

OP. NO. 05-045

**2005 APPROPRIATION ACT: DEPARTMENT OF HOUSING AND
COMMUNITY DEVELOPMENT.**

**Act requires that existing Artisans Center of Virginia participate in
development of Shenandoah Valley regional art center to extent Center is
willing to participate.**

The Honorable R. Steven Landes
Member, House of Delegates
July 21, 2005

Issue Presented

You ask whether Item 112.10(F) of the 2005 Appropriation Act¹ requires that the existing Artisans Center of Virginia participate in the effort to develop a regional artisan center in the Shenandoah Valley Region.

Response

It is my opinion that Item 112.10(F) of the 2005 Appropriation Act does require that the existing Artisans Center of Virginia participate in the effort to develop a regional artisan center in the Shenandoah Valley Region to the extent the Artisan Center of Virginia, as a private non-profit organization, is willing to participate.

Applicable Law and Discussion

You ask whether Item 112.10(F) of the 2005 Appropriation Act requires that the existing Artisans Center of Virginia participate in the effort to develop a regional artisan center in the Shenandoah Valley Region. Item 112.10(F) of the 2005 Appropriation Act provides that:

Out of the amounts for Economic and Community Development Services shall be provided \$1,000,000 the second year from the general fund to develop a regional artisan center in the Shenandoah Valley Region to serve as tourism destinations and sales venues for artisan products. This project shall be developed in cooperation with the Artisan Center of Virginia. The Director, Department of Planning and Budget, based on the recommendation of the Director, Department of Housing and Community Development (DHCD), is authorized to establish capital projects for this purpose. [Emphasis added.]

Under the basic principles of statutory construction, the General Assembly's intent must be determined from the words contained in the statute.² "When the language of a statute is unambiguous, [one is] bound by the plain meaning of that language and may not assign a construction that amounts to holding that the General Assembly did not mean what it actually said."³ "Cooperation" means the "[a]ction of co-operating."⁴ "Cooperate" means "[t]o act jointly or concurrently toward a common end."⁵

Further, the use of the word "shall" in the statute generally indicates that the procedures are intended to be mandatory.⁶ "[T]he primary objective of statutory construction is to ascertain and give effect to legislative intent."⁷ In light of the use of the mandatory language "shall" and the plain meaning of the term, cooperation, the General Assembly clearly has expressed the requirement that the existing Artisans Center of Virginia participate in the effort to develop a regional artisan center in the Shenandoah Valley Region.

The requirement, however, that the Artisans Center of Virginia participate is not a requirement that can be imposed upon that organization because it is a private non-profit entity. The Department of Planning and Budget and the Department of Housing and Community Development are government agencies and must seek out the assistance of the Artisans Center of Virginia as required by the budget bill. If, however, the Artisans Center of Virginia refuses to participate, the regional artisan center project may proceed without that participation.

Conclusion

Accordingly, it is my opinion that Item 112.10(F) of the 2005 Appropriation Act does require that the existing Artisans Center of Virginia participate in the effort to develop a regional artisan center in the Shenandoah Valley Region to the extent the Artisan Center of Virginia, as a private non-profit organization, is willing to participate.

¹2005 Va. Acts ch. 951, *available at* <http://leg1.state.va.us/051/bud/budget05.pdf>.

²*Williams v. Commonwealth*, 265 Va. 268, 271, 576 S.E. 2d 468, 470 (2003).

³*Id.*

⁴Black's Law Dictionary 302 (5th ed. 1979).

⁵*Id.*

⁶See *Andrews v. Shepherd*, 201 Va. 412, 414, 111 S.E.2d 279, 281-82 (1959); see also 1994 Op. Va. Att'y Gen. 64, 68.

⁷*Turner v. Commonwealth*, 226 Va. 456, 459, 309 S.E.2d 337, 338 (1983), *quoted in* 2002 Op. Va. Att'y Gen. 233, 236.

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