

VIRGINIA: IN THE CIRCUIT COURT OF THE CITY OF CHARLOTTESVILLE

FREDERICK W. PAYNE,  
JOHN BOSLEY YELLOTT, JR.,  
(aka Jock Yellott)  
EDWARD D. TAYLOE, II,  
BETTY JANE FRANKLIN PHILLIPS,  
VIRGINIA C. AMISS,  
STEFANIE MARSHALL,  
CHARLES L. WEBER, JR.,  
LLOYD THOMAS SMITH, JR.,  
VIRGINIA DIVISION, SONS OF  
CONFEDERATE VETERANS, INC.,  
ANTHONY M. GRIFFIN,  
BRITTON FRANKLIN EARNEST, SR.,  
THE MONUMENT FUND, INC.,

Plaintiffs,

v.

Case No. CL17-000145-00

CITY OF CHARLOTTESVILLE, VIRGINIA  
CHARLOTTESVILLE CITY COUNCIL  
ATRI MICHAEL SIGNER  
WESLEY JOMONT BELLAMY  
ROBERT FRANCIS FENWICK, JR.  
KRISTIN LAYNG SZAKOS  
KATHLEEN MARY GALVIN

Defendants.

**TEMPORARY INJUNCTION ORDER**

This cause came on May 2, 2017 to be heard upon the motion of Plaintiffs for a temporary injunction; upon the answer of Defendants to the motion for temporary injunction; upon the briefs and memoranda submitted by counsel for Plaintiffs and Defendants; upon the appearance of Plaintiffs by counsel; upon the appearance of

Defendants by counsel; upon the evidence received by the Court during the *ore tenus* hearing conducted on May 2, 2017; and was argued by counsel.

It appearing to the Court that a transcript of the findings and rulings of the Court has been filed among the papers in this cause, the Court doth ORDER that such transcript and the findings and rulings set forth therein be, and hereby are, incorporated into and made a part of this order as fully as if set forth herein *in haec verba*.

Upon further consideration whereof, and applying the legal standards set forth in Sections 8.01-620 and 8.01-622 of the Code of Virginia, 1950, as amended, and as set forth in *Winter v. NRDC*, 555 U.S. 7 (2008) and *Real Truth About Obama, Inc. v. Fed. Election Comm'n*, 575 F.3d 342 (4<sup>th</sup> Cir. 2009), the Court finds as follows with respect to the statue of General Robert E. Lee situated in Lee Park in the City of Charlottesville:

1. That the statue is a war memorial to the War Between the States or a monument to a veteran of the War Between the States.

2. That the provisions of Sections 15.2-1812, 15.2-1812.1 and 18.2-137 of the Code of Virginia, 1950, as amended, apply to the statue, *appear to the Court to*

3. That Plaintiffs are likely to prevail on their claim of the applicability of said statutes to the General Robert E. Lee statue.

4. That there is a likelihood of irreparable harm to the statue if removed as proposed by Defendants.

5. That it is in the public interest to await resolution of this case on the merits prior to removal of the statue by Defendants, and the public interest weighs in favor of maintaining the *status quo*.

6. That little harm will be suffered by Defendants by the issuance of a temporary injunction.

The Court doth therefore ADJUDGE, ORDER and DECREE that Defendants, and each of them, are hereby enjoined from removing or selling the statue of General Robert E. Lee from Lee Park in the City of Charlottesville, Virginia for a period of six (6) months from May 2, 2017, and to this extent the motion of Plaintiffs for a temporary injunction is granted.

With respect to the following issues, the Court doth hereby ADJUDGE, ORDER and DECREE that the motion of Plaintiffs for a temporary injunction be, and hereby is, denied:

1. The re-naming of the parks currently known as Lee Park and Jackson Park.
2. The planning or designing of the transformation of either Lee Park or Jackson Park.

The Court makes no ruling with respect to the statue of General Thomas Jonathan "Stonewall" Jackson at this time, as there is no evidence that Defendants are currently attempting to sell, remove or damage said statue.

The Court further finds that enough of Plaintiffs have sufficient standing in this case to support the award of a temporary injunction.

The Court doth further ORDER that either Plaintiffs or Defendants may seek further injunctive or other relief while this cause is pending, and the Court reserves the right to review and to modify, as required, the rulings set forth herein at any time upon its own motion or upon the motion of any party.

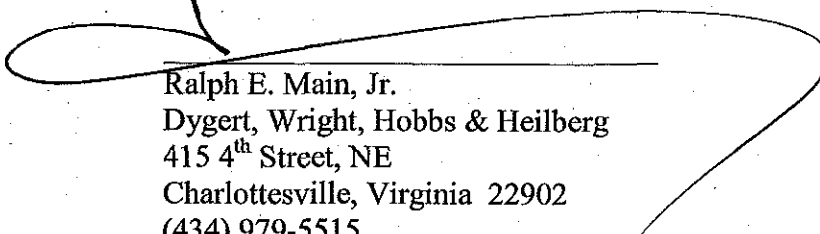
It finally appearing to the Court pursuant to Section 8.01-631 of the Code of Virginia, 1950, as amended, that given the circumstances of this case it is unnecessary for Plaintiffs to post an injunction bond, the Court doth ORDER that an injunction bond be, and hereby is, dispensed with.

And this case is continued.

ENTER: *Michael O. Moses*  
Judge

DATE: 6/6/17

We Ask For This:

  
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415 4<sup>th</sup> Street, NE  
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VSB # 13320

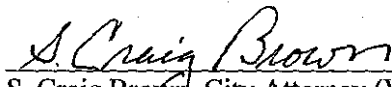
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(434) 962-8465  
VSB # 90442

Counsel for Plaintiffs

Seen And Objected To, for the reasons noted below\*:

Office of the Charlottesville City Attorney, counsel  
for the Defendants:



S. Craig Brown, City Attorney (VSB #19286)  
Lisa A. Robertson, Chief Deputy City Attorney (VSB #32496)  
P.O. Box 911 (605 East Main Street, 2<sup>nd</sup> Floor)  
Charlottesville, Virginia 22902  
(434)-970-3131

\*Defendants object to the Court's ruling granting a temporary injunction against the removing or selling of the statue of Robert E. Lee from Lee Park, on the following grounds:

- (1) Defendants' arguments and objections made within their brief and on the record of the temporary injunction hearing are incorporated *in haec verba*;
- (2) Defendants object to the Court's ruling that Virginia Code §15.2-1812 prohibits removal of the statue because it applies to statues erected before adoption of the statute. Defendants object because that conclusion is not supported by evidence of the requisite legislative intent required to support a retroactive application of the statute;
- (3) Defendants object to the Court's conclusions that the statue of Robert E. Lee is either a war memorial for the War Between the States or a memorial to war veterans, as referenced in Va. Code §§ 15.2-1812, 15.2-1812.1 and 18.2-137, because the evidence regarding the dedication, acceptance and erection of the statue does not support either of those conclusions; and,
- (4) As a result of the issues noted in (1)-(3), above, and under the holding in *The Real Truth About Obama, Inc. v. Federal Election Commission*, 575 F.3d 342, 345-346 (4<sup>th</sup> Cir. 2009), Plaintiffs failed to demonstrate by a clear showing that they are likely to succeed on the merits at trial.