

IN THE CIRCUIT COURT OF BERKELEY COUNTY, WEST VIRGINIA

UNIVERSITY HEALTHCARE FOUNDATION, INC.
f/k/a CITY HOSPITAL FOUNDATION, INC.,

Petitioner,

v.

Civil Action No. 15-AA-6
Judge John C. Yoder

LARRY A. HESS, ASSESSOR
OF BERKELEY COUNTY, WEST VIRGINIA, and
MARK W. MATKOVICH,
STATE TAX COMMISSIONER,

Respondents.

ANSWER OF
WEST VIRGINIA STATE ATX DEPARTMENT TO
PETITION APPEALING DENIAL OF
2015 *AD VALOREM* PROPERTY TAX ASSESSMENT

BERKELEY COUNTY
CIRCUIT CLERK
2015 MAY 15 A 11:00
VIRGINIA M. SINE, CLERK

COMES NOW the West Virginia State Tax Department, by counsel, in order to Answer the *Petition Appealing Denial of 2015 Ad Valorem Property Tax Assessment* and states as follows. The *Petition* was served on counsel for the Tax Department on March 30, 2015. The Tax Department Answers as follows.

1. Paragraphs 1-3 of the *Complaint* summarize the status of the 2014 litigation before the Circuit Court of Berkeley County and do not contain any allegations of fact regarding the Tax Department. No response is necessary. To the extent that a response may be applicable, the Tax Department states that it has correctly applied the *ad valorem* property tax laws of this State and denies that Property Tax Ruling 14-01, which the parties have deemed to be applicable to the 2015 litigation, is erroneous in any manner.

2. Paragraph 4 of the *Complaint* summarizes the status of the Agreement and Stipulations entered into by the parties on February 9, 2015 and attached as Petition Exhibit 1 to the *Petition*; Paragraph 4 does not contain any allegations of fact regarding the Tax Department. No response is necessary. To the extent that a response may be applicable, the Tax Department states the executed Agreement and Stipulations speak for themselves. The Tax Department objects to any attempts to characterize the Agreement and Stipulations in the *Petition*. The Tax Department states that the deemed ruling by the Tax Commissioner as set forth in Paragraph 4.a of the *Petition* refers to a property tax ruling which would reflect the Tax Department's legal position as set forth in Property Tax Ruling 14-01 on appeal before the Circuit Court of Berkeley County, Business Court Division, Civil Action No. 14-AA-4.

3. Paragraph 5 of the *Complaint* states that a true and exact copy of the Agreement and Stipulations is attached to the *Petition*. No response is necessary.

4. The Tax Department denies that the deemed ruling for the 2015 tax year has aggrieved University Healthcare Foundation in any manner as alleged in Paragraph 6 of the *Petition*. The Tax Department further denies that the deemed ruling for the 2015 tax year is erroneous in any manner or fails to accurately reflect the current status of *ad valorem* property taxation in the State as alleged in Paragraph 6 of the *Petition*.

5. The Tax Department denies all allegations set forth in the *Petition* which have not been specifically admitted.

6. The Tax Department reserves all of the affirmative defenses available at law and in equity as stated in Rule 8(c) of the Rules of civil Procedure to the extent that they may be applicable as if fully set forth herein.

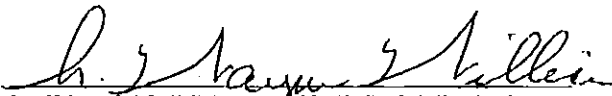
WHEREFORE, the West Virginia State Tax Department prays this Honorable Court will dismiss the aforesaid *Petition*, University Healthcare Foundation, Inc., and order the Foundation to pay the *ad valorem* property taxes assessed by the Berkeley County Assessor on the subject property and grant such additional relief as the Court deems proper.

Respectfully submitted,

MARK W. MATKOVICH,
STATE TAX COMMISSIONER
OF WEST VIRGINIA

By counsel

PATRICK MORRISEY
ATTORNEY GENERAL

A handwritten signature in cursive script, appearing to read "L. Wayne Williams", is written over a horizontal line.

L. WAYNE WILLIAMS (WVSB# 4370)
ASSISTANT ATTORNEY GENERAL
1900 Kanawha Boulevard, East
Building 1, Room W-435
Charleston, West Virginia 25305
304-558-2522

IN THE CIRCUIT COURT OF BERKELEY COUNTY, WEST VIRGINIA

UNIVERSITY HEALTHCARE FOUNDATION, INC.
f/k/a CITY HOSPITAL FOUNDATION, INC.,

Petitioner,

v.

Civil Action No. 15-AA-6
Judge John C. Yoder

LARRY A. HESS, ASSESSOR
OF BERKELEY COUNTY, WEST VIRGINIA, and
MARK W. MATKOVICH,
STATE TAX COMMISSIONER,

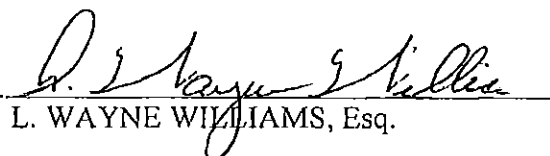
Respondents.

CERTIFICATE OF SERVICE

I, L. Wayne Williams, counsel for Respondent, Mark W. Matkovich, State Tax Commissioner, hereby certify that I served the foregoing *Answer Of West Virginia State Tax Department To Petition Appealing Denial Of 2015 Ad Valorem Property Tax Assessment* upon the below-named individuals by first class United States mail, postage prepaid, on the 11th day of May, 2015 at the following addresses:

Norwood Bentley III, Esq.
Berkeley County Council
400 W. Stephen Street, Suite 201
Martinsburg, West Virginia 25401

Michael E. Caryl, Esq.
Bowles Rice, LLP
P.O. Drawer 1419
Martinsburg, WV 25402-1419


L. WAYNE WILLIAMS, Esq.