VIRGINIA:

IN THE CIRCUIT COURT FOR THE COUNTY OF STAFFORD

CRUCIBLE, INC.,	)	
	)	
Complainant,	)	
	)	
v.	)	**Case No. CH05-508**
	)	
BOARD OF SUPERVISORS OF STAFFORD COUNTY, VIRGINIA	)	
	)	
and	)	
	)	
STAFFORD COUNTY, VIRGINIA	)	
	)	
Defendants.	)	

FINAL ORDER

On the 20th day of December 2007 came the parties, by counsel, for an evidentiary hearing and argument on Count I of the Crucible, Inc.'s Complaint.

For the reasons articulated from the bench, a copy of such portion of the transcript being attached to this Order and incorporated by reference herein, it is hereby

ORDERED, that in accordance with §15.2-2307 of the Code of Virginia (1950), as amended, and the Court's ruling from the bench, the Crucible, Inc., has a vested right to develop Tax Map Parcel 36-57; and it is

FURTHER ORDERED that, as this Order renders the remaining Counts of the Complaint moot, this Court does not reach a decision on any of the remaining Counts, including any constitutional issues raised therein.

Entered this 17 day of June, 2008

By: _____

JUDGE

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We ask for this:

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Seen and Objected to: Defendants renew their objection, first made at the October 1, 2007 hearing, to the ruling of the Court that the Complainant is not required to pursue the administrative process by seeking a determination by the County Zoning Administrator whether the Complainant has vested rights, as set forth in § 15.2-2286.A.4 VA Code Ann. Said objection is made for the reasons as further set forth in Defendants' Amended Plea in Bar and Demurrer and memoranda in support thereof, including Defendants' Response Brief on Count I (Vesting), as well as the reasons stated at the hearings on October 1, 2007 and December 20, 2007.

Defendants object to the ruling of the Court that Complainant has a vested right to develop its project in accordance with Crucible's representation to the Zoning Administrator because it obtained a zoning verification from the Zoning Administrator that the proposed project constituted a school. More specifically, Defendants object to the Court ruling that said zoning verification constituted a significant affirmative governmental act pursuant to § 15.2-2307 VA Code Ann. Defendants further object to the ruling of the Court that the Complainant met the other criteria for vested rights pursuant to § 15.2-2307 VA Code Ann.

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("CUP") before proceeding with its new facility. The Crucible sued, claiming it had a vested right to proceed. The Stafford County Circuit Court ruled that Crucible (1) could obtain a vested rights determination in circuit court without having to first seek a determination from the zoning administrator, and (2) Crucible had a vested right to develop its new facility based on a zoning verification.[1]

ASSIGNMENTS OF ERROR

1. The trial court erred in holding that § 15.2-2286(A)(4) VA Code Ann. allows the Crucible to obtain a vested rights determination from the Circuit Court without having to first obtain a vested rights determination from the zoning administrator.[2]
2. The trial court erred in holding that the Crucible had a vested right, under § 15.2-2307 VA Code Ann., to develop its new training facility based on a zoning verification issued by the zoning administrator.[3]
    a. The trial court erred in holding that the Crucible was the beneficiary of an un-enumerated, significant affirmative

[1] Orders entered by the Hon. Randy I. Bellows on Nov. 28, 2007 and Jan. 17, 2008. Judge Bellows sat in Stafford County by designation.

[2] Order entered by the Hon. Randy I. Bellows on Nov. 28, 2007.

[3] Order entered by the Hon. Randy I. Bellows on Jan. 17, 2008.

governmental act ("SAGA") based on a zoning verification.

b. The trial court erred in holding that the Crucible relied in good faith on a SAGA.

c. The trial court erred in holding that the Crucible incurred extensive obligations or substantial expenses in diligent pursuit of a specific project in reliance on a SAGA.

STATEMENT OF THE NATURE OF THE CASE & MATERIAL PROCEEDINGS

This is an appeal of the Circuit Court's decision that the (1) the Crucible could obtain a vested rights determination from the circuit court without first seeking a determination from the zoning administrator, and (2) the Crucible had vested rights to develop its proposed facility based on a zoning verification issued by the zoning administrator.

In March 2004, the Crucible requested a zoning verification that its proposed facility was a by-right use on a new site. The zoning administrator issued a zoning verification in May 2004, stating that the Crucible facility "would be classified a 'school' by definition in the Stafford County Zoning Ordinance." The Board of Supervisors was not notified of the zoning verification until June 7, 2005. The Board