

COURT OF APPEALS OF MARYLAND

Scrimgeour v. Fox Harbor, LLC, 410 Md. 230

978 A.2d 645 (2009) · No. No. 150, September Term, 2008 · Decided August 25, 2009

SUMMARY

The Maryland Court of Appeals addressed a zoning dispute concerning a proposed 42,835-square-foot equine structure in Talbot County. Because the county amended its zoning code while the litigation was pending, the court declined to decide the substantive zoning issue, vacated the circuit court judgment, and remanded for the Board of Appeals to consider the amended code.

CASE DETAILS

COURT	Court of Appeals of Maryland
WRITING FOR THE COURT	Battaglia, J.; Bell, C.J.; Harrell, J.; Greene, J.; Murphy, J.; Adkins, J.; Barbera, J.
JURISDICTION	Maryland
DECIDED	August 25, 2009
DOCKET	No. 150, September Term, 2008
DISPOSITION	vacated
PROCEDURAL POSTURE	An adjoining landowner sought judicial review of the Talbot County Board of Appeals' decision upholding a building permit for a large equestrian structure. The Circuit Court for Talbot County affirmed, and the Court of Appeals of Maryland granted certiorari before proceedings in the Court of Special Appeals.
STANDARD OF REVIEW	The court reviewed the zoning dispute in the posture of judicial review of an administrative agency decision and applied the rule that substantive changes in relevant land-use law enacted during ongoing litigation generally receive retrospective application.
PRECEDENTIAL VALUE	Published opinion; precedential
PARTIES	Robert Scrimgeour v. Fox Harbor, LLC

TOPICS

- zoning
- judicial review of agency action
- administrative law
- statutory interpretation
- appellate procedure

PRACTICE AREAS

zoning administrative law land use appellate procedure

QUESTIONS PRESENTED

1. Whether the circuit court erred by affirming the Talbot County Board of Appeals' determination that the proposed equestrian structure qualified as an accessory agricultural or accessory residential use under the former zoning code.
2. Whether the amended Talbot County zoning code, enacted while the litigation was pending, had to be applied retrospectively and, if so, whether the case should be remanded to the Board of Appeals for an initial determination under the new code.

HOLDINGS

1. A substantive change in relevant statutory or zoning law enacted during the course of litigation in a land-use or zoning matter generally must be applied retrospectively.
2. The case must be remanded to the Talbot County Board of Appeals to determine the effect of the amended zoning code on the permit dispute.

KEY QUOTATIONS

“For the aforementioned reasons, we reaffirm the Yorkdale rule that a substantive change in relevant statutory law that takes place during the course of the litigation of a land use or zoning issue shall be retrospectively applied by appellate courts.” (651)

“The administrative body should have an opportunity to consider and apply the local ordinance, as it now stands, in the exercise of its presumed expertise in such matters.” (651)

FACTUAL BACKGROUND

Fox Harbor's approximately 166-acre Talbot County property was predominantly used for agriculture and included a residence. A permit was issued for a 42,835-square-foot structure intended to house, feed, and care for approximately 28 rescue horses, with an indoor riding and exercise area. An adjoining landowner challenged the permit, arguing that the structure was too large to qualify as an accessory agricultural or residential use under the former zoning code.

PROCEDURAL HISTORY

Fox Harbor's predecessor obtained a permit for a 42,835-square-foot horse stable and riding facility. Scrimgeour administratively appealed the permit, but the Talbot County Board of Appeals denied the appeal and affirmed the permit. The Circuit Court for Talbot County affirmed the Board's decision. While the case was pending in the Court of Appeals, Talbot County repealed and replaced its zoning code. The Court of Appeals vacated the circuit court's judgment and remanded with directions to vacate the Board's decision and remand to the Board for consideration under the amended code.

DISPOSITION

vacated

REMAND INSTRUCTIONS

Vacate the judgment of the Circuit Court for Talbot County. Remand to that court with directions to vacate the Talbot County Board of Appeals' decision and remand the case to the Board for further proceedings not inconsistent with the opinion. The parties were ordered to bear costs equally.

CASES CITED

- Scrimgeour v. Smith, 406 Md. 744, 962 A.2d 371 (2008)
- Layton v. Howard County Board of Appeals, 399 Md. 36, 922 A.2d 576 (2007)
- Yorkdale Corporation v. Powell, 237 Md. 121, 205 A.2d 269 (1964)
- Armstrong v. Mayor and City Council of Baltimore, 409 Md. 648, 976 A.2d 349 (2009)

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