

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

2241 HYLAN BOULEVARD CORP.

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 ~~XXXXXX~~ Period ~~(X)~~  
March 1, 1972 through November 30, 1974.

State of New York  
County of Albany

John Huhn, being duly sworn, deposes and says that  
~~he~~ is an employee of the Department of Taxation and Finance, over 18 years of  
age, and that on the 22nd day of March, 1978, ~~he~~ served the within  
Notice of Determination by ~~(represented)~~ mail upon 2241 Hylan Boulevard  
Corp. ~~(representative of)~~ the petitioner in the within proceeding,  
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed  
as follows: 2241 Hylan Boulevard Corp.  
2241 Hylan Boulevard  
Staten Island, New York 10306

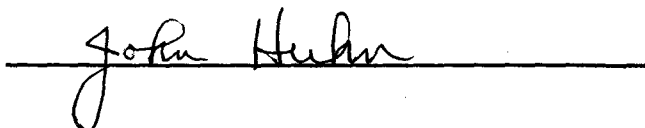
and by depositing same enclosed in a postpaid properly addressed wrapper in a  
(post office or official depository) under the exclusive care and custody of  
the United States Postal Service within the State of New York.

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

Sworn to before me this

22nd day of March, 1978





STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

2241 Hylan Boulevard Corp.

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 ~~years~~ Period(x) :  
March 1, 1972 through November 30, 1974.

State of New York  
County of Albany

John Huhn, 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 22nd day of March, 19 78 she served the within  
Notice of Determination by ~~certified~~ mail upon Ralph P. Casella

(representative of) the petitioner in the within proceeding,

by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed  
as follows: Ralph P. Casella, Esq.  
Molinari, DeLillo, Casella and Corbo  
14 First Street  
Staten Island, New York 10306

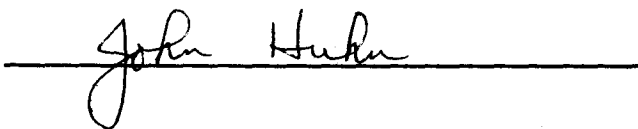
and by depositing same enclosed in a postpaid properly addressed wrapper in a  
(post office or official depository) under the exclusive care and custody of  
the United States Postal Service within the State of New York.

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

22nd day of March, 1978.







STATE OF NEW YORK  
STATE TAX COMMISSION  
TAX APPEALS BUREAU  
ALBANY, NEW YORK 12227

JAMES H. TULLY JR., PRESIDENT  
MILTON KOERNER  
THOMAS H. LYNCH

**March 22, 1978**

**2241 Hylan Boulevard Corp.  
2241 Hylan Boulevard  
Staten Island, New York 10306**

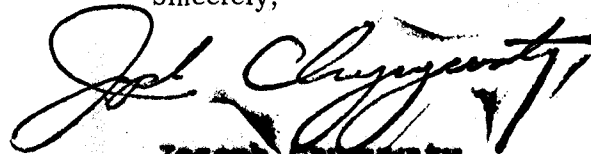
**Gentlemen:**

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

You have now exhausted your right of review at the administrative level. Pursuant to section(s) **1138 & 1243** of the Tax Law, any proceeding in court to review an adverse decision by the State Tax Commission can only be instituted under Article 78 of the Civil Practice Laws and Rules, and must be commenced in the Supreme Court of the State of New York, Albany County, within **4 months** from the date of this notice.

Inquiries concerning the computation of tax due or refund allowed in accordance with this decision may be addressed to the Deputy Commissioner and Counsel to the New York State Department of Taxation and Finance, Albany, New York 12227. Said inquiries will be referred to the proper authority for reply.

Sincerely,

  
**Joseph Chyrywat  
Hearing Examiner**

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	:	
2241 HYLAN BOULEVARD CORP.	:	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 March 1, 1972 through	:	
November 30, 1974.	:	

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Applicant, 2241 Hylan Boulevard Corp., 2241 Hylan Boulevard, Staten Island, New York 10306, 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 March 1, 1972 through November 30, 1974 (File No. 15548).

A small claims hearing was held before Frank Landers, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York on August 29, 1977 at 2:45 P.M. Applicant appeared by Ralph P. Casella, Esq. The Sales Tax Bureau appeared by Peter Crotty, Esq. (Louis Senft, Esq., of counsel).

ISSUES

I. Whether applicant, as the purchaser in a bulk-sale transaction, properly notified the State Tax Commission of the proposed sale in accordance with section 1141(c) of the Tax Law.

II. Whether the assessment of applicant for additional sales taxes determined to be due from the seller was made timely.

FINDINGS OF FACT

1. On June 25, 1975, the Sales Tax Bureau issued a Notice and Demand for Payment of Sales and Use Taxes Due against applicant, 2241 Hylan Boulevard Corp., in the amount of \$10,000.00.

2. The explanation for said notice was that "The following taxes are determined to be due from Pasqualino Pasquale D/B/A Pat's Deli and represents your liability as purchaser, in accordance with Section 1141(c) of the Tax Law."

3. On September 10, 1974, applicant purchased a grocery and delicatessen business located at 2241-2243 Hylan Boulevard, Staten Island, New York, from Pat Pasquale for a consideration of \$10,000.00.

4. Mr. Anthony Racanelli, president of 2241 Hylan Boulevard Corp., assumed that notice of the purchase had been sent by Mr. Harold Nachison who was the attorney representing applicant in the purchase. Mr. Nachison testified that notice of said purchase was sent by him to the Sales Tax Bureau on the day of the closing, September 10, 1974. Mr. Nachison could not recall if the notice was sent by registered mail and offered no proof that said notice was in fact mailed.

5. Since the Sales Tax Bureau did not receive notice of the purchase as required by section 1141(c) of the Tax Law, it issued the Notice and Demand for Payment of Sales and Use Taxes Due against applicant on June 25, 1975, some nine months after the sale.

6. On October 28, 1975, more than thirteen months after the sale, the Sales Tax Bureau received a copy of a Notification of Sale, Transfer or Assignment in Bulk, (Form ST-274) covering said purchase, along with a copy of the purchase agreement.

CONCLUSIONS OF LAW

A. That the applicant failed to sustain the burden of proof necessary to show that notice of the purchase was sent to the State Tax Commission as required by section 1141(c) of the Tax Law, or that the Notice and Demand for Payment of Sales and Use Taxes Due which was issued in accordance with said section was not timely.

B. That the application of 2241 Hylan Boulevard Corp. is denied and the Notice and Demand for Payment of Sales and Use Taxes Due issued June 25, 1975 is sustained.

DATED: Albany New York  
March 22, 1978

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER



New York State Department of  
**TAXATION and FINANCE**

TAX APPEALS BUREAU

TO Miss Davis, .....

Please file.

4/5/78

Joseph Chyrywaty

TA-26 (4-76) 25M **SMALL CLAIMS**

**STATE OF NEW YORK**

Department of Taxation and Finance

**TAX APPEALS BUREAU**

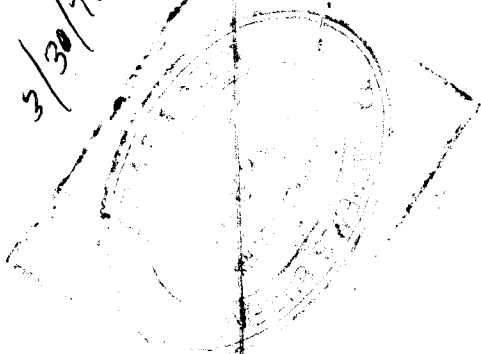
STATE CAMPUS

ALBANY, N. Y. 12227

2241 Hylan Boulevard Corp.  
2241 Hylan Boulevard  
Staten Island, New York 10306



3/30/78





STATE OF NEW YORK  
STATE TAX COMMISSION  
TAX APPEALS BUREAU  
ALBANY, NEW YORK 12227

JAMES H. TULLY JR., PRESIDENT  
MILTON KOERNER  
THOMAS H. LYNCH

March 22, 1978

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Inquiries concerning the computation of tax due or refund allowed in accordance with this decision may be addressed to the Deputy Commissioner and Counsel to the New York State Department of Taxation and Finance, Albany, New York 12227. Said inquiries will be referred to the proper authority for reply.

Sincerely,

Joseph Chyrywaty  
Hearing Examiner

cc: Petitioner's Representative  
Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

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DETERMINATION

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-3-

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DATED: Albany New York  
March 22, 1978

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER