



News Release

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Falls Church Found in Violation of Virginia Constitution and Its Own Charter

Today, Fairfax County Circuit Court Judge R. Terrence Ney struck down the longstanding practice by the City of Falls Church of transferring surplus monies from its water fund to its general fund for purposes unrelated to operating the water system. "Bringing an end to a decades long practice of transferring surplus dollars from its water fund to subsidize the general fund of the City of Falls Church, Judge Ney's ruling brings justice to the citizens of Fairfax County that have long suffered from the City's illegal practice," said Fairfax Water Chairman Philip Allin. In his ruling, Judge Ney found that "the City is in violation of its charter and ... the transferring of the profit derived from the sale of water and related service into its general fund amounts to an unconstitutionally void tax on non-residents of the City." The Judge noted that Fairfax Water "only wants for what is plainly an illegal and unconstitutional practice to come to an end."

The Court ruled that Fall Church's practice violates both the Virginia Constitution and its own Charter. In ordering that practice to stop, the Court recognized that 92% of the City's customers reside in Fairfax County and are "captives to a tax they cannot challenge by election. That is plainly unconstitutional." The Court enjoined the City from transferring any more moneys from its water fund to its general fund for purposes unrelated to the water system and ordered the City to comply with its own Charter by setting water rates that will result in receipts equal to expenses.

Fairfax Water is pleased that this matter has been resolved in favor of the citizens of Fairfax County. The full text of the Judge's opinion and the final decree can be viewed at Fairfax Water's Web site at www.fairfaxwater.org.

This ruling resolves one count of Fairfax Water's lawsuit. The remaining claims are set for trial on February 1, 2010.

Fairfax Water is Virginia's largest water utility, serving one out of every five Virginians who obtain their water from public utilities. Nearly 1.5 million people in the Northern Virginia communities of Fairfax, Loudoun, Prince William and Alexandria depend on Fairfax Water for superior drinking water.

Chartered in 1957 by the Virginia State Corporation Commission as a public, non-profit water utility, Fairfax Water operates water treatment plants with a combined capacity of 345 million gallons per day.

Fairfax Water is governed by a ten-member Board of Directors comprised of Fairfax County citizens who are appointed by the elected Board of Supervisors of Fairfax County. A General Manager, supported by a senior staff of engineering and business professionals, manages the day-to-day operations of Fairfax Water.

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