

COPY

IN THE SUPREME COURT OF APPEALS OF WEST VIRGINIA

GLOBAL CAPITAL OF WORLD  
PEACE, INC.,

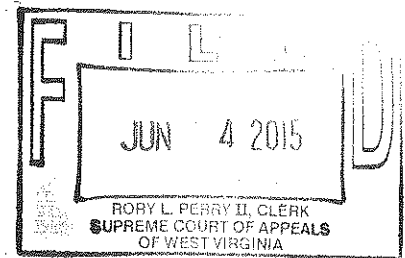
*Petitioner,*

v.

HAMPSHIRE COUNTY CIRCUIT COURT  
CIVIL ACTION NO. 15-AA-01

NORMA WAGONER, Assessor of  
Hampshire County, West Virginia, and  
MARK W. MATKOVICH, State Tax  
Commissioner,

*Respondents.*



To: The Honorable Margaret L. Workman  
Chief Justice of the Supreme Court of Appeals of West Virginia

**MOTION TO REFER TAX APPEAL TO THE BUSINESS COURT DIVISION**

NOW COMES the Petitioner and, by counsel, it respectfully moves this Court to refer the above-styled case to the Business Court Division pursuant to Rule 29.06 of the West Virginia Trial Court Rules. In support of this Motion, the Petitioner further states:

1. This case involves an appeal of the denial by Respondent, Norma Wagoner, as Assessor of Hampshire County, West Virginia, of the Petitioner's written Application for Exemption of certain improved real property owned by the Petitioner for 2015 *ad valorem* property tax purposes, and of Property Tax Ruling 15-50, issued by Respondent, Mark W. Matkovich, State Tax Commissioner, which ruled that the Subject Property is not exempt from 2015 *ad valorem* property taxes under West Virginia Code Section 11-3-9.

2. The Petitioner is a West Virginia nonprofit corporation, exempt from federal income tax under I.R.C. § 501(c)(3) and classified as a public charity under IRC Section 170(b)(1)(A)(vi), meaning that it normally receives a substantial part of its support (exclusive of income received in the exercise or performance of its charitable purpose constituting the basis for

its exemption) from a specified governmental unit or from direct or indirect contributions from the general public. The Petitioner was formed to promote spiritual development and enlightenment through the study and practice of Transcendental Meditation.

3. In furtherance of the Petitioner's exempt purpose of promoting spiritual development and enlightenment, the Petitioner, as of July 1, 2014, held 355 contiguous acres in Hampshire County (the "subject property"), used for certain, discrete purposes, including that of creating an influence of peace on Washington, D.C. and its surrounding citizens, housing organic gardens and compost, hosting 100 permanent residents practicing Transcendental Meditation on a daily basis (who do not pay rent, room, or board), and conducting meditation retreat weekends, week-long, and ten day courses.

4. The Assessor of Hampshire County and the State Tax Commissioner have each ruled that the Petitioner's use of the subject property does not qualify such property for an exemption from *ad valorem* property taxation. The Petitioner appeals such rulings because it uses the subject property in furtherance of its exempt purpose, primarily and immediately for charitable purposes, and does not hold or lease such property out for profit, meaning that by law, the subject property is exempt from *ad valorem* property taxation. By its nature, this appeal presents complex property tax matters of significance to the operations of many charitable, nonprofit corporations that currently hold or plan to hold real property throughout the State of West Virginia.

5. The significant issues and potentially complex facts presented by this matter evidence that it would be best handled in West Virginia's Business Court Division, which is designed to address the "complex nature of litigation involving highly technical commercial issues." W. Va. Code § 51-2-15(a).

6. To qualify for referral to the Business Court Division, a matter must be "Business Litigation," as defined by Trial Court Rule 29.04(a). Business Litigation is litigation in which: (1) "the principal claim or claims involve matters of significance to the transactions, operations, or governance between business entities," (2) "the dispute presents commercial and/or technology issues in which specialized treatment is likely to improve the expectation of a fair and reasonable resolution of the controversy because of the needs for specialized knowledge or expertise in the subject matter or familiarity with some specific law or legal principles that may be applicable," and (3) the principal claim or claims are not of the types listed in West Virginia Trial Court Rule 29.04(a)(3). W. Va. Tr. Ct. R. 29.04(a).

7. Any party may seek to refer "Business Litigation" to the Business Court Division by filing a Motion to Refer to the Business Court Division with the Clerk of the Supreme Court of Appeals of West Virginia, identifying the nature of the action sought to be referred, the basis for the request and whether additional related actions are pending or may be filed in the future. W. Va. Tr. Ct. R. 29.06(a)(1)-(2).

8. The present matter satisfies all elements of "Business Litigation" as defined by Trial Court Rule 29.04(a). The principal claim involves matters of significance to the economic functions of many nonprofit corporations and the various entities from which the nonprofit corporations may purchase real property to be used for their charitable purposes, as well as to the fifty-five (55) county assessors throughout the State of West Virginia who must make determinations regarding exemptions from *ad valorem* taxation of such real property. Further, this issue may be significant to potential future West Virginia nonprofit corporations, and to the members of the Legislature who have the constitutional authorization to implement various exemptions from property taxation. The taxability of the Petitioner's property is noteworthy to

West Virginia's business community, as evidenced by a State Journal article featuring the issue. See Marla Pisciotta, "WV tax commissioner rules properties owned by Global Capital of World Peace taxable," The State Journal, Mar. 18, 2015 (updated Apr. 17, 2015), attached hereto as Exhibit A.

9. This case will present potentially complex factual issues relating to a determination of what uses of real and personal property are considered to be uses for charitable purposes and not held or leased out for profit. Specialized treatment and expertise in the area of *ad valorem* property taxation and, specifically, charitable exemptions therefrom, are likely to improve the expectation of a reasonable and fair resolution of the controversy.

10. There currently are no known, directly-related actions pending. However, the Petitioner is aware of at least one action recently resolved<sup>1</sup> in the Business Court Division addressing the exemption from *ad valorem* taxation of property held by a charitable, non-profit hospital foundation. See Berkeley County Circuit Court Civil Action No. 14-AA-4.

11. Finally, complex tax appeals such as this matter are specifically allowable under Trial Court Rule § 29.04(a)(3) ("complex tax appeals are eligible to be referred to the Business Court Division").

12. While the Petitioner looks forward to reaching a judicial resolution addressing the taxability of the subject property by means of an accelerated bench trial, the Petitioner does not request expedited review of this Motion by Madam Chief Justice under W.Va. Trial Court Rule § 29.06(a)(4).

13. In accordance with Rule 29.06 of the West Virginia Trial Court Rules, this Motion has identified the nature of the action, the basis for the Petitioner's request for referral to

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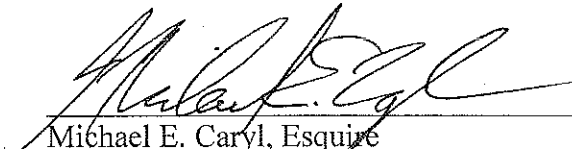
<sup>1</sup> A Final Order has been entered, and the time for appeal therefrom has not yet expired.

the Business Court Division, and whether additional related actions are pending or may be filed. Further, in support of this motion, the Petitioner has attached a docket sheet from the Hampshire County Circuit Clerk's Office, the *Petition Appealing Denial of Ad Valorem Property Tax Exemption* and all exhibits, the *Answer of the West Virginia State Tax Department to Petition Appealing Denial of Ad Valorem Property Tax Exemption*, the *Answer of Respondent Norma Wagoner, Assessor of Hampshire County, to Petition Appealing Denial of Ad Valorem Property Tax Exemption*.

WHEREFORE, the Petitioner respectfully MOVES, pursuant to Rule 29 of the West Virginia Trial Court Rules, for referral of this matter to the Business Court Division.

GLOBAL CAPITAL OF WORLD PEACE,  
INC., PETITIONER

By Counsel



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CERTIFICATE OF SERVICE

I, Michael E. Caryl, do hereby certify that a true and exact copy of the foregoing  
MOTION TO REFER TAX APPEAL TO THE BUSINESS COURT DIVISION has been  
served, by United States mail, postage prepaid, upon the following:

L. Wayne Williams, Esq.  
Assistant Attorney General  
State Capitol, Building 1, Room W-435  
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*Counsel for Respondent, Mark W. Matkovich*

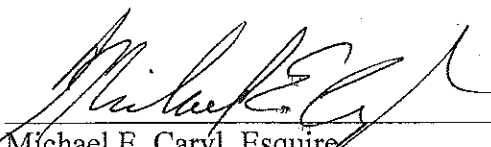
The Honorable Charles E. Parsons  
Hampshire County Circuit Court  
Hardy County Courthouse  
204 Washington Street, Room 203  
Moorefield, West Virginia 26836

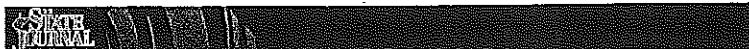
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The Honorable Sonja Embrey  
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Daniel M. James  
Prosecuting Attorney, Hampshire County  
50 South High Street  
Romney, West Virginia 26757  
*Counsel for Respondent, Norma Wagoner*

This 2nd day of June, 2015.

  
Michael E. Caryl, Esquire



## WV tax commissioner rules properties owned by Global Capital of World Peace taxable

Posted: Mar 16, 2015 2:50 PM EDT

Updated: Apr 17, 2015 2:50 PM EDT

By Maria Placotta

The state has determined that a multi-million dollar retreat in Hampshire County, WV is not exempted from paying property tax.

West Virginia State Tax Commissioner Mark W. Matkovich ruled Feb. 27 the property located in Hampshire County owned by Global Capital of World Peace Inc., is not eligible for exemption for property taxation.

The ruling could result in thousands of dollars of tax money filtering into the county.

The eight-page property tax ruling was discussed between the Hampshire County commissioners and County Assessor Norma Wagoner March 17. The subject on the ruling, No. 15-50, stated: In order to qualify for exemption from ad valorem taxation, taxpayer must make a showing that property is used exclusively for charitable purposes.

Wagoner said when GCWP started the project, the state ruled it should be tax exempt because it claimed to be charitable.

"I went by what the state claimed," Wagoner said.

However, Wagoner said GCWP purchased more and more property, which began cause local concern. GCWP's tax exempt application also stated the retreat would serve the ultimate charitable use, offering programs scientifically proven and accepted to benefit and enlighten the entire society, even for those that do not directly participate in the charity's programs.

Wagoner questioned the charitable use of the property, stating that "the people that stay in the apartments pay no rent," but, "they do have some people that come in and stay to take meditation courses for which they charge a fee."

Wagoner also pointed out the discrepancy between the taxpayer's representations that it does not charge rent for people to stay in its facility, and the public information on the Internet. The website indicates that people attending certain training courses at the facility, for which fees are charged, may stay in the facility for additional nights prior to or after the scheduled courses for an additional fee of \$95 a night.

The ruling lists other fees on the website that run from \$950 for seven days to \$1,050 for nine days and \$1,500 to \$1,900, depending on the days chosen. Wagoner pointed out the GCWP captioned its website with, "Take a restful, rejuvenating, summer vacation, with Purusha."

"When I saw the websites and the charges it threw up a red flag," Wagoner said. "That is when I asked for a new ruling."

In December 2008 Global County of World Peace (GCWP) purchased two parcels in Three Churches, totaling 174.227 acres for three-quarters of a million dollars. In August 2009 GCWP broke ground for the retreat, referred to the transcendental meditation. GCWP currently owns 459.78 acres. The final project was estimated between \$10-15 million.

Wagoner said based on just \$5 million, the county would get \$16,212 a year and the school board would get \$23,280 a year in property tax.

"The fire companies, county libraries and state would also get some of the tax," Wagoner said.

In addition to state and county entities benefiting from the retreat's tax, those entities receiving parts of the hotel and motel tax in the county would also benefit. Wagoner said a lot of time and effort went in to putting the data together to present to the state.

Global Capital President Bob LoPinto said March 17, "Because many important facts were not considered in the tax commissioner's ruling, an appeal to the circuit court would be filed."

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