



COMMONWEALTH of VIRGINIA

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February 2, 2009

Peter Curcio, Esq.
Bristol City Attorney
P.O. Box 1478
Bristol, Virginia 24201

Dear Mr. Curcio:

I am responding to your request for an official advisory opinion in accordance with § 2.2-505 of the *Code of Virginia*.

Issue Presented

You ask whether the City of Bristol may participate in the creation of an airport authority located in Tennessee, pursuant to Tennessee law, and transfer its ownership in Tri-Cities Regional Airport, located in Tennessee, to that authority without further action by the General Assembly.

Response

It is my opinion that the Charter of the City of Bristol authorizes the City to participate in the creation of an airport authority, located in Tennessee, pursuant to Tennessee law and transfer its ownership in Tri-Cities Regional Airport, located in Tennessee, to such authority without further action by the General Assembly.

Background

You advise that the Tri-Cities Airport was created by a contract dated October 24, 1935, entered into by the Cities of Bristol, Tennessee, Johnson City, Tennessee, Kingsport, Tennessee, and Sullivan County, Tennessee. The contract called for the creation of a commission to control and administer the airport consisting of twelve members, six from Johnson City, Tennessee, and two each from Kingsport in Sullivan County and Bristol, Tennessee. Thereafter, you relate that Johnson City conveyed one-half of its interest to Washington County in Tennessee. In 1964, the City of Bristol, Tennessee, sold one-half of its interest in the airport to the City of Bristol, Virginia (the "City"). You state that the 1964 agreement sets forth the following ownership interest in the airport: Washington County, Tennessee – 20%; Johnson City, Tennessee – 20%; Sullivan County, Tennessee – 20%; Kingsport, Tennessee – 20%; Bristol, Tennessee – 10%; and, City of Bristol, Virginia – 10%. You note that the City has one member on the Airport Commission.

You conclude that the Charter of the City of Bristol (the “Charter”) is sufficiently broad to permit the City to continue its ownership and operation of the airport through the establishment of an authority, rather than in its individual capacity as in the past.¹

Applicable Law and Discussion

The Supreme Court of Virginia has stated the specific rule to be followed when considering the scope of a municipal corporation’s extraterritorial powers:

A municipal corporation is a mere local agency of the State and has no powers beyond the corporate limits except such as are clearly and unmistakably delegated by the legislature.^[2]

Therefore, to the extent a statutory provision may have extraterritorial effect, the rule of statutory construction is that

“unless the intention to have a statute operate beyond the limits of the state or country is clearly expressed or indicated by its language, purpose, subject matter, or history, no legislation is presumed to be intended to operate outside the territorial jurisdiction of the state or country enacting it. To the contrary, the presumption is that the statute is intended to have no extraterritorial effect, but to apply only within the territorial jurisdiction of the state or country enacting it. Thus, an extraterritorial effect is not to be given statutes by implication.”^[3]

As enacted by the General Assembly, § 2.04 of the Charter provides, in pertinent part, that:

The city shall have the power to acquire, construct, own, maintain, regulate, operate, hold, improve, manage, sell, encumber, donate or otherwise dispose of any property, real or personal, or any estate or interest therein, and any structure or improvement thereon, within or without the city and within or without the Commonwealth of Virginia for:

....

5. An airport, and to join with other political subdivisions within and without the Commonwealth for the purpose of jointly owning, operating and maintaining such property for airport purposes[.]^[4]

Where a statutory provision “is unambiguous, the plain meaning is to be accepted without resort to the rules of statutory interpretation.”⁵ “The manifest intention of the legislature, clearly disclosed by

¹Section 2.2-505(B) requires that an opinion request from a county attorney “shall itself be in the form of an opinion embodying a precise statement of all facts together with such attorney’s legal conclusions.”

²City of Richmond v. Bd. of Supvrs., 199 Va. 679, 684, 101 S.E.2d 641, 645 (1958) (citations omitted).

³2004 Op. Va. Att’y Gen. 82, 84 (quoting 73 AM. JUR. 2D *Statutes* § 250, at 431 (2001)).

⁴1990 Va. Acts ch. 542, at 796, 799, 800.

⁵Last v. Va. State Bd. of Med., 14 Va. App. 906, 910, 421 S.E.2d 201, 205 (1992).

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its language, must be applied.”⁶ “[T]ake the words as written” ... and give them their plain meaning.”⁷ The clear provisions of the Charter permit the City to “join with other political subdivision within and without the Commonwealth for the purpose of jointly owning ... property for airport purposes.”⁸

Conclusion

Accordingly, it is my opinion that the Charter of the City of Bristol authorizes the City to participate in the creation of an airport authority, located in Tennessee, pursuant to Tennessee law and transfer its ownership in Tri-Cities Regional Airport, located in Tennessee, to such authority without further action by the General Assembly.

Thank you for letting me be of service to you.

Sincerely,

A handwritten signature in black ink, reading "Robert F. McDonnell". The signature is fluid and cursive, with the first name "Robert" and last name "McDonnell" clearly legible.

Robert F. McDonnell

1:213; 1:941/08-096

⁶Barr v. Town & Country Props., Inc., 240 Va. 292, 295, 396 S.E.2d 672, 674 (1990) (quoting Anderson v. Commonwealth, 182 Va. 560, 566, 29 S.E.2d 838, 841 (1944)).

⁷Adkins v. Commonwealth, 27 Va. App. 166, 169, 497 S.E.2d 896, 897 (1998) (quoting Birdsong Peanut Co. v. Cowling, 8 Va. App. 274, 277, 381 S.E.2d 24, 26 (1989) (quoting Brown v. Lukhard, 229 Va. 316, 321, 330 S.E.2d 84, 87 (1985))).

⁸1990 Va. Acts, *supra* note 4, at 800.