

Bond Case Briefs

Municipal Finance Law Since 1971

PUBLIC RECORDS - MARYLAND

Action Committee for Transit, Inc. v. Town of Chevy Chase

Court of Special Appeals of Maryland - September 1, 2016 - A.3d - 2016 WL 4570428

Public transportation advocacy organization and activist affiliated with organization brought action against town, alleging that the town violated the Maryland Public Information Act (MPIA) when it denied their requests for waivers of fees proposed by town for responding to information requests.

The Circuit Court granted summary judgment in favor of town. Plaintiffs appealed.

The Court of Special Appeals held that:

- Arbitrary and capricious standard of review applied to fee waiver decisions under MPIA;
- Town's decision to deny organization's fee waiver request was arbitrary and capricious; and
- Town's decision to deny activist's fee waiver request was arbitrary and capricious.

The arbitrary and capricious, rather than de novo, standard of review applied to judicial review of town's decision to deny requests for fee waivers made in connection with requests for information under the Maryland Public Information Act (MPIA). De novo review standard for fee waiver disputes under the federal Freedom of Information Act (FOIA) was statutory, and applying the federal statute's prescription that "the court's review of the matter shall be limited to the record before the agency" would burden government units with the obligation of generating a record against the possibility that a dispute will end up in court.

Town's decision to deny fee waiver request made by public transportation advocacy organization in connection with its request for information under the Maryland Public Information Act (MPIA) was arbitrary and capricious. In its response to organization, town failed to explain the reasons for its decision to deny the waiver request, but it was clear that a significant factor, if not the primary factor, in the town's decision was the fact that the organization had previously criticized town officials for their opposition to light rail project, and town was not permitted to base its fee waiver decision on considerations that violated the organization's free speech rights.

Town's decision to deny fee waiver request made by activist, who was associated with public transportation advocacy organization, in connection with his request for information under the Maryland Public Information Act (MPIA) was arbitrary and capricious. Although town, which did not identify any reason for denying activist's request other than his affiliation with the organization, may have reasonably believed that activist, who submitted and withdrew an MPIA request on behalf of organization within hours of submitting his own request, was acting as a proxy for the organization, the town's denial of the organization's fee waiver request was not based on legitimate concerns.