

SUPREME COURT OF VIRGINIA

Board of Supervisors of Culpeper County v. Greengael, L.L.C., 271 Va. 266

626 S.E.2d 357 (2006) · No. 050461 · Decided March 3, 2006

SUMMARY

The Supreme Court of Virginia reviewed the denial of a preliminary subdivision plat and the subsequent rezoning of property in Culpeper County. It held that the Board of Supervisors properly denied the subdivision application because the applicant failed to provide the utility letter required by the subdivision ordinance and that the denial was not arbitrary or capricious. The court also rejected the claim that the applicant had vested development rights preventing the rezoning.

CASE DETAILS

COURT	Supreme Court of Virginia
WRITING FOR THE COURT	LACY, Justice; All the Justices
JURISDICTION	Virginia
DECIDED	March 3, 2006
DOCKET	050461
DISPOSITION	other
PROCEDURAL POSTURE	The Board appealed the trial court's judgment approving Greengael's preliminary subdivision plat and invalidating the rezoning of the property from R-4 residential to LI light industrial. Greengael assigned cross-error concerning the validity of the rezoning and dismissal of additional claims.
STANDARD OF REVIEW	A local governing body's denial of a preliminary subdivision plat must be sustained unless the governing body failed to comply with applicable subdivision ordinances or acted arbitrarily and capriciously. On appeal, the trial court's judgment is presumed correct and will not be set aside unless plainly wrong or unsupported by the evidence. Zoning amendments are presumed valid and are upheld if their reasonableness is fairly debatable; the challenger bears the burden of proving that the amendment is clearly unreasonable, arbitrary, or capricious.
PRECEDENTIAL VALUE	Published precedential opinion of the Supreme Court of Virginia.

PARTIES

Board of Supervisors of Culpeper County v. Greengael, L.L.C.,
Ashmeade Company, L.L.C.

TOPICS

zoning real estate municipal law administrative law appellate procedure

PRACTICE AREAS

real estate zoning municipal law administrative law appellate procedure

QUESTIONS PRESENTED

1. Whether the Board lawfully denied the preliminary subdivision plat because Greengael failed to submit the utility letter required by the subdivision ordinance.
2. Whether the Board acted arbitrarily and capriciously by denying the subdivision application.
3. Whether Greengael had vested rights that prevented the Board from rezoning the property from R-4 residential use to LI light industrial use.
4. Whether the LI rezoning constituted impermissible piecemeal downzoning.
5. Whether the trial court properly sustained demurrers and pleas and dismissed Greengael's additional claims.

HOLDINGS

1. The Board properly denied the preliminary subdivision plat because Greengael failed to submit the utility letter required by the County subdivision ordinance.
2. The Board did not act arbitrarily or capriciously in denying the subdivision application.
3. Greengael had no vested right to develop the proposed subdivision that invalidated the Board's subsequent rezoning of the property.
4. The rezoning from R-4 to LI was not an impermissible piecemeal downzoning.
5. The trial court properly sustained the defendants' demurrers and pleas and dismissed Counts II through VI.

KEY QUOTATIONS

"The subdivision ordinance does not require that utility facilities be in place at the time an application for preliminary subdivision approval is presented. It only requires that an applicant produce evidence of an agreement to provide such services." (365)

"A landowner has a vested right in a specific use of property if it "(i) obtains or is the beneficiary of a significant affirmative governmental act which remains in effect allowing development of a specific project, (ii) relies in good faith on the significant affirmative governmental act, and (iii) incurs extensive obligations or substantial expenses in diligent pursuit of the specific project in reliance on the significant affirmative governmental act."" (367)

FACTUAL BACKGROUND

The property was approximately 96 acres zoned R-4 for high-density multifamily residential use. Greengael sought approval of a residential subdivision but failed to obtain the required written assurance that adequate public water and sewer service would be available. The Town of Culpeper denied Greengael's utility-service application, and the County Board denied the subdivision application for failure to provide the required utility letter. The County later rezoned the property to light industrial use after its comprehensive plan had designated the property as future industrial.

PROCEDURAL HISTORY

Greengael applied for approval of a 12-lot preliminary subdivision plat but did not submit the utility letter required by the County subdivision ordinance. The Board denied the application and later rezoned the property from R-4 to LI. The trial court approved the subdivision plat, required the County to work with Greengael to secure utilities, and invalidated the rezoning based on purported vested rights, while sustaining demurrers and dismissing other claims. The Supreme Court of Virginia affirmed the dismissal of Counts II through VI, reversed the approval of the subdivision plat, and reversed the invalidation of the LI rezoning.

DISPOSITION

other

CASES CITED

- Hanover County v. Bertozzi, 256 Va. 350, 504 S.E.2d 618 (1998)
- Ravenwood Towers, Inc. v. Woodyard, 244 Va. 51, 419 S.E.2d 627 (1992)
- Sansom v. Board of Supervisors, 257 Va. 589, 514 S.E.2d 345 (1999)
- Town of Rocky Mount v. Wenco of Danville, Inc., 256 Va. 316, 506 S.E.2d 17 (1998)
- Parker v. County of Madison, 244 Va. 39, 418 S.E.2d 855 (1992)
- City of Suffolk v. Board of Zoning Appeals, 266 Va. 137, 580 S.E.2d 796 (2003)
- Board of Supervisors of Fairfax County v. Snell Construction Corp., 214 Va. 655, 202 S.E.2d 889 (1974)
- Board of Supervisors v. Carper, 200 Va. 653, 107 S.E.2d 390 (1959)
- Turner v. Board of County Supervisors, 263 Va. 283, 559 S.E.2d 683 (2002)
- Board of Supervisors of Prince William County v. Omni Homes, Inc., 253 Va. 59, 481 S.E.2d 460 (1997)
- Loveladies Harbor, Inc. v. United States, 28 F.3d 1171 (Fed. Cir. 1994)
- Wenco, 256 Va. at 319, 506 S.E.2d at 19