

**RECOMMENDATION
TO THE BUSINESS ADMINISTRATION COMMITTEE
Proposed Regulation Authorizing the Police
to Bar Individuals from the Airports
November 2006**

ACTION REQUESTED

That the Business Administration Committee authorize management to proceed with the public comment period required to enact with the force of law a regulation designating the Authority Police as a person “lawfully in charge” of the airports for the purpose of barring certain individuals from remaining or returning to the airports. After the public comment period has been completed, management will report back to the Committee.

BACKGROUND

The law in the Commonwealth of Virginia permits “the owner, lessee, custodian or other person lawfully in charge” of real property to issue notice barring a person from the property for which failure to comply may be punished as a trespass.¹

The Authority’s most common trespass incidents involve limousine drivers who illegally solicit passengers for fares at both airports. These “for hire” drivers often aggressively approach passengers who are unfamiliar with airport regulations prohibiting solicitation. Complaints from passengers, airlines, concessionaires and lawful Washington Flyer drivers are commonplace. Police officers who respond to such complaints may take action only if they personally observe the driver solicit passengers because those being solicited are reluctant to spend a day in court testifying against the solicitor. Special undercover details by the Police Department are only effective until word of the operation gets out, and as such, have proven to be only a temporary solution to the problem.

The current barring procedure for the airports requires multiple contacts with the offending individual and a letter signed by the Airport Manager before the person can be charged with trespassing and convicted. When an individual has been charged and convicted of engaging in prohibited activities two or more times within a twelve month period, the Police Commander of that particular airport issues a letter of warning to the person via certified mail or hand delivery, and notice of service is documented. If, within the twelve-month period following the letter of warning, the person is charged and convicted of engaging in unlawful activities at the airport again, the Airport Manager issues a letter

¹ Va. Code §18.2-119

barring the individual from returning to the airport for twelve months. The letter notifies the person of the Airport Manager's decision, and explains that the person may be arrested for trespass upon return to the airport.

The Authority may adopt regulations governing the use, maintenance and operation of its facilities and the conduct of persons or organizations using them.² When the Authority determines it to be necessary, these regulations have the full force and effect of law. Virginia law states that "any locality may by ordinance establish a procedure whereby the owner, lessee, custodian, or person lawfully in charge may designate the local law-enforcement agency as 'a person lawfully in charge of the property' for the purpose of forbidding another to go or remain upon the lands, building or premises as specified in the designation. The ordinance must require that any such designation be in writing and on file with the local law-enforcement agency."³

The Authority's regulations are the equivalent of an ordinance for this purpose. Under the proposed regulation, the Airport Manager as well as airport tenants would be able to designate Authority police as a "person lawfully in charge" for the purpose of forbidding persons to enter or remain on the premises, either the entire airport or a tenant's leased property, such as the Dulles Marriott or the Exxon gas station. The proposed regulatory change would allow Authority police to more efficiently bar persons engaging in disruptive behavior inconsistent with use of the airport and charge them with trespass if they either refuse to vacate the premises or return, without requiring multiple violations on the part of the individual, or requiring the Airport Manager's signature. However, under this proposal, an individual who has received a barring letter may still appeal to the Airport Manager, thereby leaving the final decision barring an individual from the airport to a civilian authority.

Accordingly, the staff proposes the following regulation:

§ 9.9 Designation of police to enforce trespass violations.

- (a) The lessee, custodian, or person lawfully in charge of any real property on Authority facilities may designate the Metropolitan Washington Airports Authority Police Department as a "person lawfully in charge of the property" for the purpose of forbidding another to go or remain upon the lands, buildings, or premises of the Authority or of the owner, lessee, custodian, or person lawfully in charge as specified in the designation. This designation will appoint the Authority Police Department, and its officers, as true and lawful attorneys-in-fact for the owner, lessee, custodian, or person lawfully in charge with the following specific powers:

² Va. Code §5.1-157, D.C. Code §9-906

³ Va. Code §15.2-1717.1

- (1) To determine if a person has the permission of the owner, lessee, custodian, or the person lawfully in charge to go or remain upon such property,
 - (2) To issue “notices forbidding trespass” to persons without such permission,
 - (3) To arrest persons found to be in violation of such notice, and
 - (4) To testify in court on behalf of the owner, lessee, custodian, or person lawfully in charge to enforce the notice forbidding trespass and the trespass laws.
- (b) The Manager, owner, lessee, custodian, or person lawfully in charge may revoke his grant of limited power of attorney at any time by providing notice of such revocation to the Chief of Police. The Chief of Police may terminate the agreement to act as agents of the owner, lessee, custodian, or person lawfully in charge for any given property at any time by providing written notice of such termination to the owner, lessee, custodian, or persons lawfully in charge.
- (c) Copies of such grants of limited authority will be kept on file with the Metropolitan Washington Airports Authority Police Department and if necessary, renewed yearly.

The procedures used by the Authority police to enforce Va. Code §18.2-119 would be contained in a General Order and integrated into the Department’s manual of Policy and Procedures.

RECOMMENDATION

Management recommends that the Committee authorize staff to publish for review and comment the proposed regulation allowing Authority police to be designated as the “person in lawfully charge” of the airports for the purpose of forbidding persons from trespassing on the airports and enforcing the prohibition.

Prepared by:
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