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The Abell Foundation v. Baltimore Development Corporation

Appellate Court of Maryland - August 2, 2024 - A.3d - 2024 WL 3633431

Requestor of records relating to payment-in-lieu-of-taxes agreement (PILOT agreement) between city and developer brought action against city entities, including mayor's office and city council, alleging city violated Maryland Public Information Act (MPIA) by withholding responsive documents, failing to explain redactions, and failing to justify its application of exemptions and privileges.

City moved to dismiss or for summary judgment. Developer intervened and joined city's motion. The Circuit Court granted summary judgment in favor of city. Requestor appealed.

The Appellate Court held that:

- As a matter of first impression, showing of risk of competitive harm is not necessary for MPIA exemption for confidential commercial and financial information;
- Financial statements, estoppel certificate, and analyses constituted confidential commercial and financial information under MPIA;
- To the extent showing of risk of competitive harm was necessary, disclosure of financial statements, certificate, and analyses satisfied such requirement;
- City properly withheld model analysis under deliberative-process privilege;
- Trial court appropriately examined memoranda written by city's lawyers in camera;
- Memoranda were protected by attorney-client privilege; and
- Requestor failed to establish that city actually possessed other documents.