



Virginia Local Government Law

June 10, 2010

[New Opinions from the Virginia Supreme Court](#)

By: [Andrew McRoberts](#).

The Virginia Supreme Court issued four opinions today of particular interest to local governments. Three involve localities as parties (City of Falls Church, County of Fairfax, and Town of Vienna), and the fourth involve a construction case filed against the Commonwealth of Virginia in which the Court addresses several issues of interest to local governments. (Excerpted from the Supreme Court of Virginia website: <http://www.courts.state.va.us/scndex.htm>)

[090444 James v. City of Falls Church](#) 06/10/2010 The trial court did not err in granting a motion to strike the evidence, or in dismissing an action by a church which had been denied an application for consolidation of several lots after consideration by a zoning administrator, planning staff, and the locality's planning commission. The circuit court did not fail to apply the correct standard of review, and the church failed to show that the planning commission's denial of its consolidation application was not properly based on the applicable ordinances, or was arbitrary or capricious, as was its burden of proof under Code §§ 15.2-2259(D) and - 2260(E). The circuit court did not err in finding that the commission had the right and authority to disregard the zoning administrator's interpretation of a local ordinance in deciding whether to approve or disapprove the consolidation application. The judgment is affirmed.

[091180 Advanced Towing v. Fairfax County Board](#) 06/10/2010 The trial court did not err in sustaining demurrers in a suit for declaratory relief filed by two towing companies challenging an ordinance requiring them to have a vehicle storage facility within the boundaries of the county. A reasonably conceivable state of facts appeared on the pleadings concerning enforcement of the provision that could provide a rational basis for the classification made by the ordinance under review, and the territorial limitation therefore survives analysis under the Equal Protection guarantee of the Fourteenth Amendment. Likewise, the Dillon Rule of limited local government powers allows a reasonable selection of method permitting local governing bodies to exercise discretionary authority where a statutory grant of power has been expressly made but is silent upon the mode or manner of its execution. The judgment is affirmed.

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[091271 TC MidAtlantic Development v. Commonwealth](#) 06/10/2010 In a construction contract dispute, the trial court did not err in dismissing on demurrer two counts of a complaint brought by a construction company against the Virginia Department of General Services on the ground that compliance with conditions precedent for such claims was not adequately pled. The trial court erred in sustaining a demurrer and dismissing another count of the complaint as to which the timely claims requirement set forth in the demurrer was not applicable. The judgment is affirmed in part, and reversed in part, and the action is remanded for further proceedings.

[091343 Covel v. Town of Vienna](#) 06/10/2010 The judgment is affirmed in three consolidated circuit court actions involving challenges to a local historic preservation ordinance and decisions made by the locality thereunder. No evidence in the record rebuts the presumption of validity of the locality's decision denying a certificate of appropriateness to build a fence and denying permission to remove various parcels from the historic district. Code § 15.2-1427(C), reenacted in 2000, bars all non-constitutional challenges to the adoption of ordinances existing at that time, such as the ordinance involved in these cases. The ordinance provisions at issue here are sufficiently precise and definite to give fair warning of the information required for applications under its terms, and no error is found in the judgment of the circuit court dismissing the as-applied challenge to the ordinance.

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