ZONING & PLANNING - VIRGINIA

Morgan v. Board of Supervisors of Hanover County

Court of Appeals of Virginia - March 4, 2025 - S.E.2d - 2025 WL 676542

Homeowners near proposed grocery distribution center brought action against county board of supervisors and grocery store seeking declaratory judgment and injunctive relief, alleging that board violated state law when it approved grocery store's rezoning request.

The Hanover Circuit Court sustained demurrers and dismissed homeowners' amended complaint with prejudice. Homeowners appealed. The Supreme Court reversed and remanded. On remand, homeowners filed a second amended complaint. The Circuit Court, Hanover County, sustained demurrers as to four counts, overruled demurrers as to remaining counts, and entered voluntary nonsuit of those claims. Homeowners appealed.

The Court of Appeals held that:

- Board was not precluded from filing demurrers to homeowners' second amended complaint on the basis that the claims did not state a cause of action and failed to state a claim upon which relief could be granted;
- Board's in-person public hearing on rezoning request constituted an "operation of government," and thus was not prohibited by Governor's executive orders declaring a state of emergency due to COVID-19 pandemic;
- Board did not deprive homeowners of their right to adequate notice of hearing on rezoning request so that persons affected could appear and present their views;
- Board did not violate Virginia Freedom of Information Act (VFOIA) by limiting number of people who could be in room for hearing on rezoning request; and
- Proffered amendments to rezoning application made on day of hearing were more restrictive than proffers previously submitted, and thus were permitted under county ordinance.

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