

Circuit Court of the City of Richmond
John Marshall Courts Building

400 NORTH 9TH STREET
RICHMOND, VIRGINIA 23219

MARGARET POLES SPENCER
JUDGE

October 17, 2008

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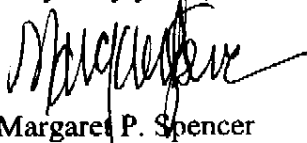
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Re: Case No: CL07-203-4
Partick R. Gray, et al. v. Virginia Secretary of Transportation, et al.

Dear Counsel:

The Court's letter referenced in the Order of this date is currently being edited for stylistic changes and cite checking. It will be mailed to you as soon as possible. The Order is forwarded prior to the letter to comply with the request for an Order on this date.

Very truly yours,



Margaret P. Spencer

Virginia:

In the Circuit Court of the City of Richmond, John Marshall Courts Building

PATRICK R. GRAY,

and

JAMES W. NAGLE,
Plaintiffs,

v. Case No.: CL07-203

VIRGINIA SECRETARY OF TRANSPORTATION,

COMMONWEALTH OF TRANSPORTATION BOARD,

VIRGINIA COMMISSIONER OF TRANSPORTATION,

VIRGINIA DEPARTMENT OF TRANSPORTATION,

and

THE METROPOLITAN WASHINGTON AIRPORTS AUTHORITY,
Defendants.

ORDER

This matter is before the Court on Defendants' Motion for Summary Judgment and Plaintiffs' Cross Motion for Summary Judgment. Upon consideration of the pleadings, memoranda, motions, briefs, oral arguments, and applicable law, the Defendants' Motion for Summary Judgment is granted, for the reasons stated in the Defendants' Motion and Reply and in the Court's letter to counsel. The Court holds that the Metropolitan Washington Airports Authority is a necessary and indispensable party, and this action should be dismissed. Va. Sup. Ct. R. 3:12(c); *Republic of the Philippines v. Pimentel*, 128 S.Ct. 2180 (2008). Furthermore, the Court holds that Plaintiffs' constitutional challenges to the December 26, 2006 Master Transfer

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Agreement and the December 29, 2006 Dulles Toll Road Permit and Operating Agreement are without merit. The Court finds legislative authorization for the Defendants' actions challenged in Counts I, II, and III of the Amended Complaint, and finds the tolls challenged in Counts IV and V are neither taxes nor revenue of the Commonwealth. Therefore, the Defendants are entitled to summary judgment on all Counts and their Motion for Summary Judgment is hereby granted. The Plaintiffs' Cross-Motion is hereby denied, and the First Amended Complaint is hereby dismissed.

ENTER:

10/17/08

Margaret P. Spencer
Margaret P. Spencer, Judge