

Bond Case Briefs

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ZONING - VIRGINIA

Board of Sup'rs of James City County v. Windmill Meadows, LLC

Supreme Court of Virginia - January 10, 2014 - S.E.2d - 2014 WL 92090

County, on behalf of its board of supervisors and acting zoning administrator, brought declaratory judgment action against developers who sought to establish residential communities within county and non-profit corporation developing a life-care community within county, seeking declaration that statute regulating county's ability to accept conditional zoning cash proffers had no retroactive effect, such that statute would not affect county's collection of any cash proffers agreed to by developers and non-profit corporation prior to the statute's effective date.

Non-profit corporation filed answer in which it requested attorney fees and costs. Developers brought counterclaim seeking refund of cash proffers collected by county after statute's effective date as well as attorney fees and costs. The Circuit Court granted summary judgment in favor of defendants and awarded defendants attorney fees and costs. County appealed.

The Supreme Court of Virginia held that:

- Statute regulating locality's ability to collect conditional zoning cash proffers applies to any and all cash payments owed to a locality under a zoning proffer, regardless of whether terms of such proffer was agreed to prior to or after statute's effective date;
- Non-profit corporation did not successfully challenge an ordinance, administrative or other action of county, and thus was not entitled to award of attorney fees under conditional zoning cash proffer statute; but
- Developers who prevailed on counterclaim against county successfully challenged an action of the county, and thus were entitled to award of attorney fees under conditional zoning cash proffer statute.