



COMMONWEALTH of VIRGINIA

Office of the Attorney General
Richmond 23219

Mark R. Herring
Attorney General

900 East Main Street
Richmond, Virginia 23219
804 - 786 - 2071
804 - 371 - 8946 TDD

MEMORANDUM

TO: Joseph F. Damico
Director
Department of General Services

FROM: Stephen A. Cobb
Deputy Attorney General
Government Operations & Transactions

DATE: July 23, 2018

Re: Department of General Services ("DGS") - CH 0150 Promulgation of regulations for public use of the Robert E. Lee Monument, Richmond, VA.

We have reviewed the regulations made available to our office in the Virginia Regulatory Town Hall (<http://townhall.virginia.gov/>) concerning the public use of Robert E. Lee Monument. Based on the review, we believe that the DGS, may adopt the regulations pursuant to Va. Code § 2.2 -1100 (B), which provides "The Director of the Department shall, under the direction and control of the Governor, exercise the powers and perform the duties conferred or imposed upon him by law and perform such other duties as may be required by the Governor." Further, DGS has the ability to prescribe regulations in order to perform those duties¹ and DGS's Division of Engineering and Buildings has charge of all public buildings and grounds of the Commonwealth.²

As DGS has stated in its "Issuance of Proposed Regulations for Robert E. Lee Monument," the intent of these regulations is to "replace Emergency Regulations issued in response to the events of

¹ Va. Code §2.2-1102 (A)(1)

² Va. Code §2.2-1129 (B)

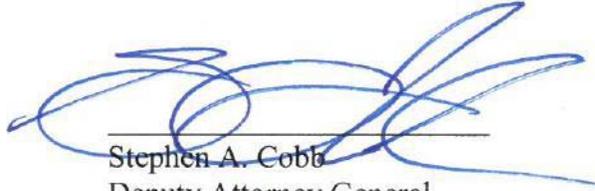
August 2017, when a “Unite the Right” rally evolved into a violent incident of civil unrest in Charlottesville, Virginia, and necessitated a State of Emergency declaration by Governor McAuliffe to address the violence.”

The Regulations are necessary to govern the safe use of the Monument and permitting for public gatherings in a space with unique challenges and provides a framework for the use in a way that serves to protect public safety while also protecting constitutional rights. The Monument is located in a traffic rotary with no crosswalk for entry, on a major thoroughfare and residential area in downtown Richmond. While not a traditional public forum, DGS has allowed and permitted events at the Monument in the past and will continue to do so under this regulation.

If you have any questions, please give me a call at 804.786.1800.

Sincerely,

Very truly yours,



Stephen A. Cobb
Deputy Attorney General