COURT OF APPEALS OF MARYLAND

Anne Arundel County, Maryland v. 808 Bestgate Realty, LLC

No. 38, September Term, 2021 (Md. July 7, 2022) · No. No. 38, September Term, 2021 · Decided July 7, 2022

SUMMARY

The Maryland Court of Appeals held that Anne Arundel County Code § 17-11-207(c) required transportation impact fee credits for improvements to a county road that provided transportation capacity beyond the County's adequate road facilities requirements. The court concluded that the County Board of Appeals erred by conditioning credits on the developer's having been required to construct mitigation improvements. The court also reversed the intermediate appellate court's remand for consideration of whether the improvements were site-related because the parties stipulated that issue was undisputed.

CASE DETAILS

COURT	Court of Appeals of Maryland
WRITING FOR THE COURT	Booth, J.; Getty, C.J.; McDonald, J.; Watts, J.; Hotten, J.; Biran, J.; Battaglia, Lynne A., Senior Judge, specially assigned
JURISDICTION	Maryland
DECIDED	July 7, 2022
DOCKET	No. 38, September Term, 2021
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Anne Arundel County and 808 Bestgate Realty, LLC each petitioned for a writ of certiorari after the Court of Special Appeals affirmed in part and reversed in part the Circuit Court for Anne Arundel County's judgment concerning transportation impact fee credits.
STANDARD OF REVIEW	The court reviewed the administrative agency's factual findings for substantial evidence and reviewed legal conclusions, including interpretation of the County Code, de novo for correctness. The court looked through the circuit court's and intermediate appellate court's decisions and evaluated the Board's decision under the same standards of review.
PRECEDENTIAL VALUE	Published Maryland Court of Appeals opinion; precedential
PARTIES	Anne Arundel County, Maryland v. 808 Bestgate Realty, LLC

TOPICS

municipal law · statutory interpretation · administrative law · judicial review of agency action · appellate procedure

PRACTICE AREAS

municipal law · administrative law · statutory interpretation · appellate procedure

QUESTIONS PRESENTED

1. Whether the County Board of Appeals erred in denying transportation impact fee credits under Anne Arundel County Code § 17-11-207(c) when the improvements provided transportation capacity over and above the adequate road facilities requirements but were not required mitigation.
2. Whether a remand was warranted for the Board to determine whether the Bestgate Road improvements were site-related when both parties stipulated that they were not site-related and the County conceded that remand was unnecessary.

HOLDINGS

1. Under the plain language of Anne Arundel County Code § 17-11-207(c), transportation impact fee credits shall be allowed for non-site-related transportation improvements that provide capacity over and above the adequate road facilities requirements. Eligibility does not depend on the developer first failing the adequate public facilities road test or undertaking a mitigation plan.
2. Anne Arundel County Code § 17-11-207(a) does not give the County discretion to deny transportation impact fee credits that are mandated by the more specific language of § 17-11-207(c). The agreement requirement concerns the process for establishing and redeeming credits and does not negate the entitlement to credits.
3. A remand to the Board to determine whether the improvements were site-related was unnecessary because both parties stipulated that the improvements were not site-related and the County conceded that no remand was needed.

KEY QUOTATIONS

> *"Under the plain language of the Code, "[t]ransportation impact fee credits shall be allowed for transportation improvements providing transportation capacity over and above the adequate road facilities requirements[.]""* (21)

> *"Nothing in the plain language of § 17-11-207(c) conditions the developer's entitlement to transportation impact fee credits on the necessity of a mitigation plan under § 17-5-401(a)(3)."* (22)

> *"Under the plain language of the Code, Bestgate was entitled to receive transportation impact fee credits, and the Board erred in its interpretation of the Code."* (27)

FACTUAL BACKGROUND

808 Bestgate Realty, LLC redeveloped a 9.4-acre parcel in Annapolis and paid transportation impact fees for the project. Its traffic study showed that the project would satisfy the County's adequate public facilities road requirements without mitigation, but the developer proposed an off-site median break and traffic signal on Bestgate Road to reduce U-turns, improve safety, and add transportation capacity. The County's Engineer Administrator approved the improvements, but the Planning and Zoning Officer denied transportation impact fee credits. The Board of Appeals upheld the denial, reasoning that mitigation was a prerequisite to receiving credits.

PROCEDURAL HISTORY

The Anne Arundel County Board of Appeals denied Bestgate's request for transportation impact fee credits. The Circuit Court for Anne Arundel County reversed the Board. The Court of Special Appeals agreed that the Board had misinterpreted the County Code but remanded for a determination whether the improvements were site-related. The Court of Appeals affirmed the intermediate appellate court's interpretation of the Code, reversed the remand on the site-related issue because the parties stipulated that the improvements were not site-related, and remanded with instructions for further proceedings consistent with the opinion.

DISPOSITION

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reversed_and_remanded
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REMAND INSTRUCTIONS

The judgment of the Court of Special Appeals was affirmed in part and reversed in part. The case was remanded to that court with instructions to remand to the Circuit Court for Anne Arundel County, with further instructions to remand to the Board of Appeals for further proceedings consistent with the opinion. Costs were assessed against Anne Arundel County, Maryland.

CASES CITED

- People's Council for Baltimore Cty. v. Surina, 400 Md. 662, 681 (2007)
- Assateague Coastal Trust, Inc. v. Schwalbach, 448 Md. 112, 124 (2016)
- Belvoir Farms Homeowner's Ass'n, Inc. v. North, 355 Md. 259, 267 (1999)
- John A. v. Board of Ed. for Howard Cty., 400 Md. 363, 382 (2007)
- Schwartz v. Maryland Department of Natural Resources, 385 Md. 534, 554 (2005)
- Howard Research and Development Corp. v. Concerned Citizens for Columbia Concept, 297 Md. 357, 364 (1983)
- Lockshin v. Semsker, 412 Md. 257, 274-76 (2010)
- 75-80 Properties, LLC v. Rale, Inc., 470 Md. 598, 623, 631 (2020)
- Koste v. Town of Oxford, 431 Md. 14, 25-26 (2013)
- Langston v. Langston, 366 Md. 490, 515 (2001)
- Douglas v. State, 423 Md. 156, 178 (2011)
- Evans v. State, 420 Md. 391, 400 (2011)
- In re Najasha B., 409 Md. 20, 32-33 (2009)

- Walzer v. Osborne, 395 Md. 563, 580 (2006)
- State v. Ghajari, 346 Md. 101, 115 (1997)
- Mayor and Town Council of Oakland v. Mayor and Town Council of Mountain Lake Park, 392 Md. 301, 316-17 (2006)

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