

From: Gilbert, Steven M. [mailto:smgilbert@co.pg.md.us]
Sent: Wednesday, July 09, 2008 5:14 PM
To: [sent to citizens who contacted their Council person]
Cc: Dean, Samuel H.; Johnson, Nellvenia W.; Smith, Patricia L.; Williams, Robert J.
Subject: Gosain v. County Council

FR: Steve Gilbert, Principal Counsel, District Council
CC: Samuel H. Dean, Chair, County Council sitting as District Council
Robert J. Williams, Deputy Council Administrator
RE: Rishi Gosain, et al. v. County Council, sitting as District Council, et al., Ct Appls Md, No. 26, Sept. Term 2008

Your e-mail notes to the Council Chairman, Mr. Dean, indicate that you do not know what this case is about or what the court may decide.

At the request of Mr. Dean, I offer the following current information about the case.

1. The Gosain case concerns a property called Steeplechase, at Ritchie-Marlboro Road and the Capital Beltway, where a new WaWa gas station is proposed. As part of the application process for the Steeplechase project, including the WaWa station, the District Council approved a site plan.
2. The site plan was opposed by Rishi Gosain, operator of Campus Way Exxon, and Abid Chaudhry, operator of Capitol Heights Amoco. They believe that a WaWa at Steeplechase will adversely affect their gasoline and convenience food sales. Before the District Council, Gosain and Chaudhry, represented by Macy Nelson, argued that the Steeplechase plan should not be approved. But the Council approved the site plan, with conditions.
3. Gosain and Chaudhry, now represented by Susan Gray, filed a petition in circuit court, seeking reversal of the Council's order approving the Steeplechase plan. The Steeplechase developer defended the case, with the Council. The circuit court granted the motion to dismiss filed by Steeplechase (and joined by the Council): It was not disputed that neither Gosain nor Chaudhry resides in Prince George's County, and the court held that individual petitioners must be residents. (Gosain and Chaudhry mistakenly did not name their businesses as petitioners.)
Gosain testified in the circuit court that his only interest in the Steeplechase case was to prevent the opening of WaWa, which would hurt his sales. He cited the interests of his business and his employees. Chaudhry did not appear and gave no testimony.
4. On the appeal of Gosain and Chaudhry, the Court of Special Appeals affirmed. The court held that the circuit court correctly dismissed the Gosain-Chaudhry petition and that neither gas station operator had the right, under Maryland law, to court review of the District Council's order approving the Steeplechase plan.
5. Gosain and Chaudhry - not Steeplechase, and not the Council - filed a petition in the Court of Appeals. The Council filed an opposition to the petition. The Court of Appeals granted the petition and set the case for argument in November.
6. Unless the Gosain case is dismissed, by Gosain himself or by the court, the Court of Appeals will likely decide whether he may file a petition for review of the Steeplechase order, even though he does not reside in or own property in Prince George's County. If the court says that state law, the Regional District Act, does not require residency, then the court may consider the defense raised by the Council (and also the Steeplechase developer) that Gosain's purpose in opposing Steeplechase is improper, to prevent business competition from WaWa. The Council and Steeplechase argue that Gosain has no legitimate interest in Steeplechase and that his petition should be dismissed for that reason.
7. The Gosain case concerns only the Exxon operator, the Amoco operator, the WaWa developer, and the District Council. No citizen is involved, no citizens association is involved, no citizen rights are involved, no resident or taxpayer is involved, and the court will not rule on the rights of citizens in zoning cases.