



Virginia Local Government Law

Virginia Supreme Court Opinion Affecting Local Government Law: September 14, 2012

By: Andrew McRoberts. *Wednesday, October 3rd, 2012*

On September 14, 2012, the Virginia Supreme Court issued no opinions affecting the practice of Virginia local government law.

Actually, that is not true. While no opinions involved cases with local government parties, and may not deal with "local government law," *per se*, one opinion addresses issues of which local governments should be aware. This case, involving an inverse condemnation claim against Dominion Virginia Power for an alleged taking due to impacts of power lines on adjacent property, involved issues of the scope of the takings clause of the Virginia Constitution, and whether the subject claim fell within the "or damage" language in that clause and its waiver of sovereign immunity.

The following summary comes from the **Virginia Supreme Court website** (click on the case number to read the opinion):

112112 Byler v. VEPCO 09/14/2012 In two actions seeking recovery for reduction in property values because of a public utility's construction of high-voltage electric lines for public use, the complaints did not, and could not, state a cause of action for declaratory relief for inverse condemnation where the sole damage alleged was a diminution in value owing to a proximity to property taken for a public use by eminent domain. Article I, Section 11 of the Constitution of Virginia does not function to waive sovereign immunity for the Commonwealth and its proxies in order to subject them to liability as private parties for any damage asserted by a property owner that might conceivably arise from an exercise of eminent domain, but operates as a waiver of immunity from having to pay compensation for the taking or damaging of a property right. Thus, while the circuit court applied the wrong standard in reviewing the pleadings, its judgment sustaining the demurrers was nonetheless correct under the proper standard.

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