



## The Kangaroo Court of Howard County

Imagine sitting in a courtroom.

This particular courtroom hears cases on zoning and land use. From time-to-time, the court makes a determination on whether a proposal is "guilty" or "not guilty" of not satisfying or satisfying the criteria set forth by the "statute" or zoning law.

There are two parties to the case.

On one side is the Petitioner, represented by a very experienced land-use and zoning attorney. The Petitioner is well-funded, has all the experts at his disposal, and the attorney is steeped in the arcane procedures of a court trial.

On the other side is the community stakeholder - perhaps living in close proximity to the proposed development. This stakeholder is sometimes very knowledgeable of zoning and has perhaps served on various committees and task-forces within the county related to zoning and land-use. Most times however, the community stakeholder has minimal knowledge of the issue. Also, the stakeholder is not an attorney and yet s/he will serve as the opposition "attorney".

This is strikingly unusual, because in court proceedings, even attorneys are advised against representing themselves.

So, even before the trial starts, the imbalance is already baked-in.

But wait, there is more!

Lets say that the Judge - personified by the Howard County Planning Board - is composed of civic-minded volunteers who are taking time out of their busy lives to serve their community.





In previous cases, this Judge has demonstrated a clear bias toward one side - the Petitioner. On case-after-case, the Judge votes on the side of the Petitioner. The Judge is not a lawyer either, has zero experience in trial proceedings, and has as much understanding of the zoning law as the community stakeholder. If not lower.

Lets say the Law Enforcement is personified most prominently by the Department of Planning and Zoning (DPZ), but there are also other parties - the County Executive, Parks and Recreation, Department of Public Works, etc.



The Law Enforcement or DPZ gathers pertinent evidence on the proposal and provides a "police report" or recommendation to the court for trial. Historically, the reports have been favorable to the Petitioner and there is a clear impression that the Law Enforcement division does not think that there is such a thing as a "bad petitioner".

This is the backdrop against which I witnessed the hearings on the Settlement at Savage, which were heard in front of the Howard County Planning Board over the last few months.

Here is a quick summary of the case.

The Petitioner needs to prove that the proposed plan meets the requirements of the R-H-ED (Residential: Historic-Environmental District) zone-type. This particular case is quite unique because it is precedent-setting in two ways.

First, the R-H-ED zone-type, which is intended to be implemented in such a way as to protect the environmental and historic features of the area, is new. How the current proposal is evaluated against the criteria of the zone-type is precedent-setting since future applicants can point to this case and demand the same treatment.



Second, the proposal hinges on a land-swap. The developer is counting on converting public parkland. The parkland was bought and is maintained by taxpayer dollars. To make matters worse, the developer hopes to exchange the useless, steep-slope land for usable, relatively flat land without paying a premium. Again, future proposals can demand the same treatment based on the outcome of this decision.



Throughout this year, the Planning Board held over 16 hours of trial over five hearing dates.

In fact, I testified at one of those hearings. Feel free to view the video shown [here](#).

Several witnesses were brought to the hearings by both the Petitioner and community stakeholder. Throughout the proceedings a pattern emerges. The Petitioner's attorney is able to present witnesses or experts who go through their points relatively unperturbed by the opposition. While the Petitioner's attorney peppered the community with a barrage of objections as they presented their case.



The Petitioner took maximum advantage of the quasi-judicial format of hearing cases, while the stakeholder did not. Potentially, legitimate environmental concerns and concerns over strains on public infrastructure will be overlooked or ignored because they were not presented in the procedurally appropriate fashion.

Nevertheless, compelling evidence was provided by the community regarding the plan's multitude of flaws. So much so that the Petitioner requested another hearing date in order to put on a rebuttal to address the issues that were raised.

In the end, none of it mattered.

It took the Board the most of 40 minutes of work-session to decide a case that took 16 hours and five days to present. It spent 2.5 minutes for every hour of case testimony. Thousands of pages of evidence was presented and not one of these pages was considered during the work-session.



None of it mattered.

In the end, the vote was 4-0 for the Petitioner.

It turns out that the community had NO chance because it was a predetermined outcome. It left me speechless as the Board voted. None of the issues raised during the trial proceedings were raised. At all. The Board took less time to decide the case than it would take to make a selection from a dinner menu.

It was all a show.



So what is next?

As stated, the proposal hinges on the approval of the land-swap, which will be considered by the County Council. The County Council will determine whether or not to give away parkland that was paid for using taxpayer dollars to special interests.

It is no secret that Howard County is a developer-friendly county and past actions do not provide assurance that a fair consideration will be made in this case. If the Council decides to give away this land, the developer once again profits on the back of the taxpayer.

This is not just a Savage, MD issue because the taxpayer dollars belong to everyone in the county. Adverse consequences from this decision will cost every taxpayer in the county. Furthermore, the precedent set with this proposal will affect other R-H-ED zones in the county as well as other land-swap proposals. Anyone who lives in Howard County is a stakeholder in this outcome.

We need to stand up for our interests and demand that our elected officials do the same. When the issue comes before the County Council, tell your Council member to vote NO on the land-swap.

