

**VIRGINIA:
IN THE CIRCUIT COURT FOR THE COUNTY OF FLUVANNA**

JAMES RIVER WATER AUTHORITY

Appellant,

v.

Case No. 19-CL-702

**VIRGINIA DEPARTMENT OF HISTORIC
RESOURCES,**

and

**JULIE V. LANGAN, in her official capacity as
Director of the Department of Historic Resources,**

Appellees.

FILED IN THE CLERK'S OFFICE
OF THE CIRCUIT COURT OF THE
FLUVANNA COUNTY CIRCUIT COURT

DATE: 11/26/2019 @11:40:40

APPELLEES' MOTION TO DISMISS

TESTE:


CLERK/DEPUTY CLERK

The Appellees, the Virginia Department of Historic Resources and Julie V. Langan, the Director of the Department of Historic Resources (collectively the "Appellees"), by counsel, respectfully request that this Court dismiss the Petition for Appeal brought by James River Water Authority ("Appellant").

MOTION TO DISMISS

1. The Appellants bring their Appeal under Virginia's Administrative Process Act ("VAPA") Va. Code § 2.2-4000 *et seq.*
2. The Appellees move to dismiss the Appeal because it is not ripe and because the Appellant has failed to exhaust its administrative remedies as required under the VAPA.
3. The Appeal is unripe because the parties have not yet undergone a Code § 2.2-4019 informal conference or a Code § 2.2-4020 formal hearing as required under the VAPA.

There are prerequisites to court review, and the outcome of these proceedings are yet to be determined.

4. The Appellant has failed to exhaust its administrative remedies because the parties have not yet undergone a Code § 2.2-4019 informal conference or a Code § 2.2-4020 formal hearing as required under the VAPA.

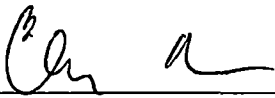
WHEREFORE, for the reasons set forth above, the Commonwealth Appellees respectfully request that this Court grant this Motion to Dismiss the Appellants' Appeal, and remand the case to the Virginia Department of Historic Resources for further proceedings.

Respectfully submitted,

**VIRGINIA DEPARTMENT OF HISTORIC
RESOURCES**

and

**JULIE V. LANGAN, in her official capacity as
Director of the Commonwealth of Virginia,
Department of Historic Resources,**

by 

Counsel

Mark R. Herring
Attorney General

Donald D. Anderson
Deputy Attorney General

Paul Kugelman, Jr. (VSB No.: 41624)
Senior Assistant Attorney General
Chief, Environmental Section

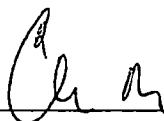
Christopher E. Bergin, Jr. (VSB No.: 87315)
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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing "Motion to Dismiss" was mailed by first class U.S. mail, postage prepaid, this 25th day of November, 2019, to:

Justin W. Curtis
Paul T. Nyffeler
AquaLaw PLC
6 South 5th Street
Richmond Virginia 23219



Christopher E. Bergin, Jr.
Assistant Attorney General
Counsel for the Appellees



COMMONWEALTH of VIRGINIA

Office of the Attorney General

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Attorney General

November 25, 2019

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7-1-1

Hon. Tristana P. Treadway
Fluvanna County Circuit Court
72 Main Street
P.O. Box 550
Palmyra VA 22963

Re: *James River Water Authority v. Virginia Department of Historic Resources and Julie V. Langan*
Case No.: 19-CL-702

Dear Ms. Treadway:

Enclosed for filing, please find the Appellees' Motion to Dismiss the Appellant's Appeal. Should you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris E. Bergin, Jr.".

Christopher E. Bergin, Jr.
Assistant Attorney General

Enclosures

cc: Justin W. Curtis, Esq.
Paul T. Nyffeler, Esq.
Julie V. Langan (By Email Only)

FILED IN THE CLERK'S OFFICE
OF THE CIRCUIT COURT OF THE
FLUVANNA COUNTY CIRCUIT COURT

DATE: 11/26/2019 @11:40:31

TESTE: A handwritten signature in black ink, appearing to read "Stephanie Ferguson".
CLERK/DEPUTY CLERK