



PRESS RELEASE

For Immediate Release

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GOVERNOR, SPEAKER OF THE HOUSE AND THE ATTORNEY GENERAL FILE A 'MOTION TO INTERVENE' AS PLAINTIFFS IN THE NORTHERN VIRGINIA TRANSPORTATION AUTHORITY'S BOND VALIDATION SUIT

NORTHERN VIRGINIA – The Northern Virginia Transportation Authority (NVTDC) has been notified that the offices of Governor Timothy Kaine, Speaker of the House William Howell, and Attorney General Robert McDonnell have jointly filed a 'Motion to Intervene as Plaintiffs' alongside the Authority in the bond validation suit pending in Circuit Court. Noting that "NVTDC and the Commonwealth agree that the statutes are constitutional," the three have asked the court to admit the Commonwealth as a Plaintiff in the case (a copy of the 'Motion to Intervene' is attached to this press release).

Following a Public Hearing on July 12, 2007 the Authority voted to activate the seven funding measures authorized by the General Assembly earlier this year in HB 3202. Together the seven measures are expected to raise more than \$300 million annually for transportation improvements in Northern Virginia. Based on the Authority's action, the revenue measures would go into effect January 2008.

On July 13, 2007 the Authority filed a bond validation suit in the Circuit Court of Arlington in order to allow the courts to consider and affirm the constitutionality of the Authority

provided by the General Assembly in HB 3202 and to issue the debt to fund the list of approved projects.

“It is significant that, rather than merely filing a ‘Friend of the Court Brief,’ Governor Kaine, Speaker Howell and Attorney General McDonnell are seeking to have the Commonwealth join as a full partner with Northern Virginia in this legal action,” said Chris Zimmerman, Chairman of the Authority.

The seven funding measures, authorized by the General Assembly in HB 3202, were approved at the regular Authority meeting on July 12, 2007. Each funding resolution was voted on separately, and approved by the required two-thirds majority.

The Authority also unanimously approved the initial project list containing 22 regional projects totaling \$102 million. These projects reflect a balance of transit, roadway and multi-modal projects that are “ready to go,” and will be funded by the revenues generated.

This is the first infusion of significant transportation dollars in Northern Virginia in more than 20 years.

As the work of the Authority continues, information will be posted on the web site at www.TheNoVaAuthority.org.

NVTA Who’s Who

The voting members of the Authority include:

Hon. Christopher Zimmerman	NVTA Chairman; Arlington County
Hon. Martin Nohe	NVTA Vice Chairman; Prince William County
Hon. Gerry Connolly	Fairfax County
Hon. Scott York	Loudoun County
Hon. William D. Euille	City of Alexandria
Hon. Robert F. Lederer	City of Fairfax
Hon. David F. Snyder	City of Falls Church
Hon. Harry J. “Hal” Parrish, II	City of Manassas
Hon. Bryan Polk	City of Manassas Park
Hon. Jeff Frederick	Virginia House of Delegates
Hon. Vince Callahan	Virginia House of Delegates
Hon. Jeanne-Marie Devolites-Davis	Virginia Senate

Julia A. “Judy” Connally
Margaret Vanderhye

Governor's Appointee, CTB Member
Governor's Appointee

Non-voting members:

Matthew O. Tucker
Dennis Morrison

Director, DRPT
Administrator, Northern District Office, VDOT

For more information, contact the Northern Virginia Transportation Authority by going to www.TheNoVaAuthority.org.

‘MOTION TO INTERVENE’ FOLLOWS

VIRGINIA:

IN THE CIRCUIT COURT FOR THE COUNTY OF ARLINGTON

NORTHERN VIRGINIA TRANSPORTATION AUTHORITY,)
Plaintiff,)

COMMONWEALTH OF VIRGINIA ex rel.)

ROBERT F. McDONNELL,)
in his official capacity as Attorney General of the)
Commonwealth;)

TIMOTHY M. KAINÉ,)
in his official capacity as Governor of the Commonwealth;)
and)

WILLIAM H. HOWELL,)
in his official capacity as Speaker of the House of Delegates;)

Movants to Intervene as Plaintiffs,)

v.)

CASE No. 07-923

STATUTORY DEFENDANTS PURSUANT TO VIRGINIA)
CODE §§ 15.2-2650, ET SEQ., TO WIT,)
TAXPAYERS, PROPERTY OWNERS AND CITIZENS OF)
THE COUNTIES OF ARLINGTON, FAIRFAX, LOUDOUN,)
AND PRINCE WILLIAM, AND THE CITIES OF)
ALEXANDRIA, FAIRFAX, FALLS CHURCH, MANASSAS,)
AND MANASSAS PARK, VIRGINIA, INCLUDING)
NONRESIDENTS OWNING PROPERTY OR SUBJECT TO)
TAXATION THEREIN, AND ALL OTHER PERSONS)
INTERESTED IN OR AFFECTED IN ANY WAY BY THE)
PROPOSED ISSUANCE BY THE NORTHERN VIRGINIA)
TRANSPORTATION AUTHORITY OF ITS NORTHERN)
VIRGINIA TRANSPORTATION AUTHORITY)
TRANSPORTATION FACILITIES REVENUE BONDS IN AN)
AMOUNT NOT TO EXCEED \$130,000,000,)

Defendants.)

MOTION OF THE COMMONWEALTH
AND OTHERS TO INTERVENE AS PLAINTIFFS

The Commonwealth of Virginia, upon relation of Robert F. McDonnell in his official capacity as Attorney General of the Commonwealth; Timothy M. Kaine, in his official capacity as Governor of the Commonwealth; and William H. Howell, in his official capacity as Speaker of the House of Delegates; (collectively “Commonwealth”) move, pursuant to VIRGINIA S. CT. R. 3.14, to intervene in this matter as Plaintiffs. In support of its Motion, the Commonwealth states as follows:

1. In its Complaint, the Northern Virginia Transportation Authority (“NVTA”) has asked this Court to determine the constitutionality of various provisions related to NVTA set forth in Chapter 896, 2007 *Virginia Acts of Assembly* (“Chapter 896”) enacted by the Virginia General Assembly in 2007. *Complaint* at 2-3.

2. Although those provisions are constitutional and although NVTA believes that the provisions are constitutional, comments in media suggest that those opposing the ability of NVTA to fulfill its mission of financing necessary road projects in Northern Virginia believe that one or more provisions is unconstitutional. Thus, the Commonwealth anticipates that many of the defendants will assert that one or more statutes is unconstitutional.

3. When someone challenges the constitutionality of a statute and the Attorney General believes that the statute is constitutional, then the Attorney General has an obligation to defend the constitutionality of the statute.

4. If there is a claim that a Virginia statute is unconstitutional and if the Commonwealth, its agency, or its officer is not a party, then it is appropriate for the Commonwealth, upon relation of

the Attorney General, to intervene in the lawsuit for defending the constitutionality of the statutes. Indeed, in federal court, such intervention is a matter of right. *See* 28 U.S.C. § 2403(b).

5. Because the Governor has responsibility for ensuring that all laws enacted by the General Assembly are faithfully executed, VIRGINIA CONST. art. V, § 7, it is equally appropriate for the Governor to intervene to defend the constitutionality of a statute. Similarly, it is appropriate for members of the General Assembly, the body responsible for drafting and enacting the statutes, to intervene and defend the constitutionality of the statute, VIRGINIA CONST. art. IV, § 11.

6. Since NVTA and the Commonwealth agree that the statutes are constitutional, it is appropriate for the Commonwealth to be aligned on the same side as NVTA. Accordingly, the Commonwealth should be Plaintiff.

7. The NVTA has been contacted regarding this Motion to Intervene as a Plaintiff and agrees that the Commonwealth should be allowed to intervene as a Plaintiff.

CONCLUSION

For the reasons stated above, the Motion to Intervene should be **GRANTED**.

COMMONWEALTH OF VIRGINIA ex rel.

ROBERT F. McDONNELL,
in his official capacity as
Attorney General of the Commonwealth

TIMOTHY M. KAINE,
in his official capacity as
Governor of the Commonwealth

WILLIAM H. HOWELL,
in his official capacity as
Speaker of the House of Delegates


Counsel

ROBERT F. McDONNELL
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