

11-1057

IN THE CIRCUIT COURT OF MONROE COUNTY, WEST VIRGINIA

Mountain America, LLC; Feroz Alloo; Robert and Beverly Amico; Ron Andrews; William Andrews; Reed Atkins; William And Nancy Atkins; Sergio and Cheryl Baez; Thanos Basdekis; Edward And Tracy Bober; Peter Calderdon; Jimmy Carroll; Chris and Dina Cashwell; Bob and Linda Chamberland (Artha LLC); Wayne Clibum; Justin and Mary Daly; Peter and Sherry DelCloppo; John Eagle; Dale and Michelle Enzor; Charles and Cynthia Evans; William Farley; Lon Fountain; Fernando Garcia; Jonathan Halperin; Esther Halperin; Mike and Vivian Hollandsworth; Jan Jerge; Carlos and Cindy Kinsey; Judy Leon; Freda Livesay; Victor Long; Jim and Shayna Mackey; Jean Jacques Millard; Matthew Myers; William And Carol Newman; Jonathan and Erin Panks; Stephen and Lauren Rice; Michael Robey; Hee Soo Roh; George Ross; Robert Schlossberg; Neil Patrick Welsh; Teddy Kim; Obie Woods, Jr.; Gulam Younossi; Salvatore Zambri; WBMA LLC; Walnut Ridge LLC; Sugar Tree LLC; JF Investment Holdings; Greentree LLC; and Zambri Enterprises, LLC,

Taxpayers/Petitioners,

vs.

Civil Action No. 08-C-24

Donna Huffman, Assessor of Monroe County;

And

The Monroe County Commission, Donald Evans, Clerk,
Shane Ashley, Oliver Porterfield and Joyce Pritt,
Monroe County Commissioners,

Respondents.

**ORDER DENYING PETITION FOR APPEAL FROM AD VALOREM
PROPERTY TAX ASSESSMENTS**

This matter came before the Court on the Petitioners' Petition for Appeal from Ad Valorem Property Tax Assessments. The Petitioners are several dozen individuals and entities owning real property subject to *ad valorem* property taxation in Monroe County, West Virginia, for the tax year 2008. The Petitioners have requested the Court to rule on this matter without further hearing.

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FILED IN MONROE COUNTY
CIRCUIT COURT

After a review of the Petition it appears the claims in this matter are identical to the claims in a previous proceeding before the Court. In *Mountain America v. Donna Huffman, Assessor of Monroe County*, Case Number 07-C-30, the Court denied the Taxpayer's Appeal from Ad Valerom Property Tax Assessment.

In that case the Court ruled that that Assessor acted in conformity with statutory authority, state regulations, and case law pertaining to her position as a county Assessor and in doing so, she valued the property appropriately within the guidelines prescribed by the West Virginia Code. In addition, the Court ruled that the County Commission properly weighed the evidence before it and did not err in its decision to uphold the assessments made by the Assessor. The Court's ruling was affirmed by the West Virginia Supreme Court of Appeals on November 25, 2009 in Case Number 34426.

The Court believes this case is controlled by the doctrine of *res judicata*. *Res judicata* requires that the cause of action identified for resolution in the subsequent proceeding either must be identical to the cause of action determined in the prior action or must be such that it could have been resolved, had it been presented, in the prior action. *Lloyd's Inc. v. Lloyd*, 225 W.Va. 377, 693 S.E.2d 451 (2010).

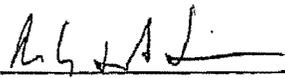
After a review of the Petition for Appeal in this case it appears that this matter has been previously ruled on and any subsequent litigation is barred. Therefore, the Court concludes that the Taxpayer's Appeal from Ad Valerom Property Tax Assessment shall be denied and the County Commission's decision is affirmed.

Accordingly, it is hereby **ORDERED** and **ADJUDGED** that:

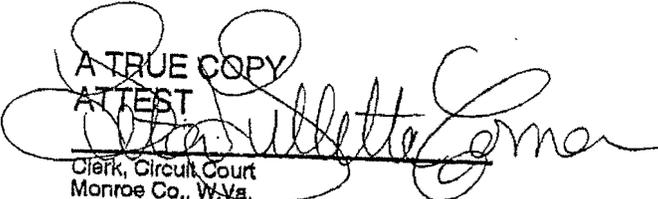
1. Taxpayer's Appeal from Ad Valorem Property Tax Assessment is **DENIED**.

2. The Monroe County Commission's decision to uphold the finding that the Assessor's methods of appraisal were pursuant to West Virginia Law is **AFFIRMED.**
3. The Circuit Clerk is directed to provide copies of this order to counsel of record.

Dated: May 12, 2011.



ROBERT A. IRONS, CIRCUIT JUDGE

**A TRUE COPY
ATTEST**


Clerk, Circuit Court
Monroe Co., W.Va.