



Virginia Local Government Law

Zoning and Privatization of Virginia's ABC Stores

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In his campaign, Virginia Governor Bob McDonnell proposed privatization of the state-owned ABC (liquor) stores as one way to raise revenue without raising taxes. It is important to remember that taking a use that is now public and making it private has repercussions under local land use law and can have concerns for the citizens.

By letter sent June 18, the Virginia Association of Counties (VACo) and the Virginia Municipal League (VML), the bodies representing our Virginia localities at the state government level, told the Governor that ABC stores, if sold for private operation, must be subject to local land use. And they are right.

It is generally accepted that the Commonwealth of Virginia, as sovereign, is not subject to local zoning by its political subdivisions. The Commonwealth does enjoy its freedom from local regulation. However, this freedom does not extend to private uses, such as privately-owned liquor stores.

The Virginia Supreme Court has upheld local land use authority to regulate private liquor sales even when the Commonwealth has issued a state ABC license in *City of Norfolk v. Tiny House*, 222 Va. 414, 281 S.E.2d 836 (1981) and in [County of Chesterfield v. Windy Hill, Ltd.](#) The Supreme Court also upheld local land use authority to regulate private uses, even on publicly-owned land, in [Board of Supervisors of Fairfax County v. Washington, D.C. SMSA, L.P.](#)

The importance of local say over the proper location of these stores, and the ability to place reasonable conditions that enable the stores — now no longer under public ownership — to fit harmoniously within the community is critical. Local control over land use works and is essential to meet the citizens' expectations for their communities.

VML and VACo are right. If the Commonwealth is no longer in charge of the location of these stores, the people's local elected bodies must be.

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