



Circuit Court of Arlington County

1425 North Court House Road
Arlington, Virginia 22201

WILLIAM T. NEWMAN, JR.
CHIEF JUDGE

DANIEL S. FIORE, II
JUDGE

LOUISE M. DIMATTEO
JUDGE

JUDGES RETIRED

JOANNE F. ALPER

JAMES F. ALMAND

BENJAMIN N.A. KENDRICK

PAUL F. SHERIDAN

CHARLES H. DUFF

CHARLES S. RUSSELL

(JUSTICE RETIRED)

VIA FAX

May 26, 2015

William B. Lawson, Esq.
Melissa Zeller, Esq.
The Law Office of William B. Lawson, P.C.
Fax: (703) 534-8225

Angela H. France, Esq.
PCT Law Group, PLLC
Fax: (703) 972-9153

Re: In re: Lyon Park Community Center, CL14-1422

Dear Counsel:

Please find attached a letter opinion issued by Judge Thacher in the above mentioned matter. Please contact me at (703) 228-7000 with any questions or concerns.

Sincerely,

Elizabeth Parrish
Judicial Law Clerk



Circuit Court of Arlington County

1425 North Court House Road
Arlington, Virginia 22201

WILLIAM T. NEWMAN, JR.
CHIEF JUDGE

DANIEL S. FIORE, II
JUDGE

LOUISE M. DIMATTEO
JUDGE

May 22, 2015

JUDGES RETIRED
JOANNE F. ALPER
JAMES F. ALMAND
BENJAMIN N.A. KENDRICK
PAUL F. SHERIDAN
CHARLES H. DUFF
CHARLES S. RUSSELL
(JUSTICE RETIRED)

William B. Lawson, Esq.
Melissa Zeller, Esq.
The Law Office of William B. Lawson, P.C.
6045 Wilson Boulevard, Suite 100
Arlington, VA 22205

Angela H. France, Esq.
PCT Law Group, PLLC
330 John Carlyle Street
Third Floor
Alexandria, Virginia 22314

Re: In re: Lyon Park Community Center, CL14-1422

Dear Counsel:

This matter came on for hearing and resolution by this Court. The facts are not materially in dispute. On June 5, 2014 Judge DiMatteo entered an order in CL14-1164 appointing, ratifying and confirming Wendell Brown, Gary Putnam and Lawrence Craven as Trustees of the Lyon Park Community Center and authorizing them to encumber certain Center property with a \$600,000 line of credit. Brown and Craven subsequently resigned as Trustees.

On June 19, 2014 Petitioners Lawrence Mayer, Gary Putnam and Richard Robinson filed the instant Petition seeking to be confirmed as Trustees and seeking authority to encumber the same property in the same amount; \$600,000.00.

On July 20, 2014 Kevin Baer, Petitioner, filed an Opposition to the Petition *pro se*, which was subsequently followed by a petition through counsel.

On November 19, 2014 the Judges of the Arlington Circuit Court recused themselves, and on December 30, 2014 I was appointed by the Virginia Supreme Court to preside over this matter. A hearing was conducted on March 12, 2015, argument was presented by both sides, and the matter was

continued for each side to submit a brief memoranda setting forth their respective points and authorities for their respective position. Also at this hearing Lawrence R. Mayer, Gary Putnam and Richard R. Robinson were confirmed as Trustees without objection by Order entered March 31, 2015.

The Court has reviewed the Oral Argument of 3/12/15, the SUPPLEMENTAL MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF THE PETITION, (with attachments A-H), the CONCERNED LYON PARK BENEFICIARIES' POST-HEARING BRIEF (with attachments A-E), and the CONCERNED LYON PARK BENEFICIARIES' REPLY TO PETITIONER'S POST-HEARING BRIEF, and the applicable Virginia Statutes cited by both sides. I am now prepared to rule.

The first issue that needs to be addressed is the standing of Mayer, Putnam and Robinson to petition (June 19, 2014) the Court to be appointed to take action, or to create financial obligations on behalf of the Lyon Park Community Center at a time when they were not Trustees, and had not been approved by the Circuit Court as Trustees which occurred by Order of this Court on March 31, 2015.

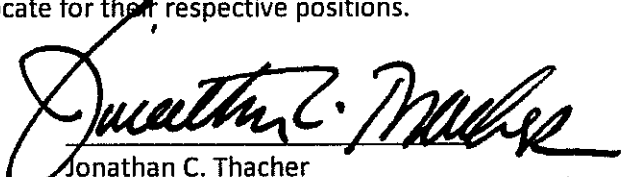
It seems axiomatic that without approval of the Circuit Court any action by these individuals is a nullity and of no consequence as it may relate to, or otherwise obligate the trust or the beneficiaries of the trust. That includes any petition on behalf of the trust, and/or any financial obligation which would encumber the trust or the beneficiaries of the trust.

While the first issue, *supra*, in effect ends the Petitioners' cause until there is a petition from the properly appointed trustees filed with the Court, it seems apparent that Judicial Economy would dictate that the Court also set forth the alternative legal basis for dismissal of the Petition.

The Petitioners set great weight on the provisions of Title 57 of the Virginia Code et seq. as their foundation for actions taken on behalf of the trust by the now appointed Trustees. This position is misguided and misplaced. During oral argument and indeed in their memorandum, the Petitioners point the Court to Virginia Code 57-15 (D) as foundation for their position that 57-15 was the proper statutory basis for their petition. A reading of Title 57 and a careful reading of sub-paragraph D and the reference to Virginia Code 57-16.1 makes it clear that this chapter is applicable to churches and religious congregations and that 57-16.1 cited in 57-15 (D) is applicable to "*such corporations...authorized and permitted by the laws, rules or ecclesiastic policy of the church or body....*" Such is simply not the case at bar.

This trust is controlled by Virginia Code 64.2-700 et seq., the Uniform Trust Code. Each of the beneficiaries to the trust have rights that cannot be abridged or ignored simply by a vote of the Trustees absent authority to do so in the trust; and certainly not without notice to the beneficiaries. Undoubtedly there will be a renewed petition, and such is expected, however it must comply with all notice requirements to all parties who have any cognizable interest as a beneficiary of the trust and the applicable provisions of the Virginia trust statutes other than those created for the exclusive use of churches and religious bodies.

Ms. France is directed to draft an appropriate order reflecting this ruling, circulate it for signatures forthwith and return it to Ms. Parrish in the Circuit Court of Arlington Chambers to be signed. Both counsel are reminded that the drafting of an order reflecting the ruling of the Court is a ministerial duty assigned by the court, and not an opportunity to advocate for their respective positions.


Jonathan C. Thacher
Circuit Court Judge