

IN THE CIRCUIT COURT OF OHIO COUNTY, WEST VIRGINIA

STATOIL USA ONSHORE  
PROPERTIES, INC.,

Petitioner,

v.

Civil Action No. 16-C-246  
Honorable David J. Sims

THE HONORABLE MARK MATKOVICH,  
West Virginia State Tax Commissioner,  
THE HONORABLE KATHIE HOFFMAN,  
Assessor of Ohio County, and  
THE COUNTY COMMISSION OF OHIO COUNTY,

Respondents.

**RESPONDENT THE COUNTY COMMISSION OF OHIO COUNTY'S  
RESPONSE/ANSWER TO PETITIONER STATOIL USA ONSHORE PROPERTIES,  
INC.'S "COMPLAINT"**

NOW COMES, the Respondent, the Ohio County Commission (hereinafter referred to as "OCC") by its County Solicitor, Donald J. Tennant, Jr., and responds/answers the "Complaint" more properly termed "Appeal" of the Petitioner.

1. With respect to Lines 1-15 in the "Introduction" the Respondent admits the same.
2. With respect to Lines 16-17 in the "Introduction" the Respondent denies the same and demands strict proof thereof.
3. With respect to Line 18 in the "Introduction" the Respondent admits that Petitioner timely petitioned this Court for an Appeal.
4. With respect to Lines 19-21 the Respondent denies the same and affirmatively states that it did not abuse its discretion in denying the exoneration and denies that

Petitioner submitted clear and convincing evidence for allowing the exoneration based on a “clerical error” mistake.

5. As to Paragraph A of “Factual Background” the Respondent admits the same.
6. As to Paragraph B of “Factual Background” the Respondent admits that Petitioner’s representative admitted that it erred in submitting the wrong numbers to a third-party, but denies that the act was a “clerical error” without neglect, poor judgment, and occasioned by unintentional or inadvertent acts.

#### **FIRST AFFIRMATIVE DEFENSE**

#### **UNTIMELY PETITION FOR EXONERATION**

The Respondent alleges that the Petitioner’s initial petition to the County Commission seeking relief by exoneration was not timely pursuant to W.Va. Code § 11-3-27(a).

#### **SECOND AFFIRMATIVE DEFENSE**

The Petitioner’s actions and omissions of submitting the wrong numbers to the third-party to report to the State of West Virginia were occasioned by neglect, poor judgment, and were not unintentional or inadvertent.

#### **THIRD AFFIRMATIVE DEFENSE**

The Petitioner failed to present clear and convincing evidence to support its appeal to the OCC seeking an exoneration.

#### **FOURTH AFFIRMATIVE DEFENSE**

The Respondent utilized the proper factors to deny the Request for Exoneration and did not abuse its discretion.

WHEREFORE, the OCC demands that this Court deny the Petitioner's Petition for Appeal and remove this case from the Court's Docket.

THE OHIO COUNTY COMMISSION  
Respondent,

By



County Solicitor

Donald J. Tennant, Jr., Esq.  
West Virginia Bar No. 3718  
TENNANT LAW OFFICES  
38 Fifteenth Street, Suite 100  
Wheeling, WV 26003  
Phone: (304) 230-3200  
E-mail: [don@tennantlaw.com](mailto:don@tennantlaw.com)

**CERTIFICATE OF SERVICE**

Service of the foregoing RESPONDENT THE COUNTY COMMISSION OF OHIO  
COUNTY'S RESPONSE/ANSWER TO PETITIONER STATOIL USA ONSHORE  
PROPERTIES, INC.'S "COMPLAINT" was had by mailing a true and complete copy thereof by  
United States mail, postage pre-paid, on the 29<sup>th</sup> day of August, 2016, to the following:

Craig A. Griffith, Esq.  
John J. Meadows, Esq.  
Steptoe & Johnson, PLLC  
P.O. Box 1588  
Charleston, WV 25326  
*Counsel for StatOil USA Onshore Properties, Inc.*

THE OHIO COUNTY COMMISSION  
Respondent,

By  County Solicitor

Donald J. Tennant, Jr., Esq.  
West Virginia Bar No. 3718  
TENNANT LAW OFFICES  
38 Fifteenth Street, Suite 100  
Wheeling, WV 26003  
Phone: (304) 230-3200  
E-mail: don@tennantlaw.com