

Bond Case Briefs

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Dugan v. Prince George's County

Court of Special Appeals of Maryland - March 27, 2014 - A.3d - 2014 WL 1258135

Homeowners sought review of county's approval of application for water and sewer amendment by religious congregation which sought to build a church and school on neighboring property. The Circuit Court affirmed. Homeowners appealed.

The Court of Special Appeals held that:

- Appropriate vehicle for appealing the council's resolutions was administrative mandamus;
- Council's resolutions articulated the basis of the council's decision at a level sufficient for judicial review of the legality of the decision;
- Substantial evidence supported county council's decision to amend water and sewer plans; and
- Maryland-National Capital Park and Planning Commission's review of proposed amendment to county's water and sewer plan substituted fully for the two step review and certification process for adopting such amendments.

County council acted in a quasijudicial capacity when it approved amendments to water and sewer plan to allow religious congregation to build church and school on property, and thus, the appropriate vehicle for appealing the council's resolutions was administrative mandamus rather than a declaratory judgment action. Although the general process of considering water and sewer category change requests in county was a legislative amendment process, the consideration of religious congregation's application was unique in that the application was not combined with any other water and sewer category change requests, but was reviewed separately, and the approval was not based on the overall community planning, but rather a specific federal court opinion and order concerning discrimination against congregation's application.

County council's resolutions granting religious congregation's water and sewer category change requests so that congregation could build church and school on property articulated the basis of the council's decision at a level sufficient for judicial review of the legality of the decision. While the council's resolutions did not include a discussion of how a category change conformed to each of the requirements of the county's water and sewer plan, the council incorporated the reasoning of federal court opinion that found that county's original denial of request constituted religious discrimination, and the federal court reviewed the record, made detailed findings, and applied the law, making it unnecessary for the council to repeat the same findings and legal analysis.

Substantial evidence supported county council's decision to amend water and sewer plans to allow religious congregation to build church and school on property. County's department of environmental resources (DER) analyzed how the application complied with the standards necessary for approval and found that the application was generally consistent with the criteria established in the water and sewer plan, civil engineer testified that the proposed development protected existing wetlands buffer, and federal court opinion in congregation's religious discrimination action against

county, which findings were incorporated into council's decision, determined that county failed to produce any evidence showing a negative environmental impact from development.

Maryland-National Capital Park and Planning Commission's review of proposed amendment to county's water and sewer plan substituted fully for the two step review and certification process for adopting such amendments. Statute stated that Maryland-National Capital Park and Planning Commission's review constituted full compliance with the review process, and thus, county council had legal authority to consider application for water and sewer amendment.