

SUPREME COURT OF VIRGINIA

Historic Alexandria Foundation v. City of Alexandria

Historic Alexandria Foundation · No. 200195 · Decided May 27, 2021

SUMMARY

The Supreme Court of Virginia affirmed the dismissal of the Historic Alexandria Foundation’s challenge to the City Council of Alexandria’s approval of renovations to a historic property. The Court held that the Foundation failed to allege particularized harm distinguishing it from the general public and therefore lacked standing as an “aggrieved” party under Alexandria Zoning Ordinance § 10-107(B).

CASE DETAILS

COURT	Supreme Court of Virginia
JURISDICTION	Virginia
DECIDED	May 27, 2021
DOCKET	200195
DISPOSITION	affirmed
PROCEDURAL POSTURE	The Foundation appealed the circuit court's dismissal with prejudice of its petition challenging the City Council's approval of renovation applications. The appeal presented whether the Foundation had standing as an aggrieved party under Alexandria Zoning Ordinance § 10-107(B).
STANDARD OF REVIEW	A circuit court's decision sustaining a demurrer is reviewed de novo. The court accepts the facts alleged in the pleading as true and draws all reasonable inferences in the pleader's favor, while determining whether the pleading establishes a foundation in law for the judgment sought.
PRECEDENTIAL VALUE	precedential
PARTIES	Historic Alexandria Foundation v. City of Alexandria, Vowell, LLC

TOPICS

[standing](#) [zoning](#) [appellate procedure](#) [civil procedure](#) [easements](#)

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the Foundation had standing as an aggrieved party to appeal the City Council's land-use decision under Alexandria Zoning Ordinance § 10-107(B).
2. Whether the Foundation's petition adequately alleged a particularized injury distinct from that suffered by the public generally.
3. Whether the circuit court properly sustained the demurrers and dismissed the petition with prejudice.

HOLDINGS

1. The Foundation lacked standing because it failed to allege that it suffered a particularized harm resulting from the City Council's decision that differed from the harm suffered by the public generally.
2. The circuit court properly sustained the demurrers and dismissed the Foundation's petition because the pleading did not establish a legal basis for standing.

KEY QUOTATIONS

“First, the complainant must own or occupy “real property within or in close proximity to the property that is the subject of” the land use determination, thus establishing that it has “a direct, immediate, pecuniary, and substantial interest in the decision.”” (4)

“Absent an allegation of injury or potential injury not shared by the general public, a complaining party has failed to establish standing to challenge a land use decision.” (5)

FACTUAL BACKGROUND

Vowell, LLC sought approval to renovate a historic property in Alexandria that was subject to an open-space easement. The Foundation opposed the applications, appealed the BAR's approval to the City Council, and then appealed the City Council's affirmance to circuit court. The Foundation alleged that it owned nearby property, held interests in other open-space easements, and was dedicated to historic preservation, but it did not allege a particularized injury distinct from harm to the public generally.

PROCEDURAL HISTORY

Vowell, LLC applied for renovation permits, which the Alexandria Board of Architectural Review approved. The Foundation appealed to the City Council, which affirmed the BAR's decision, and then appealed to the Circuit Court of the City of Alexandria. The circuit court sustained Vowell's and the City's demurrers, concluding that the Foundation had not alleged particularized harm and therefore lacked standing, and dismissed the matter with prejudice. The Supreme Court of Virginia affirmed.

DISPOSITION

affirmed

CASES CITED

- Friends of the Rappahannock v. Caroline Cnty. Bd. of Supervisors, 286 Va. 38 (2013)
- Virginia Beach Beautification Comm'n v. Board of Zoning Appeals, 231 Va. 415 (1986)
- EMAC, L.L.C. v. County of Hanover, 291 Va. 13, 20 (2016)
- Eagle Harbor, L.L.C. v. Isle of Wight County, 271 Va. 603, 611 (2006)
- Hubbard v. Dresser, Inc., 271 Va. 117, 119 (2006)
- Nicholas v. Lawrence, 161 Va. 589, 593 (1933)
- Virginia Marine Res. Comm'n v. Clark, 281 Va. 679, 687 (2011)

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