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HOUSE BILL NO. 338

Offered January 13, 2010

Prefiled January 11, 2010

A BILL for the relief of Mr. and Mrs. Brian Cebula.

Patron—Marshall, R.G.

Referred to Committee on Appropriations

Whereas, Mr. and Mrs. Brian Cebula (the Cebulas) are the owners of property located at 17679 and 17685 Main Street in Dumfries, Virginia; and

Whereas, in 1995, the Virginia Department of Transportation (VDOT) purchased an easement from the Cebulas consisting of approximately 7,000 square feet for the purpose of installing a stormwater management pipe; and

Whereas, the stormwater management pipe that was subsequently installed by VDOT did not have a receiving channel adequate to handle the stormwater runoff, which resulted in water overflowing the channel onto the Cebulas' property; and

Whereas, the regular overflow of the stormwater caused damage to and lowered the value of the property by continuously flooding and depositing sediment; and

Whereas, for approximately 10 years after VDOT's initial purchase of the easement from the Cebulas and the installation of the inadequate stormwater management pipe, the Cebulas documented over 140 contacts with VDOT officials, managers, engineers, planners, environmental specialists, and contractors regarding the problem; and

Whereas, these contacts resulted in at least 11 occasions where VDOT personnel admitted that the channel was inadequate and that there was a water problem; and

Whereas, it was later determined that VDOT failed to analyze the manmade channels using 10-year flood parameters to verify that the stormwater would be contained within the management system as required by the state's minimum design standards; and

Whereas, it was further determined that VDOT failed to improve the inadequate channel to a condition where a 10-year storm would not overflow the banks and a two-year storm would not cause continuing erosion as required by the same minimum standards; and

Whereas, despite the realization of the problem, VDOT personnel continued only to study the issue, make promises, and propose solutions without putting forward a written offer to resolve the problem; and

Whereas, in April of 2006, nearly 11 years after the initial damage to the Cebula property, VDOT offer to purchase an easement of .59 acres, which constitutes the area that had been damaged by the flooding, for \$459,700; and

Whereas, if the .59 acres were purchased by VDOT, then the Cebulas would be left with only .67 acres of the original 1.5 acres of commercial property for development; and

Whereas, the Cebulas' response to the VDOT offer was delayed by an emergency move of Mrs. Cebula's mother, who is an Alzheimer's patient, from her home in Hampton, Virginia, and subsequent efforts by the Cebulas to find adequate 24-hour care; and

Whereas, in January 2007, the Cebulas went to VDOT offices to explain their situation to the Department and request a 90-day extension; and

Whereas, the attorney representing VDOT told the Cebulas that they could receive an extension for as long as they wanted, but asked the Cebulas to wait while he put together a written extension document; and

Whereas, when the attorney returned, rather than giving the Cebulas a letter granting an extension, he provided a letter withdrawing VDOT's offer; and

Whereas, as a result of the withdrawal of the offer and VDOT's subsequent refusal to assist the Cebula's in any way to address the flooding problems on their property, the Cebulas were forced to request VDOT to take the entire property and compensate them in the amount of \$1.2 million, which amounts to the median sale value of surrounding properties that have sold in the previous two years; and

Whereas, in addition, the request to take the entire property is necessitated by the fact that the .67 acres that would remain after VDOT took the initially proposed easement would not be suitable for development due to the flood damage and erosion resulting from VDOT's changes to the property; and

Whereas, Mr. and Mrs. Brian Cebula have no other means to obtain adequate relief except by action of this body; now, therefore,

INTRODUCED

HB338

2/23/10 15:48

59 Be it enacted by the General Assembly of Virginia:

60 1. § 1. *That there shall be paid for the relief of Mr. and Mrs. Brian Cebula from the general fund of*
61 *the state treasury, upon execution of a release of all claims they may have against the Commonwealth*
62 *or any agency, instrumentality, officer, employee, or political subdivision in connection with the*
63 *aforesaid occurrence, the sum of \$1.2 million to be paid to Mr. and Mrs. Brian Cebula on or before*
64 *August 1, 2010, by check issued by the State Treasurer on warrant of the Comptroller.*

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