

NO. 31125

IN THE SUPREME COURT OF APPEALS OF WEST VIRGINIA

STATE OF WEST VIRGINIA ex rel. WEST VIRGINIA CITIZENS ACTION GROUP, an incorporated association of State citizens and taxpayers,

Petitioner below, Appellant,

v.

WEST VIRGINIA ECONOMIC DEVELOPMENT GRANT COMMITTEE; CITY OF WHEELING, a municipal corporation; and CENTURY EQUITIES-WHEELING VICTORIAN OUTLET MALL, INC., a private corporation,

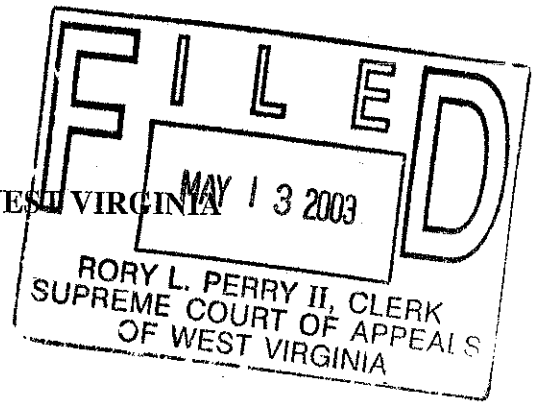
Respondents below, Appellees.

Kanawha County Commission, Intervener.

RESPONSE OF THE WEST VIRGINIA ECONOMIC DEVELOPMENT GRANT COMMITTEE TO PETITIONER'S MOTION TO AMEND PETITION FOR APPEAL

The West Virginia Economic Development Grant Committee (the Committee) takes no position with regard to the issue of whether Petitioner can Amend its Petition For Appeal to reflect that its argument challenging the propriety of the circuit court's award of costs should have been directed to WVOC Associates, L.P., the party to whom the court actually awarded the costs, not to the City of Wheeling.

However, one statement in the Petitioner's Motion to Amend cannot stand without challenge. Petitioner states that "WVOC Associates, L.P., was the successful applicant of the \$70 million grant at its retail mall project in Wheeling which was voided by the Circuit Court." This is completely inaccurate. The Committee's contingent award of \$70 million was made to the City of Wheeling




Urban Renewal Authority, not to WVOC Associates, L.P. Further, the circuit court did not void the grant; rather, it required the Committee to re-vote on the Wheeling project in a manner consistent with its rulings.

Respectfully submitted,

**WEST VIRGINIA ECONOMIC
DEVELOPMENT GRANT COMMITTEE**

By counsel

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CERTIFICATE OF SERVICE

I, Katherine A. Schultz, Senior Deputy Attorney General for the State of West Virginia, do hereby certify that a true and exact copy of the foregoing **Response of the West Virginia Economic Development Grant Committee to Petitioner's Motion to Amend Petition for Appeal** was served via United States mail, this 13th day of May, 2003, addressed as follows:

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