

# **Bond Case Briefs**

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## **EMINENT DOMAIN - MARYLAND**

### **Dabbs v. Anne Arundel County**

**Court of Appeals of Maryland - April 10, 2018 - A.3d - 2018 WL 1724642**

Property owners brought class action against county, seeking to recover development impact fees.

The Circuit Court entered a declaratory judgment in favor of county. Property owners appealed. The Court of Special Appeals affirmed. Property owners' petition for certiorari was granted.

The Court of Appeals held that:

- Area-wide impact fees are not subject to the rational nexus/rough proportionality test for a government taking;
- Amendment to ordinance did not interfere with property owners' vested rights; and
- County could repeal refund provision without interfering with vested rights.

Amendment to development impact fee ordinance that codified county's pre-existing administrative procedures for counting impact fee encumbrances did not work substantive change in policy interfering with vested rights of property owners who brought class action against county for refund of fees; definition of "encumbrance" used before enactment of amendment conformed to generally accepted accounting principles (GAAP), and county's prior procedure for showing encumbrance was reasonable.

Property owners' alleged right to refund of development impact fee did not vest, and thus county had right to repeal refund provision of ordinance; effective date of repeal provision occurred before any impact fees collected from owners became ripe for refund claim, and right to refund did not vest until county determined, after petition from eligible property owner, if refunds were due from fiscal year of relevant collection.