

VIRGINIA:

IN THE CIRCUIT COURT FOR THE CITY OF RICHMOND

HELEN MARIE TAYLOR,  
JOHN DOE,  
JOSEPH DOE,  
SALLY DOE,  
CHARLES DOE, and  
THOMAS DOE,

Plaintiffs,

v.

Case No. 20-2624-8

RALPH S. NORTHAM,

in his official capacity as Governor of Virginia,  
Serve at the Patrick Henry Building,  
1111 East Broad Street, Richmond, Va. 23218

VIRGINIA SECRETARY OF ADMINISTRATION,

in her official capacity,  
Serve Keyanna Conner  
Patrick Henry Building,  
1111 East Broad Street, Richmond, Va. 23218

DIRECTOR, VIRGINIA DEPARTMENT OF GENERAL SERVICES,

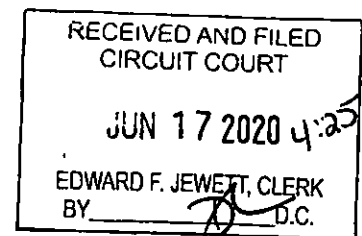
in his official capacity,  
Serve Joe Damico, 1100 Bank Street, Suite 420  
Richmond, Va. 23218

and

DIRECTOR, VIRGINIA DIVISION OF ENGINEERING & BUILDING,

in his official capacity,  
Serve W. Michael Coppa, 1100 Bank St., Suite 420  
Richmond, Va. 23218,

Defendants.



## COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

Plaintiffs, by counsel, state the following as their complaint for declaratory and injunctive relief against Defendants:

1. This is a proceeding pursuant to the Declaratory Judgment Act, Va. Code §§8.01-184 *et seq.*, and Va. Code § 8.01-620 to obtain injunctive relief and a judicial declaration that the activities of Defendants in attempting to remove, destroy, damage or alter the statue of Robert E. Lee, which has been designated as a National Historic Landmark and which the General Assembly has guaranteed that the Commonwealth will hold "perpetually sacred to the monumental purpose to which they [*i.e.*, the statue, pedestal and ground on which they are situated] have been devoted," violate Defendants' duties under the Constitution of Virginia, applicable laws of the Commonwealth, and the conditions of the gift by which the Commonwealth obtained the statue, the pedestal upon which it rests, and the circle of ground in which the statue and pedestal are situated.

2. This Court has jurisdiction over the matter in controversy pursuant to Va. Code § 17.1-513.

3. Venue in this Court is proper, pursuant to Va. Code § 8.01-261 because the property involved is located in the City of Richmond, where each Defendant has an official office and regularly conducts official duties, and where each Plaintiff resides.

4. Plaintiffs are owners of property on Monument Avenue in the City of Richmond within a 14-block National Historic Landmark District, which is known as the Monument Avenue Historic District and includes the Lee monument. One of the Plaintiffs, Charles Doe, is the owner of and resides on, a parcel on Monument Avenue that is one of the lots within a plat of

The Wm C Allen Addition, which is identified in Exhibit B attached hereto and made subject to conditions agreed to by the Commonwealth in executing the deed of conveyance of the deed conveying the Lee statue, the pedestal and circle of land on which they are situated.

5. Defendant Ralph Northam is the Governor of Virginia and is charged under the Constitution of Virginia with the duty to assure that the laws of the Commonwealth and the United States are properly enforced. He has also been charged with the duty, pursuant to Acts of Assembly 1889 chapter 24, to assure that the guarantee of the Commonwealth to hold perpetually sacred for the purpose to which they have been devoted the statue, pedestal and ground on which they rest is honored and secured.

6. The remaining Defendants are appointees of the Governor, acting at the direction of the Governor, who have derivative responsibilities under the law to assure that the Lee statue is preserved and protected in accordance with the terms and conditions of the gift to the Commonwealth, the provisions of Acts of Assembly 1889 chapter 24, and the laws of the Commonwealth. A copy of that 1889 action of the General Assembly is attached as Exhibit A. A copy of the deed conveying the Lee statue to the Commonwealth is attached hereto as Exhibit B.

7. A portion of Monument Avenue in the City of Richmond in which Plaintiffs own property and in which the Lee statue is located has been officially designated under the laws of the United States as a National Historic Landmark District. Plaintiffs enjoy certain benefits as a consequence of their ownership of real estate within that district, which will be adversely affected by any actions of Defendants to remove, damage or alter the Lee statue.

8. Attempts by Defendants to remove the Lee statue would damage, destroy or significantly alter the statue in violation of the terms of the deed conveying the statue, the 1889 legislative provision, and the laws of the Commonwealth.

9. Removal of the Lee statue or any significant alteration of it or any of the other monuments within the Monument Avenue Historic District will result in the loss of National Historic Landmark designation of the district, which will have a substantial adverse impact on Plaintiffs, including the loss of favorable tax treatment and reduction in property values. Plaintiffs will also suffer injury as a result of the loss of a priceless work of art from their neighborhood and the degradation of the internationally recognized avenue on which they reside.

#### COUNT ONE

10. The allegations contained in other paragraphs of this Complaint are incorporated here by reference.

11. The provisions of the 1889 legislation authorizing the Governor of Virginia to accept the gift of the Lee statue, the pedestal and associated land are binding on Defendants.

12. Any actions by Defendants that are not in compliance with the provisions of the 1889 legislation violate the Constitution of Virginia and are *ultra vires* as being beyond lawful executive power.

13. During the last days of May 2020 and the first several days of June 2020, vandals, rioters and other lawbreakers have repeatedly desecrated, damaged and altered the Lee monument and other monuments within the Monument Avenue Historic District while Defendants failed to enforce existing Virginia statutes prohibiting such conduct. This hostile and unlawful actions, which have occurred in large part because of Defendants' failure to carry out their official responsibilities, is being asserted as a reason for removing the Lee statue.

14.

#### COUNT TWO

15. The allegations contained in other paragraphs of this Complaint are incorporated here by reference.

16. The 1890 Deed conveying the gift of the Lee statue to the Commonwealth contains a provision by which the Commonwealth guaranteed "that she will hold said Statue and pedestal and Circle of ground perpetually sacred to the Monumental purpose to which they have been devoted and that she will faithfully guard it and affectionately protect it."

17. The 1887 Deed, by which members of the Allen family conveyed the circle of land known as the "Lee Circle" to the Lee Monument Association and which Deed is attached hereto as Exhibit C, includes covenants requiring the grantee "[t]o have and to hold the said property or 'Circle,' to the following uses and purposes and none other, to wit, as a site for the Monument to General Robert E. Lee which it is the end and object of the Monument Association to erect." The 1887 Deed goes on to say that the grantee "executes this conveyance, in testimony of its approval thereof, its recognition of the use and purpose to which the said piece of land is to be held, and its agreement and covenant to carry out the said purpose, and to hold the said property only for the said use." These covenants run with the land.

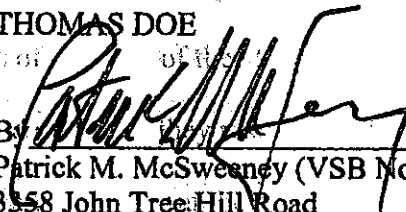
18. The 1890 Deed conveying the gift of the Lee statue to the Commonwealth contains a provision by which the Commonwealth guaranteed "that she will hold said Statue and pedestal and Circle of ground perpetually sacred to the Monumental purpose to which they have been devoted and that she will faithfully guard it and affectionately protect it."

19. As the owner of a lot within the plat in which the statue, pedestal and circle of land are situated, which were all are part of the common development plan of the donor of the

Lee statue. Plaintiff Charles Doe has a particular interest to protect in enforcing the conditions of the 1887 Deed and the 1890 Deed.

WHEREFORE, Plaintiffs pray for an order and judgment declaring that the actions of Defendants to remove the statue of Robert E. Lee from the ground within the National Historic Landmark District violate the Constitution of Virginia, the legislative provision adopted by the General Assembly on December 19, 1889, provisions of the laws of the Commonwealth, and the provisions of the gift of the statue, pedestal and ground on which they rest; for preliminary and permanent injunctive relief prohibiting Defendants from carrying out the activities associated with the removal of the Lee statue; and for such other relief as the Court deems proper in the circumstances.

HELEN MARIE TAYLOR  
JOHN DOE  
JOSEPH DOE  
SALLY DOE  
CHARLES DOE  
THOMAS DOE

By   
Patrick M. McSweeney (VSB No. 5669)  
3558 John Tree Hill Road  
Powhatan, Va. 23139  
PH (804) 937-0895  
FAX (703) 365-9395  
pmcsweeney.esq@gmail.com  
Attorney for Plaintiffs

Fred D. Taylor (VSB No. 77987)  
Bush & Taylor, P.C.  
4445 Corporation Lane  
Virginia Beach, Virginia 23462  
PH (757) 926-0078  
FAX (757) 935-5533  
fred@bushtaylor.com  
Of Counsel