

Bond Case Briefs

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TAX INCREMENT FINANCING - ILLINOIS

Village of East Dundee v. Village of Carpentersville

Appellate Court of Illinois, Second District - April 30, 2014 - Not Reported in N.E.3d - 2014 IL App (2d) 131006-U

The Village of East Dundee, filed an action against the Village of Carpentersville and Wal-Mart Stores, Inc., alleging that section 11-74.4-3(q)(13) of the Tax Increment Allocation Redevelopment Act (Act) applied to Wal-Mart's decision to close its East Dundee retail store and open a Wal-Mart Supercenter less than 10 miles away within Carpentersville's Route 25 redevelopment project area.

East Dundee sought a declaratory judgment that Carpentersville was required to make certain findings pursuant to section 11-74.4-3(q)(13) of the Act, based on documentation submitted by Wal-Mart, before it could fund any redevelopment project costs directly related to Wal-Mart's planned relocation. East Dundee also sought a writ of prohibition, a writ of *mandamus*, and an injunction.

The trial court granted Carpentersville's motion to dismiss East Dundee's amended complaint pursuant to section 2-615 of the Illinois Code of Civil Procedure and Wal-Mart's motion to dismiss the amended complaint pursuant to section 2-619(a)(9) of the Code, concluding that the amended complaint failed to present an actual controversy that was ripe for adjudication. East Dundee appealed.

The appeals court affirmed, finding that the trial court properly dismissed East Dundee's amended complaint because it did not present an actual controversy that was ripe for review. The well-pleaded factual allegations of the amended complaint presented only speculation that defendants might in the future fail to comply with section 11-74.4-3(q)(13) of the Tax Increment Allocation Redevelopment Act. Under the facts alleged, it was equally plausible that defendants would comply with the Act.