

Bond Case Briefs

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DECLARATORY JUDGMENT - MARYLAND

Dzurec v. Board of County Commissioners of Calvert County, Maryland

Supreme Court of Maryland - January 25, 2023 - A.3d - 2023 WL 383006

County resident brought action seeking a declaratory judgment that county comprehensive plan was “illegally passed” and was “therefore void” because one of the county commissioners had a conflict of interest in the legislation and did not recuse himself.

The Circuit Court granted summary judgment for county. Resident appealed, and the Appellate Court affirmed. Resident petitioned for certiorari review, which was granted.

The Supreme Court held that:

- Maryland common law did not permit resident’s sought declaration that county comprehensive plan was illegally passed because its deciding voter should have recused himself due to a conflict of interest, and was therefore void, and
- Preamble of county ethics code did not demonstrate any unique legislative intent on the part of the county commissioners to create an implied right of action.

Even assuming that county resident had standing, Maryland common law did not permit judicial declaration that county comprehensive plan was illegally passed because its deciding voter should have recused himself due to a conflict of interest, and was therefore void; there was no assertion that the adoption of the plan was inconsistent with the requirements of the Land Use Article or a procedural requirement under the county charter or code for the adoption of a legislative act of the county commissioners, and, under separation of powers principles, court would not void plan based on improper legislative motivation.

Preamble of county ethics code did not demonstrate any unique legislative intent on the part of the county commissioners to create an implied right of action that would permit a taxpayer to obtain a remedy in the form of a judicial declaration invalidating a legislative enactment in circumstances in which a commissioner’s vote on a legislative action violated the conflicts of interest provisions contained in the county ethics code; county ethics code was substantially the same as the model local ethics laws created by the State Ethics Commission, while preamble was the same as the language in the General Assembly’s legislative findings in the Maryland Public Ethics Law, the preamble of the another county’s ethics code, and the model ethics laws established by the State Ethics Commission.