



2013

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Recommended Citation

Philpotts, Brett H. (2013) "Recent Developments: Long Green Valley Ass'n v. Bellevale Farms, Inc.: Non-Party "Interested Persons" Lack Standing to Enforce an Agricultural Preservation Easement Created between a Private Landowner and a State Agency Where the Easement Was Not a Charitable Trust," *University of Baltimore Law Forum*: Vol. 44 : No. 1 , Article 9.
Available at: <http://scholarworks.law.ubalt.edu/lf/vol44/iss1/9>

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RECENT DEVELOPMENT

LONG GREEN VALLEY ASS'N V. BELLEVALE FARMS, INC.: NON-PARTY "INTERESTED PERSONS" LACK STANDING TO ENFORCE AN AGRICULTURAL PRESERVATION EASEMENT CREATED BETWEEN A PRIVATE LANDOWNER AND A STATE AGENCY WHERE THE EASEMENT WAS NOT A CHARITABLE TRUST.

By: Brett H. Philpotts

In a case of first impression, the Court of Appeals of Maryland held that where a private landowner sold an agricultural preservation easement to a state agency, non-party "interested persons" lacked standing to enforce it because such an easement did not constitute a charitable trust. *Long Green Valley Ass'n v. Bellevale Farms, Inc.*, 432 Md. 292, 68 A.3d 843 (2013). Although the court acknowledged collateral societal benefits created by the easement, because the makers primarily evidenced an economic purpose, no charitable trust was intended or created. *Id.* at 324, 68 A.3d at 862.

In 1997, Bellevale Farms Limited Partnership ("Bellevale") sold an agricultural preservation easement on its dairy farm to the Maryland Agricultural Land Preservation Foundation ("MALPF"). MALPF, a state agency, administered a program to preserve agricultural land and stimulate Maryland's agrarian economy by preserving the minimum acreage required, "to promote the continued availability of agricultural supplies and markets for agricultural goods." If a given tract met the statutory requirements for continued farming and MALPF decided to purchase the easement, the landowner received payment in consideration for restrictions over their use of the tract. In 1997, MALPF agreed to buy an easement ("Easement") on the Bellevale dairy farm subject to restrictions for permissible uses of the parcel, but allowed Bellevale to submit written requests to MALPF for proposals on modified or new uses.

In 2007, Bellevale approached MALPF about its desire to construct a creamery operation and retail store on the dairy farm. The proposal was opposed by concerned citizens: Long Green Valley Association ("LGVA"), an agrarian-focused community association, and John and Susan Yoder ("the Yoders"), owners of real property adjacent to the Bellevale farm.

LGVA and the Yoders initially sought administrative relief before the Deputy Zoning Commissioner for Baltimore County, but the Commissioner found the creamery operation consistent with permissible "R.C.2 Zone" uses. LGVA and the Yoders subsequently filed a complaint in the Circuit Court for Baltimore County seeking three forms of relief: a Writ of Mandamus requiring MALPF to enforce the terms of the Easement pursuant to state and local laws, a declaration that the proposed creamery violated the Easement and state and local laws due to the creamery's industrial nature, and an order

indefinitely enjoining the creamery's construction and operation. The circuit court found LGVA and the Yoders lacked standing to enforce the Easement. LGVA and the Yoders appealed to the Court of Special Appeals of Maryland, arguing that because the Easement was a charitable trust, they had standing as non-party "interested persons" as members of the public. The Court of Special Appeals disagreed, reasoning that the Easement was not created with charitable intent or for a charitable purpose; therefore no charitable trust had been created. LGVA and the Yoders then filed a petition for a writ of certiorari, which the Court of Appeals of Maryland granted.

As a question of first impression, the central issue before the Court of Appeals of Maryland was whether an agricultural easement created between a landowner and a State agency constituted a charitable trust and afforded non-party "interested persons" standing to seek enforcement. *Long Green Valley*, 432 Md. at 295-96, 68 A.3d at 845. In deciding the question in the negative, the court first determined that neither Bellevale nor MALPF intended the Easement to be a charitable trust. *Id.* at 310, 68 A.3d at 853. Additionally, the court found that neither Bellevale nor MALPF evidenced a charitable purpose in creating the Easement. *Id.*

The court began its analysis by looking within the four corners of the deed of easement, noting the importance of the language of the agreement in interpreting an express easement. *Long Green Valley*, 432 Md. at 314, 68 A.3d at 856, (citing *Miller v. Kirkpatrick*, 377 Md. 335, 351, 833 A.2d 536, 545 (2003)). Although the parties might not have titled the deed "Bellevale Charitable Trust," their intent might be instructive. *Long Green Valley*, 432 Md. at 317, 68 A.3d at 857-58 (referencing AUSTIN WAKEMAN SCOTT & WILLIAM FRANKLIN FRATCHER, *THE LAW OF TRUSTS* § 2.8, at 50 (4th ed. 1989)). On examining the deed's various sub-parts, the court determined that the language of the agreement demonstrated that the agricultural preservation was intended to benefit the named parties only, exclusive of other persons. *Long Green Valley*, 432 Md. at 319-20, 68 A.3d at 859 (noting specific use of terms such as "the parties," "for themselves," and "its successors and assigns"). The deed also indicated that MALPF may enforce the Easement, but expressly excluded *any other individual* from enforcing it. *Id.* at 320, 68 A.3d at 859 (emphasis added). Additionally, the deed's language specified that MALPF was the only authority entitled to approve proposed uses. *Id.* Since only the grantor or grantee could institute legal action to compel action or forbearance, and because only MALPF could approve proposed uses, the court found that the plain language of the deed indicated it was created for the sole benefit of the named parties. *Id.* at 320, 68 A.3d at 859-60. Appropriately, the court determined that a critical element for the creation of a charitable trust, the requirement that the trust be created for purposes beneficial to the community, was not satisfied. *Id.* at 316, 68 A.3d at 857.

The court then evaluated whether the Easement was created for a charitable purpose. *Long Green Valley*, 432 Md. at 321, 68 A.3d at 860. A fundamental requirement of valid charitable trusts is that the trustee (MALPF

in the present case) would administer the property for the benefit of other persons. *Id.* at 319, 68 A.3d at 859, (citing *From the Heart Church Ministries, Inc. v. African M.E. Zion Church*, 370 Md. 152, 181-82, 803 A.2d 548, 566 (2002)). Language from the MALPF statute indicated legislative intent to mitigate urban expansion and protect agricultural and woodland spaces. *Long Green Valley*, 432 Md. at 323, 68 A.3d at 861, (quoting MD. CODE ANN., AGRIC. § 2-501) (West 2013)). By looking to the deed's language, however, the court reasoned that the principal objective of the Easement was profitable farming. *Long Green Valley*, 432 Md. at 321-22, 68 A.3d at 860 (noting that the expressly reserved activities included normal farming practices, primary processing of agricultural products, and storage or sale of farm products).

The court additionally stated that the deed's language was largely consistent with the statutory provision governing the MALPF program at the time the Easement was executed. *Long Green Valley*, 432 Md. at 322, 68 A.3d at 860-61. The statute "permitted operation of farm machinery, primary processing of agricultural products, and sale of farm products produced on the farm where such sales are made." *Long Green Valley*, 432 Md. at 322, 68 A.3d at 860-61, (quoting MD. CODE. ANN., AGRIC. § 2-513(a)(2)-(3)). The Easement terms largely matched the statutory terms, showing that MALPF intended to administrate the property not for the general public, but for the economic benefit of Bellevale. *Long Green Valley*, 432 Md. at 322, 68 A.3d at 861.

In *Long Green Valley*, the Court of Appeals of Maryland held that although the State purchased a dedicated parcel of land from a private landowner, the State did not become a charitable trustee over that parcel. Non-party "interested persons" will not have standing to seek enforcement where the easement was not created with charitable intent and did not have a charitable purpose. As a result, Maryland practitioners should be aware that where easements are purchased through MALPF, aggrieved nonparties will likely lack standing to pursue legal causes of action. Concerned citizens, however, still retain the ability to seek administrative relief before their local zoning boards.