

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of  
MERRICK ESTATES CIVIC ASSOCIATION, INC.

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :  
a Revision of a Determination or a Refund  
of Sales & Use :  
Taxes under Article(s) 28 & 29 of the  
Tax Law for the ~~XXXXXX~~ Period(s) :  
April 1, 1969 through May 31, 1973.

State of New York  
County of Albany

Catherine Steele, 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 14th day of September, 1976, she served the within  
Notice of Determination by ~~(certified)~~ mail upon Martin H. Ginsberg

(representative of) the petitioner in the within proceeding,  
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed  
as follows: Mr. Martin H. Ginsberg  
66 Court Street  
Brooklyn, New York 11201

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  
14th day of September, 1976.

Catherine Steele

Janet Mack

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

MERRICK ESTATES CIVIC ASSOCIATION, INC.

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For a Redetermination of a Deficiency or :  
a Revision of a Determination or a Refund :  
of Sales & Use :  
Taxes under Article(s) 28 & 29 of the :  
Tax Law for the ~~Year(s)~~ Period(s) :  
April 1, 1969 through May 31, 1973.

State of New York  
County of Albany

Catherine Steele, 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 14th day of September, 1976, she served the within Notice of Determination by ~~(certified)~~ mail upon Merrick Estates Civic Association, Inc. ~~(representative of)~~ the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Merrick Estates Civic Association, Inc.  
P.O. Box 245  
Merrick, New York 11566

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)~~ ~~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  
14th day of September, 1976

Catherine Steele

Janet Mack



STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION

TAX APPEALS BUREAU  
STATE CAMPUS  
ALBANY, N.Y. 12227

ADDRESS YOUR REPLY TO

September 14, 1976

TELEPHONE: (518) **457-3850**

Merrick Estates Civic Association, Inc.  
P.O. Box 245  
Merrick, New York 11566

Gentlemen:

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

Please take further notice that pursuant to  
Section(s) **1139 & 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,

**Paul B. Coburn**  
Supervising Tax  
Hearing Officer

Enc.

cc: Petitioner's Representative:

Taxing Bureau's Representative:

STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Application	:	
of	:	
MERRICK ESTATES CIVIC ASSOCIATION, INC.	:	DETERMINATION
for a Revision of a Determination or for	:	
Refund of Sales and Use Taxes under	:	
Articles 28 and 29 of the Tax Law for the	:	
Periods April 1, 1969 through May 31, 1973.:	:	

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Merrick Estates Civic Association, P. O. Box 245, Merrick, New York 11566, filed an application for a revision of a determination or for refund of sales and use taxes paid under Articles 28 and 29 of the Tax Law for the periods April 1, 1969 through May 31, 1973 in the amount of \$4,454.30. A hearing was duly held on May 21, 1974 at the offices of the State Tax Commission, Two World Trade Center, New York, New York, before Nigel G. Wright, Hearing Officer. The applicant appeared by Martin H. Ginsberg. The Sales Tax Bureau appeared by Saul Heckelman, Esq., (Solomon Sies, Esq., of counsel). The record of said hearing has been duly examined and considered.

ISSUE

Whether monies paid to applicant, Merrick Estates Civic Association, by its members, constituted dues paid to a social

or athletic club and, as such, were subject to sales tax under section 1105(f)(2) of the Tax Law.

FINDINGS OF FACT

1. Applicant, Merrick Estates Civic Association, timely filed sales tax returns and paid sales taxes for the periods April 1, 1969 through May 31, 1971.

2. A Notice of Determination and Demand for Payment of Sales and Use Taxes Due was issued September 20, 1973 for the periods April 1, 1969 through May 31, 1973. A subsequent Notice of Assessment Review which revised the Notice of Determination was issued on January 25, 1974.

3. Applicant, Merrick Estates Civic Association, is a membership corporation organized under the Membership Corporations Law of the State of New York. Membership in said association was confined to residents of Merrick Harbor Estates, Hamlet of Merrick, Town of Hempstead, County of Nassau, State of New York. The association maintained, managed, and constructed certain facilities related to the beach and also two swimming pools and related facilities for the benefit of its members. The facilities related to the beach consisted of a concrete bulkhead, a full size swimming pool, a wading pool, rest room facilities and showers. It also provided lifeguard supervision for the swimming and bathing areas. There are no

facilities for eating or drinking or for having any sort of social function other than swimming.

4. Applicant, Merrick Estates Civic Association, was subject to sales tax on its purchases of materials and supplies.

5. Each year members of the association were required to pay their pro rata share of the maintenance charges, salaries of the lifeguards, real estate taxes and supplies. These annual charges were determined on the basis of the proposed budget and the number of family memberships for the given year. Although the number of members in the association fluctuated, only those people who resided in Merrick Harbor Estates, section 1 through 6, were eligible for membership. Membership hinged on their desire to participate in the facilities of the association.

#### CONCLUSIONS OF LAW

A. That applicant, Merrick Estates Civic Association, is a social or athletic club within the meaning of section 1101(d)(13) of the Tax Law.

B. That the pro rata share of the maintenance charge which members of the association were required to pay were dues within the meaning and intent of section 1101(d)(6) of the Tax Law.

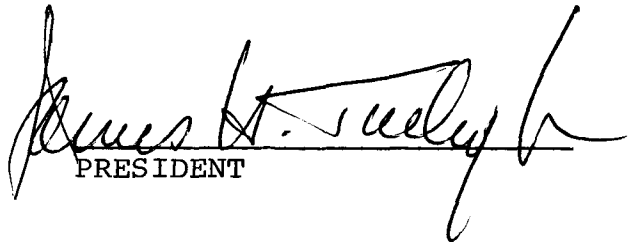
C. That the monies paid to applicant are subject to sales tax under section 1105(f)(2) of the Tax Law.

D. That the application of Merrick Estates Civic Association, Inc. is denied, as is the claim for refund. The Notice of Determination as revised by the January 25, 1974 Notice of Assessment Review is sustained.

E. That pursuant to the Tax Law, interest shall be added to the total amount due until paid.

DATED: Albany, New York  
September 14, 1976

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER