

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of
FRANCIS G. DE NAULT

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 ~~Years XXX~~ Period ~~(s)~~ :
June 9, 1975.

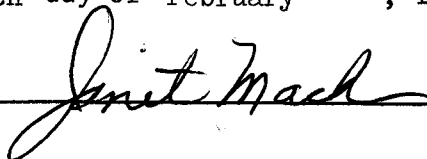
State of New York
County of Albany

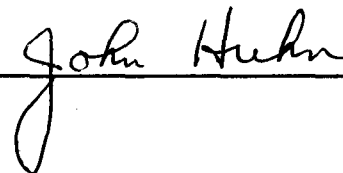
John Huhn , being duly sworn, deposes and says that
~~He~~ is an employee of the Department of Taxation and Finance, over 18 years of
age, and that on the 14th day of February , 1978 , ~~He~~ served the within
Notice of Determination by ~~(certified)~~ mail upon Francis G. De Nault
(representative of) the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: Francis G. De Nault
1661 Old Country Road, Site 373
Riverhead, New York 11901
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 February , 1978





RECEIVED 11-11-61

NOV 11 1961

U.S. AIR FORCE

MEMPHIS, TENN

TO: SAC, NEW YORK

FROM: SAC, MEMPHIS

SUBJECT: MURDER OF MARTIN LUTHER KING, JR.

RE: NEW YORK TELETYPE TO BUREAU, 11-10-61

FOR INFORMATION OF THE BUREAU, THE FOLLOWING IS A SUMMARY OF THE MATTER:

ON 11-10-61, THE NEW YORK OFFICE OF THE FBI RECEIVED A TELEPHONE CALL FROM AN INDIVIDUAL WHO STATED THAT HE HAD INFORMATION CONCERNING THE MURDER OF MARTIN LUTHER KING, JR.

THE INDIVIDUAL STATED THAT HE HAD BEEN CONTACTED BY AN INDIVIDUAL WHO OFFERED HIM \$10,000 TO ASSIST IN THE MURDER OF MARTIN LUTHER KING, JR.

THE INDIVIDUAL STATED THAT HE HAD REFUSED THE OFFER AND WANTED TO REPORT THE MATTER TO THE FBI.

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Application :
of :
FRANCIS G. DE NAULT : 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 June 9, 1975. :
:

Applicant, Francis G. DeNault, 1661 Old Country Road, Site 373, Riverhead, New York 11901, 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 June 9, 1975 (File No. 13852).

A small claims hearing was held before Joseph A. Milack, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on February 23, 1977 at 10:45 A.M. The applicant appeared pro se. The Sales Tax Bureau appeared by Peter Crotty, Esq. (William Fox, Esq., of counsel).

ISSUE

Whether applicant, Francis G. DeNault, was entitled to a refund of sales tax paid on the purchase of a modular home.

FINDINGS OF FACT

1. On June 9, 1975, applicant, Francis G. DeNault, purchased a Vindale (Model 354 TTLK) modular home from Stark Mobile Homes, Inc. for the sum of \$26,070.00, plus sales tax of \$1,824.90.

THE UNITED STATES

DEPARTMENT OF THE INTERIOR

OFFICE OF THE SECRETARY

WASHINGTON

February 11, 1907

TO THE SECRETARY

FROM THE SECRETARY

RE: [illegible]

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2. The modular home at issue was 54 feet long and 24 feet wide. It consisted of three bedrooms, a dining room, living room, kitchen, two bathrooms complete with a shower or bath-tub and a utility room with space for a washer and dryer.

3. At the time of purchase, the modular home was bolted to cement piles spaced approximately every 10 feet around the base. It was connected to an underground cesspool and had permanent electric and water utility hook-ups.

4. The land on which the modular home was attached was located in a mobile home park. Said land was rented by applicant from Stark Mobile Homes, Inc.

5. On August 25, 1975, applicant filed an application for refund of sales tax paid on the modular home. On March 16, 1976, the Sales Tax Bureau denied the refund claim on the grounds that an intent to permanently affix a mobile home to the realty will not be found where the purchaser is a tenant, such as in a mobile home park.

CONCLUSIONS OF LAW

A. That since the applicant did not own the realty to which the home was affixed, the intent to make the home a permanent fixture has not been shown. Therefore, the purchase of the modular home by the applicant did not constitute the purchase of real property.

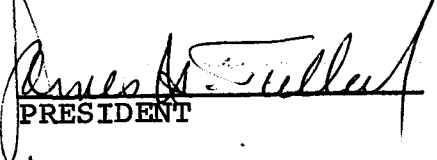
B. That the purchase of the modular home by the applicant was a purchase of tangible personal property subject to the imposition of sales tax within the meaning and intent of section 1105(a) of the Tax Law.

C. That the application of Francis G. DeNault is denied and the refund denial issued March 16, 1976 is sustained.

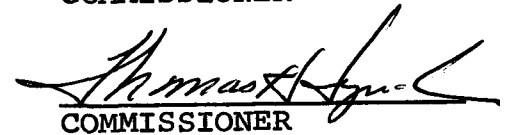
DATED: Albany, New York

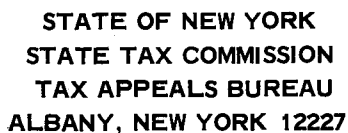
February 14, 1978

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER




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

Dear Mr. De Nault:

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 CHINYANTWA
HEARING EXAMINER

[illegible]

Taxing Bureau's Representative