

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)

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