

Environment & Energy

Maryland Court Safeguards Challenges to Forest Clearing Projects

By Zach Bright

Aug. 29, 2022, 5:04 PM

- State court ensures legal protections for forests
 - Forests have protections like wetlands, critical areas
-

Maryland development projects that call for deforestation can be legally challenged after they're approved, the state's Court of Appeals judges wrote in a majority opinion.

The court sided with the plaintiffs, led by the Chesapeake Bay Foundation, who challenged a forest conservation plan led by defendants—CREG Westport I LLC, and Harford Investors LLP—and approved by Maryland's Harford County. Developers are responsible for outlining those plans to clear forests for construction under Maryland's Forest Conservation Act.

The opinion, released Friday, clarified that the act enables citizens, nonprofits, and community groups to challenge construction projects even if a county or city is reviewing the project's site plan. It also guarantees forests receive similar protections to wetlands and critical areas also safeguarded under Maryland law.

In the case, Harford County had approved and granted a waiver to clear 220 acres of forest including 49 large, old-growth trees while the county's general development approval process was underway. The Chesapeake Bay Foundation challenged the plan in lower courts, arguing that the developer should have to protect more of the trees.

In lower court, the forest conservation plan was deemed unapproved because the entire project was still awaiting approval, the position the developers took. The new opinion from the Court of Appeals said that the plan was in fact approved and open to legal challenges.

Now, the Chesapeake Bay Foundation, a nonprofit dedicated to bay restoration, plans to advance a challenge to the plan in Harford County Circuit Court. The group says it doesn't believe the plan meets conservation requirements under state law.

“Every piece of forested land in the state is integral in helping Maryland combat climate change and improve Chesapeake Bay water quality,” the group’s litigation director, Paul Smail, said in a statement “Today the court recognized the importance of the state’s forest protection law and ensured attempts to bypass the law can be easily challenged in court.”

The foundation is seeking relief for citizens affected by the forest already cleared by the developers during the pending Court of Appeals case.

In Friday’s opinion, Judge Brynja M. Booth wrote the majority opinion. Judge Michele D. Hotten was joined by Judge Joseph M. Getty, who was specially assigned to the case.

Attorneys Paul Smail and Miranda Jensen from the Chesapeake Bay Foundation represented the plaintiffs. Snee, Lutche, Helmlinger & Spielberger PA represented the defendants.

The case is Chesapeake Bay Found. v. Creg Westport I, No. C-12-CV-20-000022, 8/26/22.

To contact the reporter on this story: Zach Bright at zbright@bloombergindustry.com

To contact the editor responsible for this story: Renee Schoof at rschoof@bloombergindustry.com

Topics

wetlands
forests
climate change mitigation

© 2022 The Bureau of National Affairs, Inc. All Rights Reserved