

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition :  
of :  
U/A Management Corp. :  
for Redetermination of a Deficiency or a Revision :  
of a Determination or a Refund of :  
Sales & Use Tax :  
under Article 28 & 29 of the Tax Law :  
for the Period 4/74 - 12/74. :

AFFIDAVIT OF MAILING

State of New York  
County of Albany

Jay Vredenburg, 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 15th day of February, 1980, he served the within notice of Determination by mail upon U/A Management Corp., the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

U/A Management Corp.  
32 Broadway  
New York, NY 10004

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 petitioner herein and that the address set forth on said wrapper is the last known address of the petitioner.

Sworn to before me this  
15th day of February, 1980.

Joanne Krapp

[Signature]

STATE OF NEW YORK  
STATE TAX COMMISSION

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of  
U/A Management Corp. :  
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AFFIDAVIT OF MAILING

State of New York  
County of Albany

Jay Vredenburg, 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 15th day of February, 1980, he served the within notice of Determination by mail upon Gerald Goldstein the representative of the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Mr. Gerald Goldstein  
Belson, Connolly & Belson  
32 Broadway, Rm. 600  
New York, NY 10004

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  
15th day of February, 1980.

Joanne Knapp

J. Vredenburg

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

February 15, 1980

U/A Management Corp.  
32 Broadway  
New York, NY 10004

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) 1139 & 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:

NYS Dept. Taxation and Finance  
Deputy Commissioner and Counsel  
Albany, New York 12227  
Phone # (518) 457-6240

Very truly yours,

STATE TAX COMMISSION

cc: Petitioner's Representative  
Gerald Goldstein  
Belson, Connolly & Belson  
32 Broadway, Rm. 600  
New York, NY 10004  
Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Application	:	
of	:	
U/A MANAGEMENT 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	:	
Periods April, 1974 through December,	:	
1974.	:	

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Applicant, U/A Management Corp., 32 Broadway, New York, New York 10004, 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 periods April, 1972 to December, 1974 (File No. 10555).

A formal hearing was held before Edward Goodell, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on June 7, 1977 at 2:45 P.M. Applicant appeared by Belson, Connolly & Belson, Esqs. The Sales Tax Bureau appeared by Peter Crotty, Esq. (Alfred Rubinstein and James Morris, Esqs., of counsel).

ISSUES

I. Whether the Twin Parks Northeast Associates, Sovereign Realty Associates, Arverne Associates, Twin Parks Southeast Modular Houses Associates and River Park Associates are exempt from the New York State Sales Tax under section 1116(a)(1) of the Tax Law.

II. Whether Twin Parks Northeast Associates, Sovereign Realty Associates, Arverne Associates, Twin Parks Southeast Modular Houses Associates and River Park Associates are exempt from the New York State Sales Tax under the provisions of the New York State Urban Development Corporation Act, and/or the Private Housing Finance Law.

FINDINGS OF FACT

1. Applicant and the Sales Tax Bureau entered into the following stipulation in the request for refund:

First, that under Chapter 174 of the Laws of 1968, the Urban Development Corporation of the State of New York was formed. Pursuant to that law it was permissible for the Urban Development Corporation to form subsidiaries.

Second, that in each of the five cases of refund involved here, a subsidiary corporation of the Urban Development Corporation was formed which corporation entered a limited partnership pursuant to the partnership laws of the State of New York.

Third, that each of these subsidiaries is a limited profit housing company formed pursuant to Article II of the Private Housing Finance Law of the State of New York. Each of these partnerships retained U/A Management as an agent for the purposes of operating the buildings.

U/A Management, as an agent of each partnership, purchased materials to use in the operation of the buildings, as opposed to being used in the construction of these buildings, and paid sales tax thereon. That each of the invoices for these materials was paid by checks of the partnership or of U/A Management as agent of and in trust for the partnership.

Thereafter, the partnerships made applications for refund which were denied by the Sales Tax Bureau. That this stipulation shall apply to request of refund of River Park Associates, Twin Parks Southeast Modular Houses Associates, Arverne Associates, Sovereign Realty Associates and Twin Parks Northeast Associates.

2. The refund denied by the Sales Tax Bureau and sought by applicant is as follows:

	<u>Partnership</u>	<u>Amount</u>	<u>Period</u>
1.	River Park Associates	\$ 390.94	9/74 to 11/1/74
2.	Twin Parks, Southeast Modular Houses Associates (Clinton Tower)	485.75	9/74 to 12/74
3.	Arverne Associates (Ocean Village)	50.88	11/74 and 12/74
4.	Sovereign Realty Associates	18,371.33	6/73 to 10/74
5.	Twin Parks, Northeast Associates	9,090.83	4/72 thru 8/8/73

3. (a) Twin Parks Northeast Houses, Inc. is a limited-profit housing company formed pursuant to Article II of the Private Housing Finance Law and is also a subsidiary corporation of the Urban Development Corporation.

(b) Twin Parks Northeast Houses, Inc. is a general partner of Twin Parks Northeast Associates (Partnership), a partnership allegedly formed pursuant to the Partnership Law of the State of New York.

(c) Twin Parks Southwest Houses, Inc. is a limited-profit housing company formed pursuant to Article II of the Private Housing Finance Law and is a subsidiary corporation of the Urban Development Corporation.

(d) Twin Parks Southwest Houses, Inc. is a general partner of Sovereign Realty Associates (Partnership), a partnership allegedly formed pursuant to the Partnership Law of the State of New York.

(e) Arverne Houses, Inc. is a limited-profit housing company formed pursuant to Article II of the Private Housing Finance Law and it is a subsidiary corporation of the Urban Development Corporation.

(f) Arverne Houses, Inc. is a general partner of Arverne Associates (Partnership), a partnership allegedly formed pursuant to the Partnership Law of the State of New York.

(g) Harlem River Park Houses, Inc. is a limited-profit housing company formed pursuant to Article II of the Private Housing Finance Law and it is a subsidiary corporation of the Urban Development Corporation.

(h) Harlem River Park Houses, Inc. is a general partner of River Park Associates (Partnership), a partnership allegedly formed pursuant to the Partnership Law of the State of New York.

(i) Twin Parks Southeast Modular Houses, Inc. is a limited-profit housing company formed pursuant to Article II of the Private Housing Finance Law and it is a subsidiary corporation of the Urban Development Corporation.

(j) Twin Parks Southeast Modular Houses, Inc. is a general partner of Twin Parks Southeast Modular Houses Associates (Partnership), a partnership allegedly formed pursuant to the Partnership Law of the State of New York.

4. Applicant, U/A Management Corp., is a licensed real estate broker, retained to manage various governmentally assisted housing projects. The Urban Development Corp. is the mortgagee on all projects. The owners of the projects are the subsidiaries formed pursuant to Chapter 174 of the laws of 1968 which created the Urban Development Corporation.

Pursuant to the management contracts, purchases and expenses incurred by applicant were on behalf of, and at the expense of the partnerships and were paid by applicant with the partnerships' money.

These subsidiary companies entered into partnerships with other third parties as described in Finding of Fact "3". Said partnerships were formed for the purpose of providing the subsidiaries with capital (as permitted by section 16 of the Private Housing Finance Law).

5. On February 2, 1975, a sales tax exemption certificate was issued to Twin Parks Northeast Houses, Inc. Denial of refund to said corporation was on the grounds that a refund claim must be made by the organization listed on the exemption certificate, the bill of sale must be made directly to exempt organization and the bill must be paid by the exempt organization.

On February 2, 1975, a sales tax exemption certificate was issued to Harlem River Park Houses, Inc. and to Arverne Houses, Inc.

Some of the invoices submitted by applicant, lists purchases made by:

Clinton Towers c/o U/A Management Corp.  
Clinton Towers c/o A.D.A.M.  
Clinton Towers  
A.D.A.M., Inc. For Clinton Towers Management

River Park Apartments  
River Park Towers  
River Park Towers c/o U/A Management Corp.

Ocean Village c/o U/A Management Corp.  
Ocean Village  
Ocean Village Maintenance  
Ocean Village (Arverne Associates)  
Arverne Associates

Twin Parks  
Twin Parks N.E.  
Twin Parks Site 6 & 8  
Twin Parks Apartments

Sovereign Realty Associates (Twin Parks)  
Sovereign Realty  
Sovereign Realty Co. c/o A.D.A.M. Management

#### CONCLUSIONS OF LAW

A. That section 1116(a)(1) of the Tax Law provides an exemption from the imposition of sales tax to:

"The State of New York, or any of its agencies, instrumentalities, public corporations (including a public corporation created pursuant to agreement or compact with another state or Canada) or political subdivisions where it is the purchaser, user or consumer..."

Neither applicant, U/A Management Corp., nor the partnerships in whose behalf and for whose accounts applicant made purchases is the State of New York, or any agency, instrumentality, public corporation, or political subdivision of the State of New York.

B. That section 6272 of the Unconsolidated Laws of New York provides exemption from State taxes to the Urban Development Corporation and subsidiary



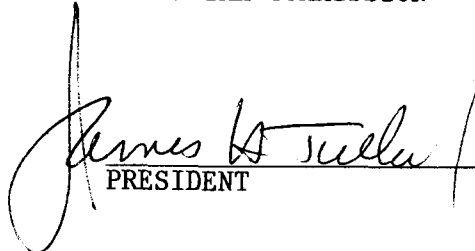
corporations; however, it does not provide for exemption for State sales taxes to a partnership formed pursuant to the Partnership Law of New York.

C. That the application of U/A Management Corp. for refund is hereby denied.

DATED: Albany, New York

FEB 15 1980

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

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COMMISSIONER