



# CITY OF FALLS CHURCH

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**FOR IMMEDIATE RELEASE**

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## **Falls Church Obtains Agreed Stay of Judge's Ruling**

The City of Falls Church and Fairfax Water agreed Jan. 27, 2010 to stay the Fairfax County Circuit Court's Final Decree of Jan. 6, 2010, which prohibited the City from making its annual return on investment ("ROI") transfer. Judge R. Terrence Ney ruled that the return on investment transfer, although expressly authorized by Section 13.07 of the City Charter was nonetheless a violation of the City Charter and unconstitutional.

Following the Jan. 6 decree, the City immediately filed a motion to stay Judge Ney's ruling pending appeal to the Supreme Court of Virginia. The City also filed a petition for expedited review with the Supreme Court, at the direction of the City Council. Although Fairfax Water initially opposed the City's motion to stay, it agreed to stay the ruling after the City filed its petition for expedited review with the Supreme Court of Virginia. As part of the agreement, the City has withdrawn its petition for expedite review and the appeal will now proceed on the standard track.

One of the many issues on appeal will be the Court's entry of a retroactive injunction barring the FY 09 ROI transfer, which was made in October 2009, three months prior to the Court's Jan. 6 ruling. The City was surprised that Fairfax Water, post trial, insisted that the Court grant this relief when before and at trial, it expressly limited its requested injunction to future transfers and did not seek a preliminary injunction or temporary restraining order prior to the Court's Jan. 6 final ruling.

"We are pleased that the Jan. 6 ruling has been stayed and look for a fair resolution of the case with the Virginia Supreme Court," said City Manager Wyatt Shields.

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