

BEFORE THE WEST VIRGINIA ETHICS COMMISSION

IN RE:

**William Perry
Chief Deputy Assessor, Monongalia County**

Complaint No. VCRB 2007-25

AMENDED STATEMENT OF CHARGES

The Probable Cause Review Board of the West Virginia Ethics Commission, by unanimous vote, entered an Order dated December 5, 2008 finding probable cause to believe that the Respondent violated W.Va. Code § 6B-2-5(h) and W.Va. Code § 6B-2-5(b) and directing the preparation of this Statement of Charges.

The members of the Review Board charge that within two years before the filing of the Complaint in this matter, William Perry, as the Chief Deputy Assessor in Monongalia County, did using his official title, using the County phone and during his public office hours, offer to purchase property from a citizen who was under the regulatory authority of a subordinate or subordinates of the Respondent. It is hereby charged that Respondent Perry violated the Ethics Act as follows.

COUNT I

1. That William Perry is the Chief Deputy Assessor for Monongalia County.
2. That James Jones is a principal in Morgantown Commercial, LLC. This business owns commercial property which is located at 1116 University Avenue and is further identified as Map No. 28A, Parcel 33. The property was purchased in September of 2005 for \$300,000.00.

3. In the Spring of 2007, Chief Deputy Assessor William Perry called James Jones at home. He left a message wherein he identified himself and asked that Mr. Jones call him. The number left by Respondent Perry was for the Assessor's Office. Mr. Jones returned the call. Respondent Perry identified himself as Chief Deputy Assessor. He indicated to Mr. Jones that he had researched his property and indicated to Mr. Jones that in his opinion they had paid too much for it. He then offered to purchase the property for \$100,000.00. At the time the call was made, the property was not listed for sale.

4. That prior to making the offer to purchase property to James Jones, Chief Deputy William Perry made the same or similar offer to a nearby property owner. Joyce Clay and William Lotspeich own a commercial building at 1150 University Avenue. This commercial property is located in close proximity to the property owned by James Jones and his business partners. The offer to purchase 1150 University Avenue was made in the fall of 2005 or spring of 2006. The offer was made by Respondent Perry to and in the presence of Joyce Clay, Robert Clay and William Lotspeich at a flea market like sale held in Preston County. Respondent Perry did not use his official title to make this offer or make the offer to purchase on County time. This offer to purchase is not the subject of the Complaint. It is relevant insofar as it demonstrates proof of motive, opportunity, intent, preparation, plan, knowledge, or absence of mistake.

5. That as Chief Deputy Assessor, William Perry is second-in-command in the Assessor's Office.

6. That based upon information and belief, on or around September 6, 2006, Henry Maxwell, consistent with his normal job duties and responsibilities, entered

updated sales information for 1116 University Avenue, Map 28A, Parcel 33, into the data system employed by the Assessor's Office for assessing property.

7. That based upon information and belief, consistent with his normal practice for recently sold properties, Henry Maxwell entered data which placed the appraised value for this property at or near its sales price of \$300,000.00.

8. West Virginia Code § 6B-2-5(h) reads in relevant part:

No full-time official or full-time public employee may seek...to purchase...real... property to or from any person who:

(A) Had a matter on which he or she took, or a subordinate is known to have taken, regulatory action within the preceding twelve months; or,

(B) Has a matter before the agency on which he or she is working or a subordinate is known by him or her to be working.

9. That all property in a County must be assessed annually. W.Va. Code § 11-3-1. This responsibility lies with the Assessor and those in his employ. Chief Deputy Assessor William Perry is second-in-command. Said property owned by James Jones, through his ownership interest in Morgantown Commercial Property, was assessed by the Assessor's Office in 2006 and 2007.

10. That Henry Maxwell is subordinate to Respondent Perry.

11. That as he is second-in-command, all employees in the Assessor's Office are subordinate to Respondent Perry. Properties are assessed on an annual basis. W.Va. Code § 11-3-1. At all times relevant herein, William Perry knew that the assessment of the property in question was a matter which was pending before his agency and upon which a subordinate was working due to the requirement that all properties in the County be assessed on an annual basis. Further, the property owned by Jim Jones and his business partners had been, within 12 months of the call from Respondent Perry to

Complainant Jones, reassessed at a higher value by the Assessor's Office and its employees based upon the most recent sales data for the property.

12. That the acts summarized in paragraphs 1-11, constitute a violation of W.Va. Code § 6B-2-5(h) as Chief Deputy Perry sought to purchase property from a person with a regulatory matter currently pending before his agency upon which a subordinate or subordinates was/were known to be working as all property in Monongalia County is assessed by the employees of the Assessor's Office on an annual basis under the direction and control of the Assessor and his second-in-command, Chief Deputy Assessor William Perry. That moreover, the acts summarized in paragraphs 1-11, constitute a violation of W.Va. Code § 6B-2-5(h) as Chief Deputy Perry sought to purchase property from a person with a regulatory matter currently pending before his agency upon which a subordinate or subordinates was/were known to be have taken regulatory action within 12 months of the telephone call from Chief Deputy Perry to Jim Jones.

COUNT II

13. That the acts summarized in paragraphs 1-12 are incorporated herein by reference.

14. That the acts summarized in paragraphs 1-12 constitute a violation of W.Va. Code § 6B-2-5(b) as Respondent Perry did knowingly and intentionally use public resources, public time and his official job title to seek to purchase property in furtherance of his own private business interests.



Theresa M. Kirk
Executive Director

2-9-09
Date