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COUNTIES, CITIES AND TOWNS: AUTHORITIES FOR DEVELOPMENT OF FORMER FEDERAL AREAS.

Authority proclaimed by Governor as former federal area existing within Fauquier County is special purpose governmental unit subordinate to board of supervisors and is subject to county's zoning ordinances. County supervisors may not limit authority's powers in certified resolution requesting that Governor proclaim existence of such area within county.

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You ask whether an authority created pursuant to § 15.11322 of the *Code of Virginia* is subject to the provisions of Fauquier County's zoning ordinances.¹ You also ask whether the Fauquier County Board of Supervisors may limit the powers of the authority in a certified resolution received by the Governor requesting issuance of a proclamation that a former federal area exists.

You relate that a military installation located within Fauquier County is to be closed in the near future. Following closure, you state that the federal government intends to transfer the property to a redevelopment authority in a manner consistent with federal and state law. You note that pursuant to § 15.11322, there is created in any former federal area by operation of law a political subdivision of the Commonwealth having the powers set forth in Chapter 31 of Title 15.1. Finally, you note that such an authority has no power to transact business until the Governor proclaims that a former federal area exists within Fauquier County, as requested in a duly certified resolution of the county supervisors.

Prior opinions of the Attorney General conclude that, absent a statutory exception, zoning and planning regulations apply to facilities of governmental bodies of equal or lesser authority than the local government seeking to apply them, such as other political subdivisions and subordinate agencies of counties, cities and towns.² The authority that is the subject of your request is a special purpose unit of government subordinate to the board of supervisors, and may not transact any business until activated. Activation of the authority depends on the supervisors' adopting a resolution requesting the Governor to authorize it to function under the terms of Chapter 31. None of the provisions of Chapter 31 excepts the authority from the application of local zoning ordinances. Therefore, it is my opinion that, consistent with the prior opinions of the Attorney General, the authority is subject to the provisions of the county's zoning ordinances.

You next ask whether the board of supervisors may limit the powers of the authority in a certified resolution received by the Governor requesting issuance of a proclamation that a former federal area exists. Nowhere in Chapter 31 are the governing bodies of localities requesting authorization for an authority to act empowered to limit the powers of the authority, which may exercise its powers and transact business by proclamation of the Governor. The powers of local governments in Virginia are narrowly construed to embrace only those powers expressly granted by statute or necessarily implied from express powers.³ The plain language of § 15.11322 is that the authority is "a political subdivision of the Commonwealth, with such public and corporate powers as are set forth in [Chapter 31]." When requested by a locality's governing body, the Governor "shall proclaim that a former federal area exists with respect to which an authority should function *under the terms of this chapter*."⁴ It is well-settled that "[i]f the language of a statute is plain and

unambiguous, and its meaning perfectly clear and definite, effect must be given to it."⁵ It is equally well-settled that "[a statute] which is plain needs no interpretation."⁶

The powers of such an authority are set forth in § 15.11329, which provides that an authority "shall have" the powers specified in that statute. (Emphasis added.) Use of the word "shall" in a statute generally indicates that its procedures are intended to be mandatory.⁷ Consequently, I am of the opinion that the Fauquier County Board of Supervisors may not limit the powers of the authority in a certified resolution received by the Governor requesting issuance of a proclamation that a former federal area exists.

¹Section 15.11322, a portion of Chapter 31 of Title 15.1, §§ 15.11320 to 15.11341, provides, in part: "There is hereby created with respect to every former federal area a political subdivision of the Commonwealth, with such public and corporate powers as are set forth in this chapter. Each such authority shall be designated as the Development Authority (with a name chosen by the Governor descriptive of the area in which the property is located); provided, however, that no authority shall exercise any power or transact any business hereunder unless or until the Governor upon receipt of a duly certified resolution of the governing body of each of the counties, cities and towns within the area of operation of an authority requesting such action, shall proclaim that a former federal area exists with respect to which an authority should function under the terms of this chapter."

²Op. Va. Att'y Gen.: 1989 at 137, 139 (water and sanitation authority is subject to provisions of county zoning ordinance); 1984-1985 at 91, 93 (city must comply with county zoning ordinance in establishing sanitary landfill in county); 1982-1983 at 458, 460 (school board must comply with county zoning ordinance to construct school building); 1971-1972 at 103, 104 (state agency is not legally required to make application for zoning change to appropriate zoning district classification whenever such agency proposes to locate facility within county, even though such policy may be highly desirable as practical matter).

³See *Commonwealth v. Arlington County Bd.*, 217 Va. 558, 57374, 232 S.E.2d 30, 40 (1977).

⁴Section 15.11322 (emphasis added).

⁵*Temple v. City of Petersburg*, 182 Va. 418, 423, 29 S.E.2d 357, 358 (1944).

⁶*Winston v. City of Richmond*, 196 Va. 403, 408, 83 S.E.2d 728, 731 (1954); see also, Op. Va. Att'y Gen.: 1991 at 124, 125; 1987-1988 at 125, 126.

⁷See 1986-1987 Op. Va. Att'y Gen. 300, 300, and opinions cited therein.