



Virginia Local Government Law

Virginia Supreme Court Issues Local Government Rulings

By: Andrew McRoberts. *Friday, April 22nd, 2011*

Virginia Supreme Court Opinions Affecting [Local Government Law](#) on April 21, 2011:

The Virginia Supreme Court issued several opinions today affecting Virginia local government law. The following summaries come from the Virginia Supreme Court website:

[092583](#) Volpe v. City of [Lexington](#)

In a suit by the administrators of a minor decedent who was an invitee at a city park that included a dammed portion of a river, and drowned in a dangerous water current (hydraulic) around the dam, the natural, ordinarily encountered dangers of the river were as a matter of law open and obvious, but the dangerous current was not necessarily visible to a swimmer, and the circuit court erred in holding as a matter of law that the dam presented such an open and obvious danger. That factually specific determination was an issue for the jury. Regarding plaintiffs' [gross negligence](#) claim, reasonable persons could differ on whether the cumulative effect of the circumstances constituted a form of recklessness or total disregard of precautions, an absence of diligence or lack of even slight care by the city, and it was error to strike the evidence on that claim. However, there was no error in the granting of a motion to strike plaintiffs' claim for willful and wanton negligence against the city. The judgment is affirmed in part and reversed in part, and the case is remanded.

[100048](#) Dean v. Board of County Supervisors In a condemnation proceeding, there was no [abuse of discretion](#) in the ruling of the circuit court barring, on a [motion in limine](#), introduction by the landowners of evidence at trial regarding a particular purported comparable sale of property to the same condemnor, because the landowners in the present case failed to produce evidence sufficient to establish that the purported comparable sale was voluntary and free from compulsion and not by way of compromise. The judgment is affirmed.

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[100068](#) Jenings v. [Board of Supervisors](#)

In a challenge by a landowner with riparian rights to a locality's authority to regulate the construction of additional mooring slips and accompanying piers beyond the mean low-water mark of a tidal, navigable body of water, the circuit court did not err in denying relief on claims that the regulation was beyond the jurisdiction of the locality, and that the special exception permit ordinance is void for lack of adequate standards to guide the governing body's decision to grant or deny a special exception permit. The judgment of the circuit court is affirmed.

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