

VIRGINIA:

IN THE CIRCUIT COURT FOR NEW KENT COUNTY

IN RE:

NEW KENT COUNTY SUPERVISOR'S
ORDER OF LEVY FOR IMPOSITION OF
REAL PROPERTY TAXES FOR FISCAL
YEAR 2009

Case No.: CL08-77

ORDER

This day the Court considered the Board of Supervisors of New Kent County's Demurrer, along with its Memorandum in Support. The Commonwealth Attorney did not file a response to the Demurrer or a Memorandum in Opposition.

The County Attorney, Jeffrey M. Summers, and the Commonwealth's Attorney, C. Linwood Gregory were both present. Counsel argued the Demurrer.

This Court finds that the Notice of Appeal fails to allege any defect in the Order of Levy for Imposition of Real Property Taxes for Fiscal Year 2009. Further, the petitions of the registered voters, attached to the Notice of Appeal as its Exhibit B, also fail to allege any defect in the Order of Levy Imposition of Real Property Taxes for Fiscal Year 2009. As the Notice of Appeal fails to allege *any* defect in the Order of Levy for Imposition of Real Property Taxes for Fiscal Year 2009, the ultimate conclusion of law – that the tax levy is illegal – is completely unsupported. Therefore, this Court finds the Notice of Appeal is insufficient to state a cause of action. This Court SUSTAINS THE DEMURRER WITHOUT LEAVE TO AMEND.

Section 58.1-3003 of the Virginia Code is a statute with narrow purpose. It exists to allow a small number of registered voters to challenge the legality of the order by a local government imposing taxes. It does not exist to allow a group of registered voters to challenge the assessment of

real property. Whatever defects may or may not exist in the assessment, the statute in question is not the vehicle for that challenge. Accordingly, this court decides the appeal in favor of the Board of Supervisors of New Kent County.

It is further ORDERED that the supersedeas required by § 58.1-3003 of the Virginia Code is hereby removed.

AND THIS MATTER IS NOW FINAL, and the Clerk is directed to send an attested copies of this Order to Counsel of record, and there being nothing further to be done herein, this case is stricken from the docket and the papers placed among the ended cases.

ENTERED THIS 19th day of August, 2008.

James B. Hoover
Judge

SEEN AND AGREED:

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A Copy Teste:
Karen A. Butler, Clerk
By: Edw. [Signature]
Deputy Clerk