

SUPREME COURT OF VIRGINIA



SUPREME COURT BUILDING
100 NORTH NINTH STREET
RICHMOND, VIRGINIA 23219
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Granted Appeal Summary

Case

MID-ATLANTIC ARENA, LLC v. CITY OF VIRGINIA BEACH
(Record Number 191020)

From

The Circuit Court of the City of Virginia Beach; H.T. Padrick, Jr., Judge.

Counsel

Samuel W. Meekins, Jr., Adam M. Carroll, John F. Sawyer (Wolcott Rivers Gates), Mark F. Bideau, Andrea Shwayri Ferraro (Greenburg Traurig, P.A.), and Robert F. McDonnell for appellant.

Gary A. Bryant and Brett A. Spain (Willcox & Savage P.C.) for appellee.

Assignments of Error

1. The trial court erred when it held the closing did not satisfy the terms of the Development Agreement and therefore the City termination was proper.
 - a. The trial court erred when it held that the Development Agreement required at closing (i) the Loan to be “fully funded” and (ii) the AEG capital contribution to be in place because it was “too big” to be a post-closing item.
 - b. The trial court erred when it held that a Support Agreement between third parties was a construction loan document the City had a right to review and approve and that Developer breached the Development Agreement because the Support Agreement was not provided to the City.
2. The trial court erred when it failed to find that the City’s admitted refusal to cooperate with the closing and refusal to convey the property constituted breaches and repudiations of the Development Agreement.
3. The trial court erred when it relied upon extrinsic evidence, personal experience as a practicing attorney on residential loan closings and stated sympathy to erroneously construe the unambiguous Development Agreement to support the City’s termination.