

STATE OF WEST VIRGINIA

At a Regular Term of the Supreme Court of Appeals, continued and held at Charleston, Kanawha County, on February 9, 2023, the following order was made and entered:

Mark Musick, Assessor of Monongalia County,  
and  
Matthew R. Irby, West Virginia State Tax Commissioner,  
Petitioners

vs.) Nos. 21-0517 and 21-0521

Beta Theta Pi Fraternity of WVU, Inc.,  
Respondent

**DISMISSAL ORDER**

On November 15, 2021, the petitioners, Mark Musick, Assessor of Monongalia County, by Webster J. Arceneaux, III, Lewis Gianola, PLLC; and Matthew R. Irby, West Virginia State Tax Commissioner, by Lauren D. Mahaney, Assistant Attorney General, perfected their separate appeals from an order of the Circuit Court of Monongalia County (No. 20-AA-3) entered on June 1, 2021, with the filing of separate petitioner's briefs.

The respondent, Beta Theta Pi Fraternity of WVU, Inc., by counsel, C. Page Hamrick, filed a respondent's brief on December 27, 2021.

On February 1, 2023, the Court heard oral argument under Rule 20 of the Rules of Appellate Procedure.

Upon review of the appendix record in this appeal, Beta Theta Pi House of WVU, Inc., is the entity which owns the Beta Theta Pi property at issue in this appeal. Further, from a review of the appendix record Beta Theta Pi Fraternity of W.V.U., Inc, was the petitioner before the Circuit Court of Monongalia County, West Virginia. Beta Theta Pi Fraternity of WVU, Inc. is likewise the named respondent in this appeal.

Upon consideration and review, the Court has determined that the proper party is not before this Court and that the proper party is not before the court below.

It is therefore ORDERED that the June 1, 2021, order of the circuit court is vacated. This action is dismissed without prejudice from the docket of this Court.

A True Copy

Attest: /s/Edythe Nash Gaiser  
Clerk of Court

