

*Business*

BERKELEY COUNTY  
IN THE CIRCUIT COURT OF BERKELEY COUNTY, WEST VIRGINIA  
BUSINESS COURT DIVISION  
2016 SEP -9 AM 11:22

LEE TRACE LLC,

VIRGINIA M. SINE, CLERK

Petitioner,

VS.

Civil Action No.: 14-AA-2

BERKELEY COUNTY COUNSEL  
AS BOARD OF REVIEW AND  
EQUILIZATION, et al.,

Respondents.

**ORDER SETTING DE NOVO APPEAL**

This matter comes before the Court this 9<sup>th</sup> day of September 2016, wherein the Court has confirmed with counsel that the record is insufficient to hear an appeal on the record. It is undisputed that in civil action 14-AA-2, the Petitioner did not receive adequate notice and was not afforded an opportunity to appear before the Board in the underlying appeal. West Virginia Code §11-3-25(c) states that an appeal shall be heard *de novo* by the circuit court where no evidence has been adduced.

If, however, there was no actual notice to the taxpayer, and no appearance by or on behalf of the taxpayer before the board, or if a question of classification or taxability is presented, the matter shall be heard *de novo* by the circuit court.

W. Va. Code §11-3-25(c).

Accordingly, after consulting with counsel for the parties, the Court finds it appropriate to set the matter for a *de novo* appeal of the relevant Assessment.

THEREFORE, it is ORDERED that the above captioned case will come before the Court for a *de novo* hearing on Thursday, December 1, 2016, beginning at 9:00 AM in the Courtroom

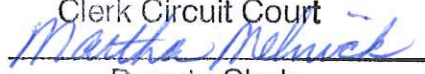
of the undersigned in the Berkeley County Judicial Center.

The Clerk of the Circuit Court of Berkeley County, West Virginia, is directed to forward an attested copy of this Order to the Business Court Division Central Office at the Berkeley County Judicial Center, 380 W. South Street, Suite 2100, Martinsburg, West Virginia, 25401; and all counsel of record.

ENTER this 9 day of September, 2016.

  
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CHRISTOPHER C. WILKES, JUDGE  
BUSINESS COURT DIVISION

A TRUE COPY  
ATTEST

Virginia M. Sine  
Clerk Circuit Court  
By:   
Deputy Clerk