

VIRGINIA:

*In the Supreme Court of Virginia held at the Supreme Court Building in the
City of Richmond on Thursday the 4th day of November, 2010.*

Richard R. Nageotte, et al., Appellants,

against Record No. 090543
Circuit Court Nos. CL07-926 and CL07-955

Board of Supervisors of Appellees.
Stafford County, et al.,

Upon an appeal from a
judgment rendered by the Circuit
Court of Stafford County.

Upon consideration of the record, briefs, and argument of
counsel, the Court is of opinion that there is no error in the
judgment of the circuit court.

Nageotte and D.S.A.M. Properties, L.L.C. (Nageotte) each filed
amended complaints against the Board of Supervisors of Stafford
County and Stafford County challenging the validity of two
ordinances enacted by the Board. The two ordinances at issue,
Stafford County Ordinance 007-55 and 007-56, established service
districts pursuant to Code § 15.2-2400 along two roads in Stafford
County. The ordinances imposed a tax upon all commercially and
industrially zoned property in the service districts, but exempted
residentially zoned property from taxation. Nageotte alleged that
the ordinances violated Dillon's Rule and the provisions of the
Virginia Constitution pertaining to due process and equal
protection. The Board filed a demurrer to this consolidated
action, and after a hearing, the circuit court sustained the
Board's demurrer and dismissed Nageotte's case with prejudice.

On appeal, Nageotte argues that the circuit court erred in sustaining the Board's demurrer because the amended complaints pled sufficient facts to allege that the Board did not have the authority pursuant to Code § 15.2-2400 et seq. to enact the ordinances; the ordinances are unconstitutional because they exclude residentially zoned property from taxation, and therefore constitute special legislation; and the ordinances do not comply with Code § 15.2-2402(2), (3), and (4) because the ordinances fail to state their purpose, plan for improvements, and benefits. We disagree with Nageotte.

The Code of Virginia grants localities the express authority to enact ordinances creating service districts, as the Board has done in enacting the ordinances at issue in this case. Code § 15.2-2400, titled "Creation of service districts," provides, in pertinent part:

Any locality may by ordinance, or any two or more localities may by concurrent ordinances, create service districts within the locality or localities in accordance with the provisions of this article. Service districts may be created to provide additional, more complete or more timely services of government than are desired in the locality or localities as a whole.

The Code also permits the tax classification scheme that the ordinances establish. Code § 15.2-2403(6), titled "Powers of service districts," grants localities the power to "levy and collect an annual tax upon any property in [a] service district" In discussing this tax, Code § 15.2-2403(6) states, in pertinent part:

Such tax may be levied on taxable real estate zoned for residential, commercial, industrial or other uses, or any

combination of such use classification, within the geographic boundaries of the service district.

Therefore, the Board had express statutory authority to enact the ordinances.

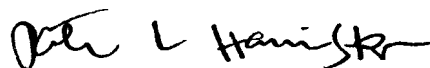
The ordinances do not constitute special legislation or violate the Virginia Constitution by excluding residentially zoned property from taxation. The Virginia Constitution expressly empowers the General Assembly to define and classify taxable subjects, and the classification scheme established by the ordinance is expressly allowed by the Code. Va. Const. art. X, § 1; see also FFW Enterprises v. Fairfax County, ___ Va. ___, ___ S.E.2d ___ (2010) (this day decided); Code § 15.2-2403(b).

Code § 15.2-2402(2), (3), and (4) require that ordinances establishing service districts describe the purpose, proposed plan, and benefits of the service districts. The ordinances at issue in this case sufficiently state the purpose, proposed plan, and benefits of the service districts. The ordinances state that the service districts are to provide "road improvements," which "are expected to generally improve vehicular traffic flow and transportation safety" and "enhance business opportunities . . . [and] improve access to businesses" in the service districts. The ordinances also state that funding for these improvements will be provided by the special tax assessment imposed by the ordinances, as well as additional funding from "the Virginia Department of Transportation, the County Transportation Fund, private contributions, and other sources as approved by the Board of Supervisors." These statements satisfy the requirements of Code § 15.2-2402(2), (3), and (4).

Accordingly, the judgment of the circuit court is affirmed.
The appellants shall pay to the appellees thirty dollars damages.
This order shall be certified to the said circuit court.

A Copy,

Teste:

A handwritten signature in black ink, appearing to read "Peter L. Hamstra". The signature is written in a cursive style with a large initial "P".

Clerk