SUPREME COURT OF THE STATE OF NEW YORK, APPELLATE DIVISION, SECOND JUDICIAL DEPARTMENT

Gorelick v. Suffolk County Comptroller's Office

2026 NY Slip Op 02632 (N.Y. Ct. App. 2026) · No. 2022-06208 · Decided April 29, 2026

SUMMARY

The Appellate Division, Second Department, affirmed summary judgment for the Suffolk County Comptroller's Office in a dispute over hotel and motel occupancy taxes imposed on a house rented for periods of less than 30 consecutive days. The court held that the enabling statute and Suffolk County law encompassed the plaintiff's rentals and remitted the matter for entry of a declaratory judgment in the Comptroller's favor.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
WRITING FOR THE COURT	Hector D. Lasalle, P.J.; Francesca E. Connolly, J.; Lourdes M. Ventura, J.; Elena Goldberg Velazquez, J.
JURISDICTION	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
DECIDED	April 29, 2026
DOCKET	2022-06208
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from an order granting the defendant's motion for summary judgment dismissing the complaint and awarding declaratory relief in the defendant's favor.
PRECEDENTIAL VALUE	published
PARTIES	Joanne Gorelick v. Suffolk County Comptroller's Office

TOPICS

sales and use tax · tax · statutory interpretation · appellate procedure · municipal law

PRACTICE AREAS

taxation · municipal law · civil procedure

QUESTIONS PRESENTED

1. Whether Suffolk County's enabling statute and local Hotel and Motel Occupancy Tax Law authorize assessment of hotel and motel occupancy taxes on Gorelick's property when rented for periods of less than 30 consecutive days.
2. Whether the Supreme Court properly granted the Comptroller summary judgment and declaratory relief.

HOLDINGS

1. The enabling statute's expansive definition of "hotel or motel" encompasses Gorelick's rental of the property for periods of less than 30 consecutive days, and the corresponding Suffolk County definitions are consistent with the authorizing statutory language.
2. The Supreme Court properly granted the Comptroller summary judgment dismissing the complaint and determined that the Comptroller was entitled to a declaration in its favor as a matter of law.

KEY QUOTATIONS

> "*The definition of "hotel or motel" in the enabling statute is expansive enough to include the plaintiff's rental of the property for periods of time less than 30 consecutive days*" (*2)

> "*The Supreme Court did not err in awarding the Comptroller summary judgment dismissing the complaint and in determining that the Comptroller was entitled to a declaration in its favor as a matter of law.*" (*2)

FACTUAL BACKGROUND

Joanne Gorelick owns a house in the Village of Ocean Beach on Fire Island and rents it to guests for minimum stays of seven days. In 2016, the Suffolk County Comptroller's Office notified her that hotel and motel occupancy taxes were due on rentals for periods of less than 30 consecutive days. Gorelick contended that the property was not rented on an overnight basis and was not a hotel.

PROCEDURAL HISTORY

Gorelick commenced a CPLR article 78 proceeding in January 2017 seeking to prohibit Suffolk County from assessing hotel and motel occupancy taxes on her property for rental periods of less than 30 consecutive days. The Supreme Court converted the proceeding into a declaratory-judgment action under CPLR 103(c). It granted the Comptroller's motion for summary judgment and declaration, and Gorelick appealed.

DISPOSITION

affirmed

REMAND INSTRUCTIONS

Remitted to the Supreme Court, Suffolk County, for entry of a judgment declaring, inter alia, that the Comptroller is not prohibited from assessing taxes under chapter 523, article II, of the Code of Suffolk County on the property at 845 Evergreen Walk, Ocean Beach, for rental periods of less than 30 consecutive days.

CASES CITED

- Expedia, Inc. v. City of N.Y. Dep't of Fin., 22 N.Y.3d 121, 127 (2013)
- Matter of Schneider v. Schuyler County, 140 A.D.3d 1373, 1376 (3d Dep't 2016)
- County of Nassau v. Expedia, Inc., 189 A.D.3d 1346 (2d Dep't 2020)

OPINION

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PER CURIAM.
 Gorelick v Suffolk County Comptroller's Off. 2026 NY Slip Op 02632 April 29, 2026 Appellate Division, Second Department Published by New York State Law Reporting Bureau pursuant to Judiciary Law § 431. This decision is uncorrected and subject to revision before publication in the Official Reports. Joanne Gorelick, appellant, v Suffolk County Comptroller's Office, respondent. Supreme Court of the State of New York, Appellate Division, Second Judicial Department Decided on April 29, 2026 2022-06208, (Index No. 273/17) Hector D. Lasalle, P.J. Francesca E. Connolly Lourdes M. Ventura Elena Goldberg Velazquez, JJ. Joanne Gorelick, Kendall Park, New Jersey, appellant pro se. Christopher J. Clayton, County Attorney, Hauppauge, NY (Drew W. Schirmer of counsel), for respondent. [*1] DECISION & ORDER In a proceeding pursuant to CPLR article 78, which was converted into an action, inter alia, for a judgment declaring that the defendant is prohibited from assessing taxes pursuant to chapter 523, article II, of the Code of Suffolk County on the plaintiff's property in Ocean Beach for rental periods of less than 30 consecutive days, the plaintiff appeals from an order of the Supreme Court, Suffolk County (Joseph A. Santorelli, J.), dated July 5, 2022. The order granted the defendant's motion for summary judgment dismissing the complaint and for a declaration in its favor. ORDERED that the order is affirmed, with costs, and the matter is remitted to the Supreme Court, Suffolk County, for the entry of a judgment, inter alia, declaring that the defendant is not prohibited from assessing taxes pursuant to chapter 523, article II, of the Code of Suffolk County on the plaintiff's property located at 845 Evergreen Walk, Ocean Beach, for rental periods of less than 30 consecutive days. The plaintiff owns a house in the Village of Ocean Beach, on Fire Island, which she rents to guests for minimum stays of seven days. In 2016, the defendant, Suffolk County Comptroller's Office (hereinafter the Comptroller), notified the plaintiff that she was required to pay hotel and motel taxes on rentals of the property for periods of less than 30 consecutive days, pursuant to chapter 523, article II, of the Code of Suffolk County (hereinafter the Suffolk County Hotel and Motel Occupancy Tax Law). In January 2017, the plaintiff commenced this CPLR article 78 proceeding against the Comptroller, inter alia, to prohibit the Comptroller from assessing hotel and motel occupancy taxes on the property. The plaintiff

primarily contended that she did not rent the property on an overnight basis and that it was not a hotel. The Supreme Court converted this CPLR article 78 proceeding into an action for a declaratory judgment, pursuant to CPLR 103(c). The Comptroller subsequently moved for summary judgment dismissing the complaint and for a judgment declaring that the property is subject to the Suffolk County Hotel and Motel Occupancy Tax Law. The plaintiff opposed the motion. The Supreme Court granted the [*2] motion, and the plaintiff appeals. The Supreme Court did not err in awarding the Comptroller summary judgment dismissing the complaint and in determining that the Comptroller was entitled to a declaration in its favor as a matter of law. The Legislature authorized Suffolk County to impose a tax upon persons occupying hotel or motel rooms in the County (see Tax Law § 1202-o[1]). This statute granted "broad authority to enact an occupancy tax" (Expedia, Inc. v City of N.Y. Dept. of Fin. , 22 NY3d 121, 127 ; see Matter of Schneider v Schuyler County , 140 AD3d 1373, 1376). The definition of "hotel or motel" in the enabling statute is expansive enough to include the plaintiff's rental of the property for periods of time less than 30 consecutive days (see Tax Law § 1202-o[1]), and the definition of "hotel or motel" set forth in the Suffolk County Hotel and Motel Occupancy Tax Law (see Code of Suffolk County §§ 523-9, 523-10[B][1]) is consistent with the authorizing statutory language (see Matter of Schneider v Schuyler County , 140 AD3d at 1376 ; cf. County of Nassau v Expedia, Inc. , 189 AD3d 1346). The plaintiff's remaining contentions are not properly before this Court. LASALLE, P.J., CONNOLLY, VENTURA and GOLDBERG VELAZQUEZ, JJ., concur. ENTER: Darrell M. Joseph Clerk of the Court
PER CURIAM.
<div>Gorelick v Suffolk County Comptroller's Off. - 2026 NY Slip Op 02632 <div> skip to main content </div> <div> <p>It appears you are using Adblock. Please disable Adblock to best experience our website.</p> </div> <div> <header> <div> <img src="/reporter/images/nys-logo-white.svg" alt=""> </div> <div> Law Reporting
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County Comptroller's Office, respondent.</p> </div> <p>Supreme Court of the State of New York, Appellate Division, Second Judicial Department</p> <p>Decided on April 29, 2026</p> <p>2022-06208, (Index No. 273/17)</p> <p>Hector D. Lasalle, P.J.</p> <p>Francesca E. Connolly</p> <p>Lourdes M. Ventura</p> <p>Elena Goldberg Velazquez, JJ.</p> <div> <p>Joanne Gorelick, Kendall Park, New Jersey, appellant pro se.</p> <p>Christopher J. Clayton, County Attorney, Hauppauge, NY (Drew W. Schirmer of counsel), for respondent.</p> </div> [*1] <p>DECISION & ORDER</p> <p>In a proceeding pursuant to CPLR article 78, which was converted into an action, inter alia, for a judgment declaring that the defendant is prohibited from assessing taxes pursuant to chapter 523, article II, of the Code of Suffolk County on the plaintiff's property in Ocean Beach for rental periods of less than 30 consecutive days, the plaintiff appeals from an order of the Supreme Court, Suffolk County (Joseph A. Santorelli, J.), dated July 5, 2022. The order granted the defendant's motion for summary judgment dismissing the complaint and for a declaration in its favor.</p> <p>ORDERED that the order is affirmed, with costs, and the matter is remitted to the Supreme Court, Suffolk County, for the entry of a judgment, inter alia, declaring that the defendant is not prohibited from assessing taxes pursuant to chapter 523, article II, of the Code of Suffolk County on the plaintiff's property located at 845 Evergreen Walk, Ocean Beach, for rental periods of less than 30 consecutive days.</p> <p>The plaintiff owns a house in the Village of Ocean Beach, on Fire Island, which she rents to guests for minimum stays of seven days.</p> <p>In 2016, the defendant, Suffolk County Comptroller's Office (hereinafter the Comptroller), notified the plaintiff that she was required to pay hotel and motel taxes on rentals of the property for periods of less than 30 consecutive days, pursuant to chapter 523, article II, of the Code of Suffolk County (hereinafter the Suffolk County Hotel and Motel Occupancy Tax Law).</p> <p>In January 2017, the plaintiff commenced this CPLR article 78 proceeding against the Comptroller, inter alia, to prohibit the Comptroller from assessing hotel and motel occupancy taxes on the property. The plaintiff primarily contended that she did not rent the property on an overnight basis and that it was not a hotel. The Supreme Court converted this CPLR article 78 proceeding into an action for a declaratory judgment, pursuant to CPLR 103(c).</p> <p>The Comptroller subsequently moved for summary judgment dismissing the complaint and for a judgment declaring that the property is subject to the Suffolk County Hotel and Motel Occupancy Tax Law. The plaintiff opposed the motion. The Supreme Court granted the [*2]motion, and the plaintiff appeals.</p> <p>The Supreme Court did not err in awarding the Comptroller summary judgment dismissing the complaint and in determining that the Comptroller was entitled to a declaration in its favor as a matter of law. The Legislature authorized Suffolk County to impose a tax upon persons occupying hotel or motel rooms in the County (<i>see</i> Tax Law § 1202-o[1]). This statute granted "broad authority to enact an occupancy tax" (<i>Expedia, Inc. v City of N.Y. Dept. of Fin.</i>, 22 NY3d 121, 127; <i>see Matter of Schneider v Schuyler County</i>, 140 AD3d 1373, 1376). The definition of "hotel or motel" in the enabling statute is expansive enough to include the plaintiff's rental of the property for periods of time less than 30 consecutive days (<i>see</i> Tax Law § 1202-o[1]), and the definition of "hotel or motel" set forth in the Suffolk County Hotel and Motel Occupancy Tax Law (<i>see</i> Code of Suffolk County §§ 523-9, 523-10[B][1]) is consistent with the authorizing statutory language (<i>see</i> <i>Matter of Schneider v Schuyler County</i>, 140 AD3d at 1376; <i>cf.</i> <i>County of Nassau v Expedia, Inc.</i>, 189 AD3d 1346).</p> <p>The plaintiff's remaining contentions are not properly before this Court.</p> <p>LASALLE, P.J., CONNOLLY, VENTURA and GOLDBERG VELAZQUEZ, JJ., concur.</p> <p>ENTER:</p> <p>Darrell M. Joseph</p> <p>Clerk of the Court</p> </div>