

Subject:Re: Requesting Homeowner Assistance - 55 WV Counties

Date:Thu, 19 Nov 2015 19:58:36 +0000

From:Daryl Cowles <daryl.cowles@wvhouse.gov>

To:Nance Briscoe <briscoen@frontiernet.net>

CC:Bill Cole <Bill.Cole@wvsenate.gov>

Thanks for the email and copy of your letter to the State Tax Commissioner.

I expect you will find answers from that office. If you do not hear back from them, let me know.

Thanks,

Daryl Cowles

WV House of Delegates, 58

Majority Leader

Sent from my iPad

Subject:RE: Requesting Homeowner Assistance - 55 WV Counties

Date:Thu, 19 Nov 2015 22:55:08 +0000

From:Dave Sypolt <dave.sypolt@wvsenate.gov>

To:Nance Briscoe <briscoen@frontiernet.net>, Bill Cole

<Bill.Cole@wvsenate.gov>, Daryl Cowles <daryl.cowles@wvhouse.gov>

CC:Dave Sypolt <dave.sypolt@wvsenate.gov>,

MARK.W.MATKOVICH@WV.GOV

<MARK.W.MATKOVICH@WV.GOV>

Bill and Daryl,

I can tell you the contents of this email are correct. I would be more than happy to discuss the issue with you at your convenience.

However, I disagree with their tack in contacting the legislature for action toward the executive to perform their legal duty.

The correct remedy, I believe, is to file for summary judgement in circuit court for writ of mandamus.

Dave

-----Original Message-----

From: Nance Briscoe [<mailto:briscoen@frontiernet.net>]

Sent: Thursday, November 19, 2015 2:48 PM

To: Bill Cole; Daryl Cowles

Subject: Requesting Homeowner Assistance - 55 WV Counties

Dear Senator Cole and Delegate Cowles ,

We are homeowners and members of the Eastern Panhandle Organization of Homeowners Associations. EPOHOA has included CC'ing the Members of the West Virginia House of Delegates and Senate with our important letter of request - I attach it here (and text below) for your ease in reviewing.

Our Organization, of more than 7,800 homes within HOAs, continues a pro-active stand in hopes you will encourage our WV Tax Commissioner Mark Matkovich to alert all WV county assessors to comply with the law.

Your help will be greatly appreciated!

Respectfully,

Anne Kask, President

Nance Briscoe, Vice President

Phyllis Smock, Secretary

RosaLee Riggins, Treasurer

Richard Sussmann, Member at Large

TEXT of the attached correspondence:

(our letter was surface mailed 11/18/2015 to Mr. Matkovich)

November 18, 2015

Mark Matkovich, WV State Tax Commissioner

1012 Kanawha Blvd.E, Suite 300

Charleston, West Virginia 25330

Dear Mr. Matkovich,

The Uniform Common Interest Ownership Act, Chapter §36B was adopted in West Virginia in 1984. It states common areas in a Homeowners'

Association (HOA), are exempt from being separately taxed.

The Eastern Panhandle Organization of Homeowners' Associations (EPOHOA) has more than 56 HOA members which include 7,879 homes in Berkeley, Grant, Hampshire, Hardy, Jefferson, Mineral, Morgan, Pendleton and Tucker counties. We are requesting you to alert all WV county assessors to comply with the law.

When a home buyer purchases property in a homeowners' association (HOA), they also pay an ad valorem tax which is a tax based on the value of the home and the infrastructure of a subdivision including all common areas referred to as amenities.

Currently, in opposition to the law, common areas are separately assessed and HOAs are required to pay tax yet a second time to privately maintain their common areas, including roads, sidewalks, flood plains, recreational facilities, and clubhouses.

Common area tax assessed annually on the home buyer by the county of residence is redundant and has no value independent of the home buyer's property in the HOA. The value of common areas is already built into the value of each home in an HOA. County taxes are based on the assessed value of homes and land, the proportionate value of the common areas is already included in the home's value.

Therefore, assessing an additional amount for the common areas is double taxation.

- 1. Common areas are owned by the homeowners' association or similar organization which hold the common facilities for use by the home owners;*
- 2. The home owners acquire a right to use the common facilities by easement, covenant, and rights that run with the land;*
- 3. The mandatory common area annual assessment for maintenance of the common area is paid without option by all members of the homeowners' association;*
- 4. The common areas are available for use by all members of the homeowners' association.*

After we had many conversations with the Jefferson County Tax Assessor, the county assessor agreed to follow WV law and stopped assessing common areas by 2012.

The proliferation of HOAs in West Virginia has resulted in an enormous cost savings to our local governments in two ways:

- 1. By requiring developers to include infrastructure, sold as amenities to the home buyer and then passing the cost of maintenance of that infrastructure on to the common interest owners; and*
- 2. by planned-unit developments being responsible for the cost of maintaining infrastructures that would normally be maintained by local, county, or state government.*

Finally, homeowner associations, created before or after §36B-1-103 & 105 became law, the selling price of the individual lots/homes included the common areas owned by the HOA and therefore none of these areas can be assessed separately (fair and uniform taxation).

Homeowners in HOAs already pay the assessed tax on their properties which include the common area infrastructure & amenities. HOAs are developed with the requirement that they must be self-sufficient.

Your reply to EPOHOA concerning this matter will be appreciated in aiding our 55 county assessors to follow the law in West Virginia.

Please send your reply to EPOHOA, P.O. Box 911 – Charles Town, West Virginia 25414.

signed by the EPOHOA Board of Directors