

**STATE OF TENNESSEE
TENNESSEE HISTORICAL COMMISSION**

IN THE MATTER OF:)
)
WILLIAMSON COUNTY, TENNESSEE)
)
 Petitioner,)
) **APD CASE NUMBER 04.48-210764A**
)
RE: REQUEST TO ALTER THE)
WILLIAMSON COUNTY SEAL)
)

**CORRECTED ORDER GRANTING PETITIONER’S PETITION FOR
DECLARATORY ORDER¹**

Findings of Facts

1. On April 22, 2022, this matter came before the Tennessee Historical Commission (the “Commission”) upon the Petition for Waiver filed by Williamson County (the “County”) seeking to alter the official Williamson County seal (the “Seal”).

2. The Major Nathaniel Cheairs Camp 2138 of the Sons of Confederate Veterans properly intervened in the County’s Petition for Waiver.

¹ The original Order, filed May 9, 2022, did not contain the Notice of Appeal Procedures. This Corrected Order includes those procedures as Attachment A. Pursuant to Tenn. Comp. R. & Reg. 1360-04-01-.17, the filing of this Corrected Order does not alter the dates of the original appeal time period.

3. The County also filed a Petition for Declaratory Order seeking a determination from the Commission as to whether the Tennessee Heritage Protection Act (the “Act”) applies to the County’s proposed actions.
4. The official Seal was adopted in July 1968.
5. The Seal, designed by county historian Virginia Bowman and journalist James H. Armistead, was accepted by Judge Fulton Greer at the July 15, 1968, Quarterly Court Term.
6. The Seal consists of four quadrants. The upper left quadrant depicts a Confederate Battle Flag and cannon. The upper right quadrant shows a schoolhouse. The lower left portrays a book open in front of a window with light streaming in. The lower right quadrant shows farm animals.
7. The upper left quadrant represents the largest battle that occurred in Williamson County at Franklin on November 30, 1864.
8. The Battle of Franklin was part of the events of the historic conflict known as the Civil War, also referred to as the “War Between the States” under Tenn. Code Ann. § 4-1-412(a)(2).
9. The upper left quadrant currently only contains the flag representing the Confederate forces, and a cannon.
10. Resolving the question of whether the Seal is a “memorial” as defined in the Act is an important question of law.
11. The Commission is the proper body to answer this question pursuant to Tenn. Code Ann. § 4-5-223(a), which states “Any affected person may petition an agency for a declaratory order as

to the validity or applicability of a statute, rule or order within the primary jurisdiction of the agency.”

Conclusions of Law

1. Based upon consideration of all the pleadings, the questions posed by Commission members and the responses to those questions by the parties’ attorneys during the hearing, the parties’ oral arguments, and in light of the Findings of Fact set forth above, the Williamson County Seal, as adopted, is not a “memorial” as that term is defined in the Act.
2. Further, based upon the first conclusion of law, the Act is not applicable to the Seal and the County’s proposed alterations to the Seal.
3. Finally, judicial estoppel does not apply to the County’s Petition for Declaratory Order.

Policy Reason for this Decision

This ruling further defines the parameters of the Act and is in the public interest.

The County’s Petition for Declaratory Order is hereby **GRANTED** this 9th day of May, 2022.

TENNESSEE HISTORICAL COMMISSION

By: /s/ Derita C. Williams /wp Sara Page
Derita Coleman Williams
Chairperson
Tennessee Historical Commission

Approved as to form and legality:

/s/ Sara Page

Sara Page BPR#034381
TDEC Office of General Counsel
312 Rosa L. Parks Ave.
Tennessee Tower, 2nd Floor
Nashville, TN 37243
615-532-0121
sara.page@tn.gov

Filed in the Administrative Procedures Division, Office of the Secretary of State this _____ day of _____, 2022.

Administrative Procedures Division

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document and Attachment A was emailed to Judge Claudia Padfield at Claudia.Padfield@tn.gov; Jeffrey D. Moseley at jmoseley@buergerlaw.com; Thomas B. Taylor III at ttaylor@buergerlaw.com; H. Edward Phillips at edward@phillipslawpractice.com; and William Pomeroy at wlpomeroylaw@gmail.com on this 23rd day of May, 2022.

/s/ Sara Page

Sara Page

ATTACHMENT A
NOTICE OF APPEAL PROCEDURES

REVIEW OF FINAL ORDER

1. PETITION FOR STAY – T.C.A. § 4-5-316

A party may submit to the agency a petition for stay of effectiveness of an initial or final order within seven (7) days after its entry unless otherwise provided by statute or stated in the initial or final order. The agency may take action on the petition for stay, either before or after the effective date of the initial or final order.

2. PETITION FOR RECONSIDERATION – T.C.A. § 4-5-317

(a) Any party, within fifteen (15) days after entry of an initial or final order, may file a petition for reconsideration, stating the specific grounds upon which relief is requested. However, the filing of the petition shall not be a prerequisite for seeking administrative or judicial review.

(b) The petition shall be disposed of by the same person or persons who rendered the initial or final order, if available.

(c) The person or persons who rendered the initial or final order that is the subject of the petition, shall, within twenty (20) days of receiving the petition, enter a written order either denying the petition, granting the petition and setting the matter for further proceedings; or granting the petition and issuing a new order, initial or final, in accordance with § 4-5-314. If no action has been taken on the petition within twenty (20) days, the petition shall be deemed to have been denied.

(d) An order granting the petition and setting the matter for further proceedings shall state the extent and scope of the proceedings, which shall be limited to argument upon the existing record, and no new evidence shall be introduced unless the party proposing such evidence shows good cause for such party's failure to introduce the evidence in the original proceeding.

(e) The sixty-day period for a party to file a petition for review of a final order shall be tolled by granting the petition and setting the matter for further proceedings, and a new sixty-day period shall start to run upon disposition of the petition for reconsideration by issuance of a final order by the agency.

3. JUDICIAL REVIEW – T.C.A. §§ 4-5-322 and 69-3-111

A person who is aggrieved by a final order of the Tennessee Historical Commission as is entitled to judicial review under this chapter, which shall be the only available method of judicial review. Proceedings for review are instituted by filing a petition for review. Venue for appeals of final orders shall be in the chancery court nearest to the place of residence of the person contesting the agency action or alternatively, at the person's discretion, in the chancery court nearest to the place where the cause of action arose, or in the chancery court of Davidson County. Petitions seeking judicial review shall be filed within sixty (60) days after the entry of the agency's final order thereon.