ZONING & PLANNING - VIRGINIA

SAS Associates 1, LLC v. City Council for City of Chesapeake, Virginia

United States Court of Appeals, Fourth Circuit - January 24, 2024 - F.4th - 2024 WL 252812

Landowners who wanted to wanted to combine their properties to create a 90-acre development brought action against city council under § 1983 and state law alleging the city council's denial of the landowners' applications to have their properties rezoned violated their Fourteenth Amendment right to equal protection as well as their rights against unconstitutional rezoning limitations under Virginia law.

The United States District Court for the Eastern District of Virginia granted the city council's motion to dismiss, and landowners appealed.

The Court of Appeals held that:

- Council member's expressed opposition to landowner's application were not pretexts for discriminatory animus and thus did not support equal protection claim, and
- Comparator developments cited by landowners were not similarly-situated and thus did not support equal protection claim.

Council member's opinions regarding traffic congestion, drainage, and school capacity, which she expressed during public hearing in opposing landowners' revised application to have their properties rezoned in order to create a 90-acre development on their properties, were not pretexts for discriminatory animus and thus did not support landowners' § 1983 claim the city council's denial of their revised application violated their Fourteenth Amendment right to equal protection; council member discussed precisely the kinds of things local governments routinely discussed in considering zoning matters, her concerns echoed those of the community regarding mitigating flooding, traffic, and school overcrowding, and whether those concerns were unfounded was a dispute best umpired by city council.

Ten comparator developments cited by landowners were not similarly-situated to landowners' proposed 90-acre development, and thus, city council's alleged differential treatment of comparator developments did not support landowners' § 1983 claim that council violated their equal protection rights by treating them differently from others who were similarly situated when it denied landownwers' rezoning applications; nine of ten comparator developments were constructed between 60 and ten years before landowners' applications were denied, in intervening ten years influx of more than 25,000 new residents came into city, and, unlike landowners' proposed development, comparator developments neither included a commercial component nor sought same combination of zoning classifications as landowners.

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