

IN THE CIRCUIT COURT OF BROOKE COUNTY, WEST VIRGINIA

**STATOIL USA ONSHORE
PROPERTIES, INC.**

Petitioner

Vs.

Case No. 16-AA-2

**THE HONORABLE MARK MATKOVICH
West Virginia State Tax Commissioner**

**THE HONORABLE THOMAS A. OUGHTON
Assessor of Brooke County, and**

THE COUNTY COMMISSION OF BROOKE COUNTY

Respondents

**THE RESPONDENTS, BROOKE COUNTY COMMISSION,
ANSWER TO THE PETITIONER'S, STATOIL USA ONSHORE
PROPERTIES, INC. "COMPLAINT"**



Now comes the respondent, The Brooke County Commission (hereinafter referred to as BCC) by and through the Brooke County Prosecuting Attorney, Joseph E. Barki, III, for its answer to the "Complaint" of the petitioner, Statoil USA Onshore Properties, Inc. This Answer being filed in response to the appeal of the petitioner of the ruling of the Brooke County Commission, regarding a requested exoneration of property tax sought by Statoil.

1. To the extent that lines 1-15 in the "Introduction" requires an answer, the BCC admits the same.
2. To the extent lines 16-17 in the "Introduction" requires a response, the BCC denies the same and demands strict proof thereof.
3. To the extent line 18 requires an answer, the BCC admits that the appeal of the BCC's decision was timely filed.

4. To the extent that lines 19-21 require an answer, the BCC denies the same, demands strict proof thereof, and affirmatively asserts that the BCC did not abuse its discretion in denying the exoneration request of the petitioner.
5. The BCC admits the representations set forth in paragraph "A, Statoil's Interest of Section II Factual Background".
6. To the extent that paragraph "B, Statoil's analysis and testimony" of Section II Factual Background requires an answer, the BCC admits that Kiran Rizvi testified before the Brooke County Commission and that Statoil submitted documents in support of their exoneration request.
7. To the extent that Section "C, Statoil's protest to the Brooke County Commission" set forth Section II Factual Background, requires an answer, the BCC admits the same.
8. The BCC agrees with the Statement of Law set forth in paragraph 1 of Section III Analysis and Causes of Action in the Petitioner's Complaint, but denies that such an "error" occurred.
9. The BCC admits that the State of W.Va. ex real Prosecuting Attorney of Kanawha County, WVPA v. Bayer Corporation, 672 S.E.2d 282 (2008), discusses and addresses exoneration on mistaken tax reporting.
10. The BCC denies the assertion set forth in paragraph 3 of "Section III Analysis and Causes of Action: and demands strict proof thereof.
11. The BCC denies all claims and assertions as set forth in paragraphs 4, 5, 6 and 7 of "Section IV Unjust Enrichment and Due Process", and demands strict proof thereof.
12. The BCC denies paragraph (i) of "Section V Conclusion", demands strict proof thereof, and requests that this Court dismiss the Petitioner's Appeal set forth in their (Complaint).

13. The BCC requests that the Court deny the request of the petitioner as set forth in paragraph (ii) of the Petitioner's Appeal and dismiss the same.
14. The BCC denies any assertion set forth in paragraph (iii) in "Section V Conclusion", demands strict proof thereof, and requests that this Court deny the same dismissing Petitioner's Appeal.
15. The BCC requests that this Court deny the relief set forth in paragraph (iv) of "Section V Conclusion", and asks that this Court dismiss the same.
16. The BCC requests that this Court dismiss the Petitioner's Appeal as set forth in its Complaint and any relief sought in paragraph (v) of "Section V Conclusion".

AFFIRMATIVE DEFENSES

First Affirmative Defense

The Petitioner failed to present clear and convincing evidence to support its request for exoneration from the BCC.

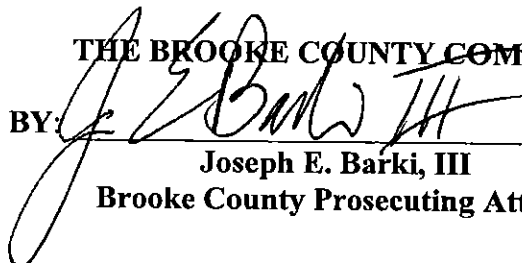
Second Affirmative Defense

The Petitioner's actions and admissions of submitting the wrong numbers for calculation of property tax were occasioned by their neglect, poor judgment, and failure to supervise, and were not unintentional or inadvertent.

Third Affirmative Defense

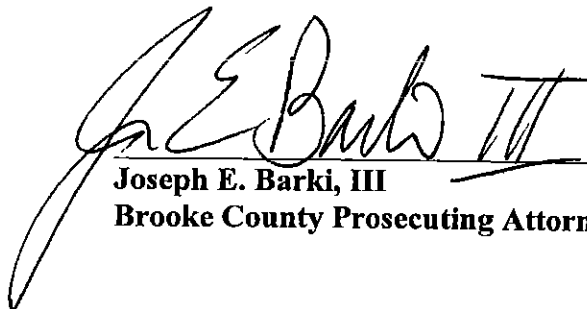
The Petitioner failed to mitigate their damages in ignoring multiple notices provided by the Brooke County Assessor's Office regarding the calculation of their property tax, reportedly losing more than forty such notices.

WHEREFORE, the BCC demands that this Court deny the Petitioner's Complaint for appeal and strike this matter from its docket.

THE BROOKE COUNTY COMMISSION
BY: 
Joseph E. Barki, III
Brooke County Prosecuting Attorney

CERTIFICATE OF SERVICE

Service of the foregoing Answer was had upon the petitioner, by mailing a true copy thereof by United States mail, postage prepaid, to its counsel, Steptoe & Johnson, c/o Craig A. Griffith, at his last known address, P O Box 1588, Charleston, WV 25326 on this the 3rd day of October, 2016.


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Brooke County Prosecuting Attorney

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