

01-028

COURTS OF RECORD: CLERKS, CLERKS' OFFICES AND RECORDS – FEES.

COUNTIES, CITIES AND TOWNS: LOCAL CONSTITUTIONAL OFFICERS, COURTHOUSES AND SUPPLIES.

City of Richmond may use funds derived from fees assessed for certain civil actions and court cases to defray increases in cost of heating, cooling, electricity, and ordinary maintenance of courthouses located within city; may not use such funds to pay entire cost of utilities and routine courthouse maintenance.

The Honorable Margaret P. Spencer
Judge, Circuit Court of the City of Richmond
April 27, 2001

You ask whether the City of Richmond may use funds derived from the fee assessed pursuant to § 17.1-281 of the *Code of Virginia* to pay the cost of heating, cooling, electricity, and routine maintenance of courthouses located within the city.

Section 15.2-1638 provides that "[t]he governing body of every county and city shall provide courthouses with suitable space and facilities." Additionally, § 15.2-1638 requires that the costs of such courthouses, "and of keeping the same in good order, shall be chargeable to the county or city." Accordingly, prior opinions of the Attorney General conclude that a locality has a "duty to provide adequate courthouse facilities,"¹ and that a local governing body "must provide for a courthouse and funds for maintenance and upkeep."² Thus, the provision and funding of a courthouse and the maintenance for such courthouse is a responsibility of the locality in which the courthouse is situated.

Section 17.1-281 provides that "[a]ny county or city, through its governing body, may assess a sum not in excess of two dollars as part of the costs" in certain court actions or cases. Section 17.1-281 further provides that such assessment "shall be collected by the clerk ... and held by [the] treasurer subject to disbursements by the governing body ... to defray increases in the cost of heating, cooling, electricity, and ordinary maintenance" of a courthouse.

This Office has previously concluded that the legislative purpose of § 17.1-281 is to generate funds for the functions enumerated in the statute.³ With respect to utilities and ordinary maintenance of the courthouse, § 17.1-281 specifically provides that the funds derived from

the civil actions or court cases described in the statute may be disbursed by the governing body "to defray increases in the cost of heating, cooling, electricity, and ordinary maintenance" of the courthouse.

The Supreme Court of Virginia has stated that the language of a statute that is plain needs no interpretation.⁴ Additionally, where a statute specifies certain things, the intention to exclude that which is not specified may be inferred.⁵ Furthermore, statutes dealing with the same subject matter must be read together to give effect to legislative intent.⁶ The specific language of § 17.1-281 directs that disbursements from the funds generated pursuant to the statute may be used "to defray increases in the cost" of the specified utilities and ordinary maintenance of the courthouse. The statute does not authorize that the funds be used to offset the entire cost of such items.

Accordingly, it is my opinion that the City of Richmond may use funds derived from the fees assessed pursuant to § 17.1-281 to defray increases in the cost of heating, cooling, electricity, and ordinary maintenance of courthouses located within the city's boundaries, but may not use such funds to pay the entire cost of utilities and routine courthouse maintenance.

¹1997 Op. Va. Att'y Gen. 48, 49.

²1970-1971 Op. Va. Att'y Gen. 32, 32.

³See 1990 Op. Va. Att'y Gen. 72, 73 (citing § 14.1-133.2, predecessor statute to § 17.1-281).

⁴See *Winston v. City of Richmond*, 196 Va. 403, 408, 83 S.E.2d 728, 731 (1954); see also 1999 Op. Va. Att'y Gen. 8, 9.

⁵See 1999 Op. Va. Att'y Gen. 215, 217.

⁶See 1999 Op. Va. Att'y Gen. 109, 111 (noting that ordinance tracking statutory language prohibiting dogs running at large must be harmonized with statutes permitting fox hunting with dogs).

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