

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of
PASQUALE TANCRA TI

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :
a Revision of a Determination or a Refund :
of Sales and Use :
Taxes under Article(s) 28 & 29 of the :
Tax Law for the ~~Year(s) or~~ Period(s) :
July 18, 1972.

State of New York
County of Albany

Bruce Batchelor , 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 31st day of May , 19 77, ~~she~~ served the within
Notice of Determination by (~~certified~~) mail upon Pasquale Tancrati

(~~representative of~~) the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: Mr. Pasquale Tancrati
525 Riverleigh Avenue
Riverhead, New York

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

31st day of May , 1977

Bruce Batchelor

Janet Mack



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

May 31, 1977

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

Mr. Pasquale Tancrati
525 Riverleigh Avenue
Riverhead, New York

Dear Mr. Tancrati:

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

Please take further notice that pursuant to
Section(s) **1139 and 1243** 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,
Frank J. Puccia

Frank J. Puccia
Supervisor of
Small Claims Hearings

Enc.

cc: ~~Production Department~~

Taxing Bureau's Representative:

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Application	:	
of	:	
PASQUALE TANCRA TI	:	DETERMINATION
for Revision of a Determination or for	:	
Refund of Sales and Use Taxes under	:	
Articles 28 and 29 of the Tax Law for	:	
the Period July 18, 1972.	:	

Applicant, Pasquale Tancrati, 525 Riverleigh Avenue, Riverhead, New York, filed an application for revision of a determination or for refund of sales and use taxes under Articles 28 and 29 of the Tax Law for the period July 18, 1972.

On October 18, 1976, petitioner advised the State Tax Commission in writing he desired to waive a small claims hearing and to submit the case to the State Tax Commission upon the record contained in the file.

ISSUE

Did the purchase of a mobile home constitute a capital improvement to real property?

FINDINGS OF FACT

1. On July 18, 1972, applicant, Pasquale Tancrati, purchased a mobile home from MacLeod Mobile Homes Inc. and paid New York State and local sales tax in the sum of \$1,312.85.

2. On May 12, 1975, the applicant filed an application for refund of sales tax in the amount of \$1,312.85. The application was made on the grounds that the purchase of a mobile home constituted a capital improvement to real property rather than a purchase of tangible personal property.

3. The seller, MacLeod Mobile Homes Inc., delivered the mobile home to a parcel of land which was leased by applicant, Pasquale Tancrati. The seller set the mobile home on blocks, but did not remove the running gear.

CONCLUSIONS OF LAW

A. That the placing of a mobile home on property not owned by the applicant, Pasquale Tancrati, did not constitute a capital improvement to real property.

B. That the purchase by the applicant, Pasquale Tancrati, of a mobile home was a purchase of tangible personal property subject to the imposition of sales tax under section 1105(a) of the Tax Law.

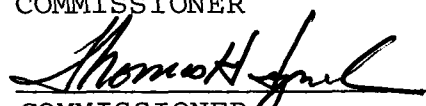
C. That the application of Pasquale Tancrati is denied and the Denial of Refund issued September 15, 1975 is sustained.

DATED: Albany, New York
May 31, 1977

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER