

STATE OF TENNESSEE
TENNESSEE HISTORICAL COMMISSION

IN THE MATTER OF:)
)
WILLIAMSON COUNTY, TENNESSEE)
)
 Petitioner,)
)
)
)
)
RE:)
)
REQUEST TO ALTER THE)
WILLIAMSON COUNTY SEAL)
)
)

CASE NUMBER: 04.48-210764A


THC 20-0009

PETITION FOR WAIVER

NOTICE OF FILING OF A PETITION TO INTERVENE BY THE
MAJOR NATHANIEL CHEAIRS CAMP 2138 SONS OF CONFEDERATE VETERANS

Comes now, the Tennessee Historical Commission, by and through counsel, and gives notice of the filing of a Petition to Intervene by the Major Nathaniel Cheairs Camp 2138 Sons of Confederate Veterans, attached as Exhibit 1.

Respectfully submitted this 20th day of August, 2021.



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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing has been sent to Jeffrey D. Moseley, counsel for Williamson County, Tennessee, via email at jmoseley@buergerlaw.com this 20th day of August, 2021.



William B. Kerby III - BPR # 033384

The undersigned hereby certifies that a true and correct copy of the foregoing has been sent to H. Edward Phillips, counsel for the Major Nathaniel Cheairs Camp 2138 of The Sons of Confederate Veterans, via email at edward@phillipslawpractice.com this 20th day of August, 2021.



William B. Kerby III - BPR # 033384

EXHIBIT 1

**Petition to Intervene by the
Major Nathaniel Cheairs Camp 2138 Sons of Confederate Veterans**

BEFORE THE TENNESSEE HISTORICAL COMMISSION
AT NASHVILLE, TENNESSEE

IN RE:)	
)	
PETITION FOR WAIVER TO)	
ALTER THE WILLIAMSON)	
COUNTY SEAL,)	APD Case No. <u>04.48-210764A</u>
)	
Williamson County)	
)	
Petitioner.)	

PETITION TO INTERVENE BY THE MAJOR NATHANIEL CHEAIRS
CAMP 2138 SONS OF CONFEDERATE VETERANS

Comes now, the Major Nathaniel Cheairs Camp 2138 of The Sons of Confederate Veterans (hereinafter the “Petitioner” or “Nathaniel Cheairs Camp”), by and through undersigned counsel, respectfully moves the Tennessee Historical Commission to permit the Nathaniel Cheairs Camp intervention in this matter in accordance with TENN. CODE ANN.§§ 4-5-310 and 4-1-412, which Petitioner asserts permits intervention herein. In support of the same, the Petitioner states the following:

I. INTERVENTION AS OF RIGHT

Under TENN. CODE ANN.§ 4-1-412(a)(6) (the “Tennessee Heritage Protection Act” or the “Act”), the Nathaniel Cheairs Camp is a “Historic organization” as defined under the Act, and as it is explicitly “...an entity that has as one (1) or more of its material missions as the recognition or preservation of any historic conflict, historic entity, historic event, or historic figure.” To that end, the Nathaniel Cheairs Camp, is a camp organized under the Tennessee Division of the Sons

of Confederate Veterans, Inc. (“Tennessee Division SCV”), and is also a Tennessee 501(c)(3) non-profit corporation operating under the laws of the state of Tennessee. The material mission of both the Nathaniel Cheairs Camp and the Tennessee Division SCV is not only to preserve the history of the conflict referred to as the War Between the States¹ (or the American Civil War) and to honor the service members of the Confederate States military, these organizations also have the principal charitable purpose of aiding and assisting in the erection of suitable and enduring monuments and memorials to all Southern valor, civil and military from the period of 1861-1865. Thus, because the primary goals of the Nathaniel Cheairs Camp are to preserve the history of the Civil War, preserve the memory and honor of the members of the Confederate States military as well as the civilian population of the Confederate States of America, the Nathaniel Cheairs Camp is as a matter of fact and law, a historic organization as defined under the Act and qualifies as an intervenor under the same.²

Historic organizations such as Camp 2138 are provided great latitude with regard to participation before the Commission through administrative involvement in either the waiver or complaint process. Additionally, the Act contemplates that involvement by historic organizations such as the Petitioner be permitted in complaint proceedings, declaratory order proceedings and waiver proceedings, in order to preserve memorials located on public property.³ See TENN. CODE ANN.§ 4-1-412(a)(7), (b)(3)(A)and(B), and (c)(8). Moreover, in order to ensure that the due process rights of any potential litigants are protected, subsection (i) of TENN. CODE ANN.§ 4-1-412, requires that the Uniform Administrative Procedures Act (“UAPA”) apply to proceedings brought

¹ See TENN. CODE ANN.§ 4-1-412(a)(2) which sets forth the definition of “Historic conflict” as “any war, battle or military conflict in which citizens of the United States or any state or territory of the United States have participated in, including ... the War Between the States.”

² See TENN. CODE ANN.§ § 4-1-412(a)(b) and 4-5-310.

³ See TENN. CODE ANN.§ 4-1-412 (c)(6).

before the Commission pursuant to the Tennessee Heritage Protection Act, unless a conflict exists between the requirements of the UAPA and TENN. CODE ANN. § 4-1-412, which is not the case. As discussed supra, historic organizations such as the Petitioner are permitted to “participate in” or “intervene in” any proceeding related to the application of the Tennessee Heritage Protection Act.

Specifically, TENN. CODE ANN. § 4-5-310(a) provides for the grant of intervention by an administrative law judge or hearing officer if the following are shown in a petition to intervene:

- (1) The petition is submitted in writing to the administrative judge or hearing officer, with copies mailed to all parties named in the notice of the hearing, at least seven (7) days before the hearing;
- (2) The petition states facts demonstrating that the petitioner’s legal rights, duties, privileges, immunities or other legal interest may be determined in the proceeding or that the petitioner qualifies as an intervenor under any law; and
- (3) The administrative judge or hearing officer determines that the interests of justice and the orderly and prompt conduct of the proceedings shall not be impaired by allowing the intervention.

In order to support intervention, the Petitioner also sets forth facts below that demonstrate intervention is necessary as the Petitioner’s legal rights, duties, privileges and other legal interests will be determined in the instant proceeding.

II. FACTS SUPPORTING INTERVENTION

1. The Petitioner, the Major Nathaniel Cheairs Camp 2138 of The Sons of Confederate Veterans has its primary meeting location at Rippavilla Mansion located in Maury County, Spring Hill, Tennessee, with members residing in various surrounding counties including Williamson County, Tennessee.

2. The Williamson County Seal, (hereinafter the “Seal”), was adopted on July 15, 1968, by the Quarterly Court Term.⁴ The Seal was split up into four quadrants to represent the

⁴ See Williamson County website, and information related to *Williamson County Seal*, located at:

diversity of the county.⁵ As the county website states,

*“The upper left section depicts a flag and cannon, which symbolizes the rich history in the county. The upper right quadrant shows a school house illustrating the importance of education. The lower left portrays a bible in front of a church window, which represents religion. The lower right segment shows farm animals denoting agriculture.”*⁶ (Emphasis added to the original).

The Seal was designed by James H. Armistead and Virginia Bowman.⁷ Bowman was a long-time resident of Williamson County and was well known for her work in historical preservation and community activism. The upper left quadrant was designed with a cannon and Confederate Battle Flag draped over the cannon to signify the community’s Civil War losses and the history of the conflict within Williamson County.⁸ The County only seeks to change the upper left quadrant of the Seal.

3. On November 5, 2020, the Williamson County Mayor, Rogers Anderson, formally filed a Petition for Waiver requesting the Tennessee Historical Commission approve a change to the upper left quadrant of the Williamson County Seal that bears a Confederate Battle Flag draped over a cannon.⁹ In the waiver request, the Mayor encloses a letter to the Commission citing a

<https://www.williamsoncounty-tn.gov/571/Williamson-County-Seal>.

⁵ *Id.*

⁶ *Id.*

⁷ *Williamson County’s Great Seal: The story behind the symbol*, Brooke Wanser, Spring Hill Homepage. According to the article, the designers of the Williamson County Seal “. . . agreed that Civil War history, education, religion and agriculture all played a seminal role in the county they had grown up in; each element is represented in one of the four quadrants in the seal.” As is noted, the Civil War played a seminal role in Williamson County and in the creation of the Williamson County Seal. Moreover, it is important to mention that according to the Official Records of the War of the Rebellion, that over seventy-five raids, skirmishes battles and numerous troop movements occurred within the confines of the County during the course of the war, and this supports the rationale behind including a representative quadrant within the seal.

⁸ *Id.*

⁹ See Williamson County *Petition for Waiver*, p. 5.

“compelling public interest”¹⁰ to change the county seal and references a Task Force Report¹¹ as the justification for the required alteration.

4. The Task Force’s Executive Summary describes a “material and substantial need for the Seal to be altered”.¹² The Task Force lists four main evaluations it conducted for various impacts the seal influences on the county: Business Impact Evaluation, Tourism Impact Evaluation, Social and Public Impact Evaluation, and Financial Impact Evaluation.

5. In its Business Impact Evaluation, the Task Force goes to great lengths to attempt to tie in negative connotations to the Confederate Battle Flag to events including the tragic shooting at Emanuel A.M.E. Church in Charleston, the recent decision by NASCAR to ban the Confederate Battle Flag, and the vote of the Mississippi General Assembly to change the state’s flag.¹³ However nowhere in its analysis does the Task Force actually provide any real or substantial facts relating to the Seal and any negative impact on the County’s business and economic growth.¹⁴

6. It is interesting to note that the Task Force actually admits that Williamson County is seen as a leader in the state due to economic growth. This economic growth all occurred while the Williamson County Seal was bearing the Confederate Battle Flag. Many industries and employers have moved into Williamson County and the “Seal” has not prevented this record economic growth. Instead, the Task Force wants the Historical Commission to believe that employers will immediately depart the county if the “Seal” is not changed. However, the Task

¹⁰ *Id.* p. 9.

¹¹ *Id.* Exhibit B.

¹² *Id.* Williamson County Task Force Executive Summary, p. 1.

¹³ It should be noted that “[d]uring a 2001 statewide referendum, Mississippi voters were asked whether they supported the 1894 flag or a new design. More than sixty percent of voters approved the flag’s continuation. See <http://www.mshistorynow.mdah.ms.gov/articles/419/index.php?s=lesson-plans&id=420>.

It was not until Mississippi law makers voted to remove the Confederate Battle Flag from the Mississippi state flag on June 29, 2020, after which the flag was redesigned, and later approved by a voter referendum on November 3rd.

¹⁴ See County Seal Task Force Report, pp. 1-3 Exhibit B, *Petition for Waiver*.

Force does not identify any employers, companies, and/or corporations that have departed or plan to depart Williamson County because of this issue.

7. The Task Force's theory on economic damages is purely speculative. The Task Force uses the Southeastern Conference (SEC), Conference USA (C-USA), and NCAA's boycott of Mississippi and their state flag as an example of economic injury¹⁵ all while ignoring the fact that no viable NCAA school or suitable sports venue exist within the county for such a boycott to be effective. In fact, there has never been a single SEC or C-USA sports event to have ever taken place within the county to date. As a result, Petitioner believes that its participation in this matter will help develop the record and provide important and useful information to the Commission.

Wherefore, Based on the Foregoing, the Nathaniel Cheairs Camp 2138 respectfully requests the Commission or the Administrative Law Judge assigned to hear this matter by the Commission grant intervention and find the following:

1. That it be granted status as an intervening party as it has set forth sufficient facts supporting the same, and has sufficiently shown that it is ought to be permitted intervention under applicable law, in this instance, the Tennessee Heritage Protection Act.

2. That the Commission find that in accordance with TENN. CODE ANN. 4-5-310(a)(2) the Petitioner qualifies for intervention under applicable law and should be granted the same.

3. Find that the Petitioner is an "*historic organization*" as defined under TENN. CODE ANN. § 4-1-412(a)(6), because, as part of its primary mission, seeks to recognize and preserve through memorialization efforts, educational outreach and the like, the history of the Civil War or the War Between the States, and as of right should be granted the opportunity to fully participate in this matter.

¹⁵ *Id.* Exhibit B, p. 4.

4. Finally, that Petitioner has filed its petition well in advance of the requirement set forth under TENN. CODE ANN. (a)(1) that such a petition be filed no later than seven (7) days before a hearing as the Commission has not yet set a hearing for this matter and that grant of intervention to the Petitioner will further the interests of justice and will not impair the orderly and prompt conduct of the proceedings.

Respectfully submitted this the 17th day of February 2021, by:



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CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing has been sent via email, as instructed in light of the Covid-19 pandemic, by the Administrative Procedures Division as follows:

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