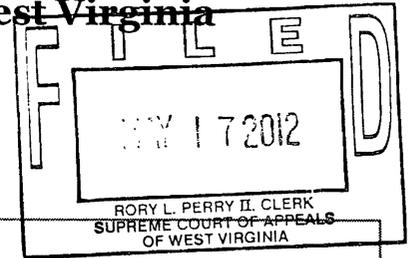


**In the Supreme Court of Appeals of West Virginia**

Docket No. 11-1768



<p><b>Charles R. Wright and Linda D. Wright,</b> Petitioners</p> <p>V.)</p> <p><b>Angela Banks, Jefferson County Assessor, Patricia Noland, Dale Manuel, Walt Pellish, Frances Morgan and Lyn Widmyer,</b> Respondents</p>	<p>Appeal from a final order of the Circuit Court of Jefferson County (11-AA-1)</p>
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**Petitioner's Brief**

**Charles R. Wright**

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## **ASSIGNMENTS OF ERROR**

1. THE LOWER COURT ERRED WHEN IT FAILED TO UPHOLD PRIOR OPINIONS OF THIS COURT THAT “THE PRICE PAID FOR REAL ESTATE IS A SUBSTANTIAL INDICIA OF ITS TRUE AND ACTUAL VALUE, SO LONG AS THE PROPERTY CHANGED HANDS IN AN ARM’S LENGTH TRANSACTION.
2. THE LOWER COURT ERRED WHEN IT ALLOWED THE ASSESSOR TO UNILATERALLY AND PREJUDICIALLY OMIT VALID ARMS-LENGTH REAL ESTATE TRANSACTIONS FROM ITS AVERAGE SALES PRICE COMPUTATIONS.
3. THE LOWER COURT ERRED WHEN IT ALLOWED THE ASSESSOR TO CALCULATE REAL ESTATE APPRAISALS BASED SOLELY ON THE WEST VIRGINIA STATE TAX DEPARTMENT’S CAMA COMPUTER PROGRAM, IN LIEU OF ACTUAL SALES PRICES, WHEN ASSESSING PROPERTY TAX.

## **STATEMENT OF THE CASE**

This case was a petition for relief from an alleged erroneous tax assessment by the Jefferson County Assessor on the Plaintiff’s personal residence, a single family home located in Ranson. The Appellants presented their case to the lower court in a written petition, which included a record of the proceedings before the Board of Review and Equalization, and the exhibits offered at that hearing. The lower court based its order on that record, as well as on the briefs submitted by Appellants and Appellees.

The following facts were not in dispute: The Appellants Charles R. Wright and Linda D. Wright purchased their home on June 23, 2010, for \$234,000 from David and Irene Park. The Parks had listed the property for sale through the Keller Williams Realty for \$229,995 in December, 2009. Through their real estate agent, Hafer Real Estate Group, the Wrights presented a contract to the Park’s agent on December 13, 2009, and a final sales price of \$234,000 was agreed to on January 4, 2010. The parties went to

settlement on June 23, 2010, and the sales price of \$234,000 was duly recorded in the Jefferson County land records. It was uncontested by the County that the Wrights paid \$234,000 on June 23, 2010, in an arms-length transaction with the Parks. Sometime in December, 2010, the Wrights were informed by the Assessors Office that Jefferson County had appraised their home for \$355,167, based on the look-back period of July 1, 2009 to June 30, 2010. On February 10, 2011 the Wrights appealed the County's \$355,167 appraisal at a hearing before a panel of the Jefferson County Commission sitting as the Jefferson County Board of Equalization and Review, and were denied an adjustment in the \$355,167 value set by the Assessor.

The Wrights appealed the Board's denial by filing the subject Petition with the Jefferson County Circuit Court on March 8, 2011. In their Petition, the Wrights requested that the Circuit Court adjust the County's appraisal to conform with the actual \$234,000 sales price of their home, and for reimbursement of court costs. Following written briefs from both sides, the Court issued an order on November 15, 2011, denying Appellants' petition and upholding the Board's decision.

### **SUMMARY OF ARGUMENT**

The price Petitioners paid for their home on June 23, 2010 should have established the "true market value" of their property for the tax assessment year ending June 30, 2010. The Jefferson County Assessor ignored the price Petitioners paid for their home, and instead appraised their property value for \$355,167. This appraisal,

which flew in the face of truth, caused Petitioners' to pay Jefferson County over 50% more in tax dollars than they actually owed.

### **STATEMENT REGARDING ORAL ARGUMENT AND DECISION**

Because the principle issue in this case – the legal definition of “true market value” – has been authoritatively decided in the Court's 1935 decision, *Crouch v. County Court of Wyoming County*, 116 W.Va. 476, 477, and reaffirmed in *Kline v. McCloud*, 326 SE 2d 715 (1984), as well as in *Mountain America, LLC v. Huffman*, 224 W. Va. 669, 687 (2009), oral argument under Rev. R.A.P. 18(a) is not necessary unless the Court determines that other issues arising upon the record should be addressed. If the Court determines that oral argument is necessary, this case is appropriate for a Rule 19 argument and disposition by memorandum decision.

### **ARGUMENT**

#### **I. THE CIRCUIT COURT ERRED WHEN IT FAILED TO UPHOLD PRIOR OPINIONS OF THIS COURT THAT “THE PRICE PAID FOR REAL ESTATE IS A SUBSTANTIAL INDICIA OF ITS TRUE AND ACTUAL VALUE, SO LONG AS THE PROPERTY CHANGED HANDS IN AN ARM’S LENGTH TRANSACTION.”**

The Supreme Court of Appeals of West Virginia has long held to the above definition for true and actual real estate value. This opinion has been repeatedly expressed in *Crouch v. County Court of Wyoming County*, *Kline v. McCloud*, and *Mountain America, LLC v. Huffman*, all cited above. No evidence was shown to the lower court by the Assessor that the Wrights had paid anything other than \$234,000 for their home, or that the transaction was not “an arm’s length transaction”, or that the transaction

should have been exempted from their appraisal calculations on any grounds. The Assessor instead relied on an argument that their CAMA appraisal methodology was sacrosanct, and their tax decision should not be reversed unless it could be proven they made a clerical error in data entry.

**II. THE CIRCUIT COURT ERRED WHEN IT ALLOWED THE ASSESSOR TO UNILATERALLY AND PREJUDICIALLY OMIT VALID ARMS-LENGTH REAL ESTATE TRANSACTIONS FROM ITS AVERAGE SALES PRICE COMPUTATIONS.**

The lower court determined that the Assessor has the power to unilaterally designate certain unspecified neighborhood real estate sales to be “not arms-length transactions”, thus omitting those sales from their average sales price computations. Allowing the Assessor to unilaterally declare any real estate sale to be “not an arms-length transaction”, without requiring strict proof for such classification, in effect grants the County omniscient authority to disqualify any transaction from their appraisal calculations that brings down the average sales price of a neighborhood. Allowing the taxing authority to manipulate its appraisal calculations in this manner flies in the face of truth and justice, and opens the system up to corruption.

**III. THE LOWER COURT ERRED WHEN IT ALLOWED THE ASSESSOR TO CALCULATE REAL ESTATE APPRAISALS BASED SOLELY ON THE RESULT OF THEIR SELECTIVE DATA INPUT INTO THE STATE TAX DEPARTMENT’S CAMA COMPUTER PROGRAM.**

The lower court decided that Jefferson County could manipulate the State Tax Department’s CAMA computer program, by inputting their own undocumented and speculative evaluations of properties such as condition, square footage of finished living space, amenities, and the existence or absence of premium upgrades, while capriciously omitting the entry of any sales they deem to be disqualified as “arms-length

transactions”, without requiring proof or documentation for their data input or lack thereof. Endorsing the County’s manipulative use of the CAMA computer system as sacrosanct, above recognition of a property’s actual market value as determined by its sales price, empowers the taxing authority to unpredictably and unfairly generate appraisals in favor of the government and to the detriment of citizens. It opens the door to corruption, and is in violation of the constitutional provision regarding equal and uniform taxation.

### CONCLUSION

The Circuit Court’s order, upholding the Assessor’s appraisal of Petitioners’ home for \$355,167, should be reversed, and the Jefferson County Assessor should be ordered to re-appraise Petitioners’ home for \$234,000 as of the look-back period ending June 30, 2010, and to refund Petitioners’ overpayment of property taxes to date along with their court costs.

Signed: \_\_\_\_\_



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### CERTIFICATE OF SERVICE

I hereby certify that on this 16th day of May, 2012, true and accurate copies of the foregoing **Petitioner's Brief** were deposited in the U.S. Mail contained in a postage-paid envelope addressed to counsel for all other parties to this appeal as follows:

<p>Counsel for Respondent</p> <p>Stephanie R. Grove Assistant Prosecuting Attorney Office of the Prosecuting Attorney of Jefferson County P.O. Box 729 110 N. George Street, 3<sup>rd</sup> Floor Charles Town, WV 25414 304-728-3243</p>	
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Signed:  \_\_\_\_\_

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Petitioner Pro Se