secured thereby was the principal balance due on the prior mortgage plus unpaid interest thereon.

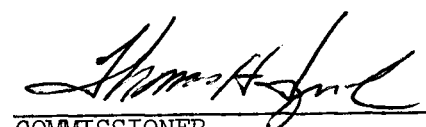
C. That the application of Slovak Gymnastic Union Sokol, Assembly # 36, Inc. is denied.

DATED: Albany, New York
June 24, 1977

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER