

# SUPREME COURT OF VIRGINIA



SUPREME COURT BUILDING  
100 NORTH NINTH STREET  
RICHMOND, VIRGINIA 23219  
(804) 786-2259

## **Granted Appeal Summary**

### **Case**

ROBERT C. MCDIARMID, TRUSTEE OF THE MCDIARMID LAND TRUST, ET AL. v.  
NORTHERN VIRGINIA REGIONAL PARK AUTHORITY  
(Record Number 171625)

### **From**

The Circuit Court of Fairfax County; M. Devine, Judge.

### **Counsel**

David Gutkowski (Odin, Feldman & Pittleman, P.C.) for appellant.

Heather K. Bardot (Bancroft, McGavin, Horvath & Judkins, P.C.); David J. Gogal, Laurie L. Kirkland, Lauren A. Fredericksen (Blankingship & Keith, P.C.) for appellee.

### **Assignments of Error**

1. The Trial Court erred in granting NVRPA's motion to strike the evidence as to Count I of the Complaint, as the Trustees adduced sufficient evidence at trial to establish ownership of the Property and that the construction of the Connector Trail constituted an invasion of the Property that interferes with the Trustees' rights of exclusive possession, especially when that evidence is viewed in the light most favorable to the Trustees, any reasonable inference is drawn therefrom in favor of the Trustees and considering that the trial court may not weigh or judge the credibility of the evidence at the motion to strike stage.
2. The Trail Court erred in granting NVRPA's motion to strike the evidence as to Count III of the Complaint, as the Trustees adduced evidence that the construction of the Connector Trail constituted an uncompensated taking by NVRPA, especially when that evidence is viewed in the light most favorable to the Trustees, any reasonable inference is drawn therefrom in favor of the Trustees and considering that the trial court may not weigh or judge the credibility of the evidence at the motion to strike stage.