



COMMONWEALTH of VIRGINIA
Office of the Attorney General

Mark R. Herring
Attorney General

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MEMORANDUM

TO: Joseph F. Damico,
Director, Department of General Services

FROM: Donald D. Anderson,
Deputy Attorney General,
Government Operations & Transactions

DATE: April 27, 2021

RE: Department of General Services (“DGS”) – Promulgation of regulations governing the use of Capitol Square, Richmond, Virginia

We have reviewed the regulations made available to our office in the Virginia Regulatory Town Hall (<http://townhall.virginia.gov/>) concerning the proposed regulations governing the use of Capitol Square. Based on the review, we believe that 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’ Division of Engineering and Buildings has “control of the Capitol Square.”²

The proposed regulations are intended to govern the permitting of events on Capitol Square in a way that protects public safety and Capitol Square while also protecting constitutional rights. We note that, from a free speech perspective, any permitting regime may be subject to constitutional challenge.

If you have any questions, please do not hesitate to contact our office.

Sincerely,

A handwritten signature in black ink, appearing to read "D. Anderson".

Donald D. Anderson
Deputy Attorney General

¹ Va. Code § 2.2-1102(A)(1).

² Va. Code § 2.2-1144(A).