

Bow Hunting Decision Upheld

Court decision states both parties were right, but RA stands to pay more than \$50,000.

By [Mirza Kurspahic](#)

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Reston Association has been ordered to pay approximately \$58,000 to the Archery Trade Association after the Virginia Supreme Court refused to hear the homeowner association's appeal regarding a bow hunting decision reached at a Fairfax County court last December. The amount will go to recover Archery Trade Association's court fees.

The [Archery Trade Association \(ATA\)](#) supported two Reston Association (RA) members who live on Buckthorn Lane whom the RA denied permission to employ bowhunting services to manage deer populations on their properties in November 2006. "The two landowners who had followed the rules, we felt that they had been wrongly handled," said Jay McAninch, the ATA CEO and president.

He added that the individual homeowners were not in position to "challenge the likes of the RA" in the courts, so the ATA stepped in to help. McAninch said RA was ordered to pay the amount because it denied a service the two landowners had all along. "We spent that money in court fees simply to restore a privilege that the County of Fairfax and the State of Virginia said [the landowners] should have had all along," said McAninch.

Milton Matthews, RA CEO, said the courts upheld RA's rules regarding bow hunting and the association had to defend its governing documents in court. He said all but \$10,000 of the fee assessed against the homeowner association is covered by insurance. The rest of the money comes from a legal fees budget item, which covers all legal costs for the association, including lawsuits, which are rare. "Normally we don't find ourselves in lawsuits," said Matthews.

Robin Smyers, RA president, said the courts also found that RA has a right to establish its own regulations on the issue. "We had every right to have guidelines and our rules were upheld," said Smyers.

However, the two landowners had used bow hunting before RA established its regulations regarding the practice. "They were, for lack of a better term, grandfathered in," said Larry Butler, RA's director of Parks and Recreation, because they were able to prove they had used bow hunting prior to RA's decision in 2006. The court decision, said Butler, "also validated the [RA] covenants."

THE DECISION THAT prompted court action took place in November 2006. The RA Board of Directors voted not to grant bow hunting permits to the landowners on Buckthorn Lane after almost four hours of discussion that included testimony from experts regarding bow hunting and deer population densities. Both sides, those arguing for bow hunting to decrease the deer population and those against it, claimed safety and property value concerns in their testimonies in front of the RA board. "I'm very proud of the decision that was made," said Smyers, recalling the November 2006 decision. She said the decision was reached after a long deliberation in which both sides had an opportunity to speak. "We did the right thing then," said Smyers.

According to RA regulations, individual property owners apply for permits, the RA staff evaluates each property for safety concerns and makes a recommendation, which is ultimately granted or denied by the Board of Directors. Butler said the size and the location of the property are two of the factors considered in making a recommendation to the directors. "Every property is going to be different," said Butler. "It's absolutely judged on case by case basis."



Photo by Mirza Kurspahic/The Connection
Buckthorn Lane at its intersection with the Washington and Old Dominion Trail. Two residents in the wooded neighborhood sued Reston Association for rights to employ bow hunters to manage deer population on their properties.

Eric Huppert, the President and founder of [Suburban Whitetail Management of Northern Virginia, \(SWMNV\) Inc.](#) — a nonprofit organization of some 100 bow hunters — said that without natural predators present in the area, Fairfax County has one of the highest concentrations of deer population. "They are already out of balance," said Huppert about the deer population in regards to the area's ecosystem. "Unfortunately, it's a continuing losing battle," said Huppert, as development continues to squeeze the animal's habitat.

In terms of safety, bow hunting advocates argued in 2006 that dense deer populations spread Lyme Disease and cause car accidents. The other side argued they were not thrilled with the idea of having archers standing in trees near their backyards and Reston's pathways, ready to use bow and arrows.

"It's absolutely a safe practice," said Huppert, adding that SWMNV regulations dictate that the hunters must be on elevated stands. "That was specifically put in for safety reasons," said Huppert. Shooting the arrow at a downward angle, he said, decreased the risk of hitting someone unintentionally. "There's never been an incident of an innocent bystander, or otherwise, getting hurt in history of the state," said Huppert.

As for land values, the bow hunting proponents argued that deer were responsible for destroying thousands of dollars worth of landscaping on private properties. The opponents argued that deer usually do not die where they are shot, but rather run a while and could die on unintended properties, negatively affecting those properties' values.

"Our goal at any time is to harvest the deer," said Huppert. The disposition of the remains is the prerogative of the landowner that employed SWMNV, but the remains are often given to a charity, for example Hunters for the Hungry. In case a deer does die on another property, Huppert said the hunters are bound by law to request permission to trespass before retrieving the remains. He said SWMNV always asks its clients about the neighbors' views regarding bow hunting in their area. "Our goal is to meet the state's game management goals, but at the same time we don't want to create conflict among neighbors," said Huppert.

Matthews said that Reston is a unique place where some properties in the southern part of the community are situated on two and three acre lots, while others are on much smaller plots of land. He said the decision does not mean that RA members could bow hunt on their properties without permission. "You just can't say there is a carte blanche decision to bow hunt," said Matthews.



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