Circuit Court for Calvert County
Case No. 04-C-16-000978

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 1403

September Term, 2017

ECHO CALVERT ASSOCIATES, LLC

v.

MAR-BER DEVELOPMENT CORPORATION

Meredith,
Kehoe,
Friedman,

JJ.

Opinion by Kehoe, J.

Filed: January 9, 2019

This appeal is from a judgment of the Circuit Court for Calvert County, the Honorable E. Gregory Wells, presiding, granting injunctive and declaratory relief in favor of Mar-Ber Development Corporation against appellant Echo Calvert Associates, LLC. At issue is whether Echo interfered with Mar-Ber's right to use an easement across a portion of Echo's property. Echo raises five issues, which we have consolidated and reworded:

1. Whether the documents establishing the easement prohibit Echo from placing improvements within the easement area?

2. Are the relevant recorded instruments creating the easement ambiguous?

3. Whether the holding in *Millson v. Laughlin*, 217 Md. 576 (1958), and the terms of Restatement 3d of Property, Servitudes, § 4.8 (3rd Ed. 2000) permit Echo to relocate the easement without Mar-Ber's consent?

4. Whether the circuit court abused its discretion by ordering the removal of the improvements before Mar-Ber developed its property?

We will affirm the judgment. We conclude that the terms of the recorded instruments are not ambiguous, and that they do not permit Echo to obstruct the easement in the ways that it has in the present case. Neither *Millson* nor § 4.8 of the Restatement change that conclusion. The easement gives Mar-Ber the right to use it to access its property regardless of whether it is in the process of development, and the trial court did not abuse its discretion in ordering Echo to remove the obstructions.

BACKGROUND

A. The properties and the easement

Echo and Mar-Ber own contiguous commercially-zoned properties on the outskirts of Prince Frederick, Maryland. The Echo Property is bounded by Maryland Route 4 to the east, West Dares Beach Road to the north, and partially by North Prince Frederick Boulevard to the west. The Calvert Village Shopping Center ("the Shopping Center") is located on the Echo Property, and is operated by Echo. To the west and south of the Echo Property lies the Mar-Ber Property. It is an undeveloped, heavily-wooded parcel, with no existing access to any of the roads just mentioned.

The properties were once commonly-owned, but were severed in the early 1970s. In 1973, Echo's predecessor-in-interest recorded a document in the land records that, among other things, established a twenty-five-foot wide, non-exclusive access and utilities easement for the benefit of what is now the Mar-Ber Property. The location of parts of the easement have changed from time to time. Currently, it begins at West Dares Beach Road, wends its way through the Echo Property, and follows the common boundary of both properties for some distance before its termination. We will refer to that portion of the easement along the common boundary as the "Access Strip." The 1973 Declaration reserved for Echo and its successors:

> the right to relocate and/or change the size of such access road at any time in the sole discretion of the Declarant or of any future Owner of [the Echo Property] or any part thereof; provided only that the Declarant or such future Owner of [the Shopping Center] shall continue to provide access from [the

> Mar-Ber Property] across [the Echo Property] to West Dares Beach Road [and] . . . .
>
> * * *
>
> the right to close temporarily all or any portion of said access easement to such extent, in the opinion of Declarant or the then Owners of [the Echo Property], as may be legally necessary and sufficient to prevent a dedication thereof or any accrual of rights in any person other than as aforesaid or in the public generally.

The 1973 Declaration also stated:

> In the event of future expansion of [the] Shopping Center by the construction of improvements on parts of [the Echo Property] . . ., then it is contemplated that this Declaration and Grant will be amended as necessary in order to provide access to West Dares Beach Road from all parts of [the] Shopping Center.

On August 2, 1985, the 1973 Declaration was amended. This 1985 Amendment was executed for the purposes of "relocat[ing] and enlarg[ing] the uses and purposes of the access easement created by the 1973 Declaration. . . .". The 1985 Amendment reserved to Echo

> the right to make any use of the Replacement Easement that is not inconsistent with the rights herein conveyed to [Mar-Ber], and [that] does not interfere with the use of said easement for its intended purpose.

The 1985 Amendment also stated that:

> All easements granted pursuant to this Easement Agreement shall be utilized in such a manner as to cause the least practical amount of disruption to the businesses conducted on the properties affected by such easements.

Finally, the 1985 Amendment reiterated that:

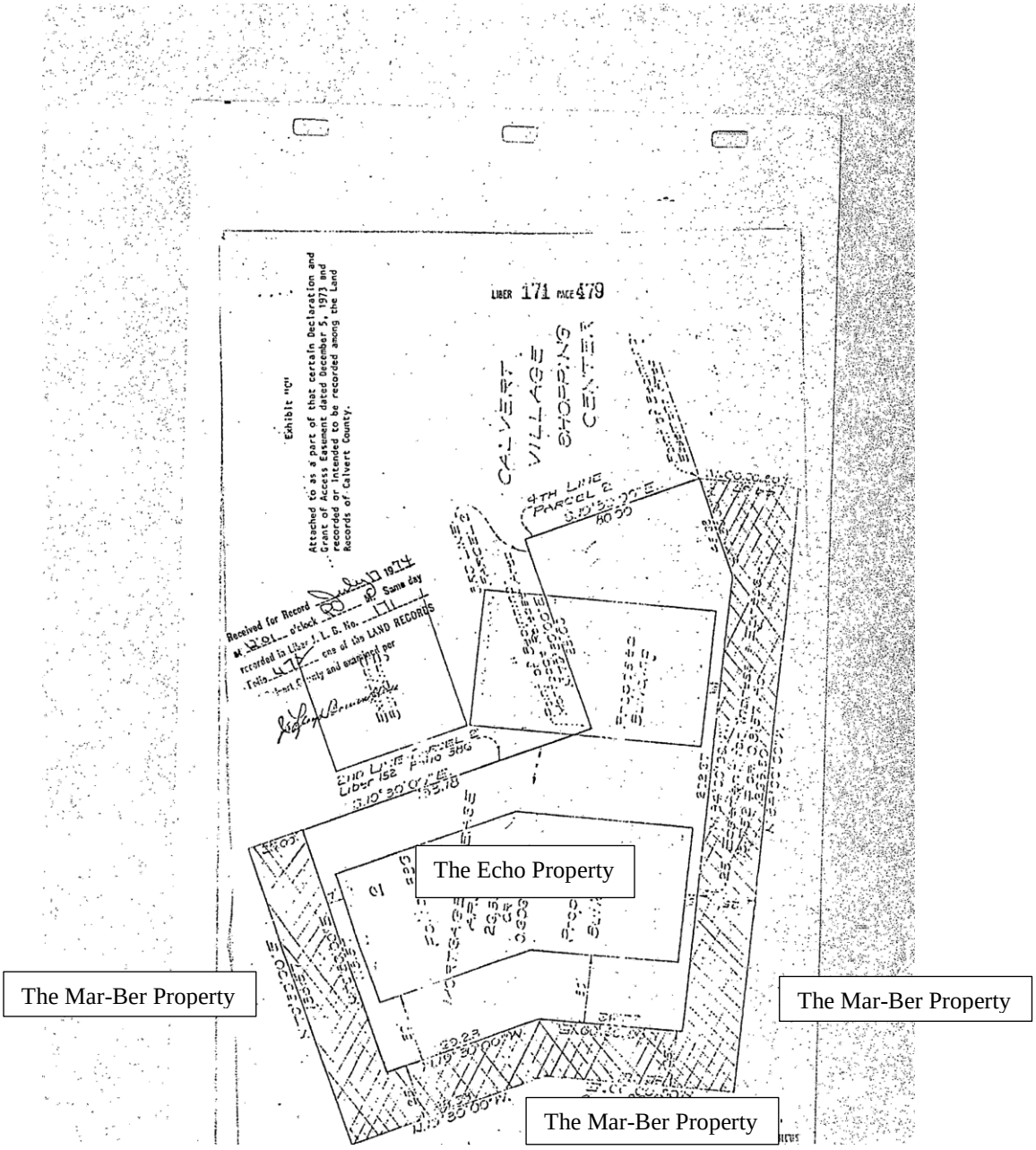
> [Echo], and the trustees of any deeds of trust encumbering [Echo's] real property may relocate and/or change the size of said easement, provided that access from the real property described in the Declaration to West Dares Beach Road is continued.

Last came the 2002 Settlement Agreement. As well as being Echo's neighbor, Mar-Ber is also one of its commercial tenants, and leases a building located on the westerly part of the Echo Property. This relationship began with Echo's predecessor-in-interest. In the early 2000s, a litigation arose between Echo's predecessor and Mar-Ber over their commercial lease. While the case was pending, the parties resolved the matter and executed a settlement agreement in April 2002, which they amended in March 2003. While the 2002 Settlement Agreement primarily addressed issues relating to the terms of the commercial lease, it also addressed a proposed expansion of the Shopping Center. Of particular relevance is paragraph 15, which reads:

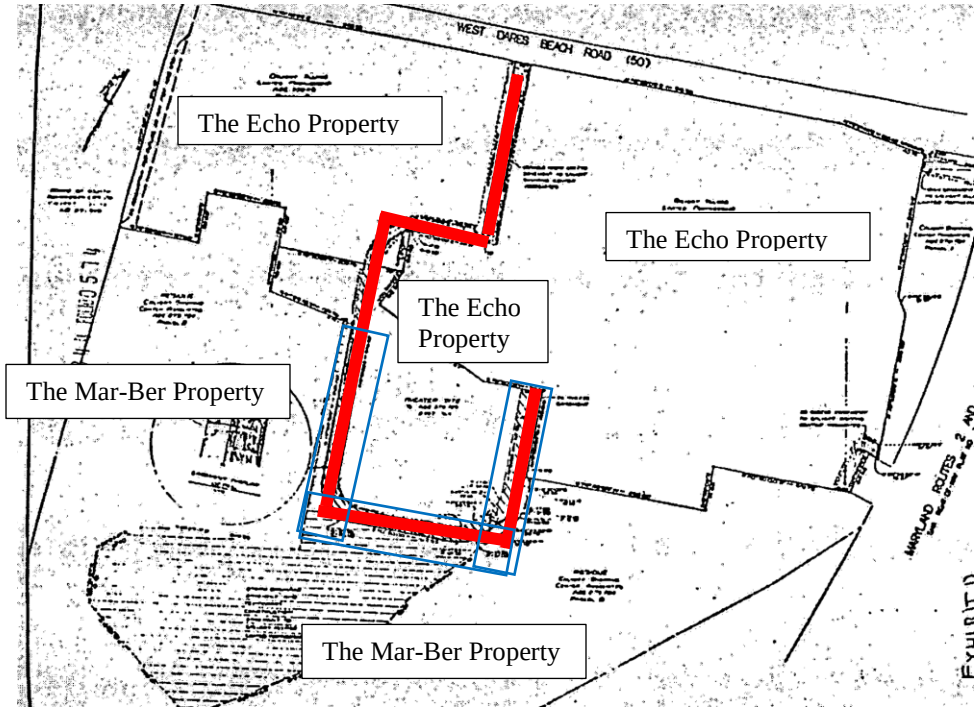
> The parties will enter into a reciprocal parking agreement regarding ingress and egress between the parcels that covers the entire shopping center and any future development on the 16 acres of land owned by Mar-Ber adjacent to the Shopping Center. In addition, the parties would agree to cooperate when the 16 acres is developed on a cross parking agreement mutually advantageous to both properties. In this respect, "mutually advantageous" means an agreement prompting the county to reduce the required parking ratios on both the shopping center and the 16 acres.

As we noted, the location of area subject to the easement has shifted from time to time. Counsel aptly characterize its current configuration as an "upside-down question mark." It must be noted that, in every form the easement took, it always maintained an Access Strip along the common boundary of the properties. We will refer to the 1973 Declaration, 1985 Amendment, and 2002 Settlement Agreement, collectively, as the Recorded Instruments. Three stages of the easement are depicted below.

This plat map, an exhibit to the 1973 Declaration, shows the original location of the easement (shaded portion).



This plat, an exhibit to the 1985 Amendment, depicts the easement (red line) shifted to the opposite side of the Shopping Center, and depicts what was then the Access Strip (blue box)



Finally, the current location of the easement (red line) is depicted in the following photograph taken from the record. The Access Strip is depicted by the blue box, and the area at issue is depicted by the yellow box.

B. The Current Dispute

In the summer and fall of 2014, Echo performed substantial construction within the area at issue—that is, within a portion of the Access Strip. This included designating nineteen parking spaces; building two raised traffic islands, planted with bushes and trees; placing nineteen concrete parking bumpers at the end of each parking space; installing concrete curbing along the length of the easement, and constructing an above-grade stormwater drain (collectively, "the Improvements"). The parties do not dispute that the Improvements lie within the Access Strip of the easement. Further, it is not disputed that Echo did not consult with or ask the permission of Mar-Ber before constructing the Improvements.

These changes were not to Mar-Ber's liking and it filed a civil action against Echo in November 2016, seeking a declaratory judgment that the Improvements violated the terms of the Recorded Instruments and permanent injunctive relief. A month later, Echo responded with a counter-claim for declaratory relief, contending that the Improvements are in harmony with the Recorded Instruments; Echo also sought an injunction enjoining Mar-Ber from further interference with the Improvements.

In the spring of 2017, the parties filed cross motions for summary judgment. The circuit court, on September 9, 2017, granted summary judgment in favor of Mar-Ber. The circuit court, relying heavily on the principles in *Miller v. Kirkpatrick*, 377 Md. 355 (2003), discussed *infra*, concluded that:

(1) the Recorded Instruments intended to grant Mar-Ber a right-of-way across the Echo Property to West Dares Beach Road;

(2) this right-of-way constituted an express grant of an easement, giving Mar-Ber a non-possessory interest in the Echo Property;

(3) Echo, as the servient estate, may not unilaterally interfere with the easement without Mar-Ber's consent;

(4) the Improvements interfere with Mar-Ber's use and enjoyment of the easement;

(5) the language of the 2002 Settlement Agreement, particularly paragraph 15, contemplated that both parties are supposed to work collaboratively with regard to any construction within the parking lot in which the easement lies;

(6) the Improvements were not "reciprocal" or "mutually advantageous," as required by paragraph 15; and

(7) the fact that Mar-Ber's Property is undeveloped does not permit Echo to impede the use of the easement.

Concluding that Echo must remove the Improvements, the court then addressed when they must be removed. After considering the nature of the Improvements and that Mar-Ber's Property is undeveloped, the circuit court ruled that Echo would have six months from the date of the order to remove the Improvements, allowing Echo time to relocate the parking spaces if it desired to do so.

Echo filed a timely appeal of the order, prompting the circuit court to stay the injunction pending our disposition.

The Standard of Review

After a party has filed a motion for summary judgment pursuant to Maryland Rule 2-501, the circuit court:

> shall enter judgment in favor of or against the moving party if the motion and response show that there is no genuine dispute as to any material fact and that the party in whose favor judgment is entered is entitled to judgment as a matter of law.

Md. Rule 2-501(f).

When a trial court resolves matters of law by summary judgment in declaratory judgment actions, we will review such actions

> [to] determine whether it was correct as a matter of law and accord no deference to the trial court's legal conclusions. The interpretation of plats, deeds, easements, and covenants has been held to be a question of law. Additionally, the "primary consideration in construing the scope of an express easement is the language of the grant."

Emerald Hills Homeowners' Ass'n, Inc. v. Peters, 446 Md. 155, 161-62 (2016) (*quoting Chevy Chase Land Co. v. United States*, 355 Md. 110, 143 (1999)) (some citations omitted). In construing the 1973 Declaration, the 1985 Amendment, and the relevant portion of the 2002 Settlement Agreement, we must "ascertain and give effect to the intention" of the parties. *Miller v. Kirkpatrick*, 377 Md. 335, 351 (2003). Maryland courts interpret instruments purporting to convey interests in land by applying principles of contract interpretation. *Miller v. Kirkpatrick*, 377 Md. 335, 351, (2003). As this Court explained in *Gunby v. Olde Severna Park Improvement Association*, 174 Md. App. 189, 242–43, *aff'd*, 402 Md. 317 (2007):

> These principles require consideration of the character of the contract, its purpose, and the facts and circumstances of the parties at the time of execution. . . .
>
> * * *
>
> We construe a deed without resort to extrinsic evidence, if the deed is not ambiguous. In interpreting a deed whose language is clear and unambiguous on its face, the plain meaning of the words used shall govern without the assistance of extrinsic evidence.

An injunction is "a writ framed according to the circumstances of the case commanding an act which the court regards as essential to justice, or restraining an act which it esteems contrary to equity and good conscience." *Maryland Commission on Human Relations v. Downey Communications*, 110 Md. App. 493, 515 (1996) (*quoting* 12 Maryland Law Encyclopedia, *Injunctions*, § 1 at 250). Thus, injunctive relief "'is a preventative and protective remedy, aimed at future acts, and is not intended to redress past wrongs.'" *Carroll County Ethics Commission v. Lennon*, 119 Md. App. 49, 58 (1998) (*quoting* Black's Law Dictionary 784 (6th ed. 1990).

Injunctions are a form of equitable relief, and we review a court's ultimate decision to grant or deny a request for one for abuse of discretion. *El Bey v. Moorish Science Temple of America*, 362 Md. 339, 353 (2001). Courts have articulated what constitutes an "abuse of discretion" in various ways. For example, a court abuses its discretion when it engages in "an obvious error in the application of the principles of equity." *El Bey*, 362 Md. at 355. A discretionary ruling by a trial court will not be reversed by an appellate court simply because appellate judges believe that they "would not have made the same ruling." *North v. North*, 102 Md. App. 1, 14 (1994). Instead,

> [t]he decision under consideration has to be well removed from any center mark imagined by the reviewing court and beyond the fringe of what that court deems minimally acceptable. That kind of distance can arise in a number of ways, among which are that the ruling either does not logically follow from the findings upon which it supposedly rests or has no reasonable relationship to its announced objective.

Id.

The parties agree that there were no disputed facts in this case. In injunction actions, as in all other appeals, we exercise *de novo* review over questions of law. *State v. Falcon*, 451 Md. 138, 157-58 (2017).

ANALYSIS

"The intention of the parties at the time the easement was granted is the North Star guiding our interpretation of it." *Long Green Valley Ass'n v. Bellevale Farms, Inc.* 434 Md. 292, 314 (2013). Consistent with the admonition, Echo bases its argument on the language in the Recorded Instruments. Echo asserts that the Recorded Instruments "contemplate that a right-of-way would be created for the benefit of the Mar-Ber parcel to provide access to West Dares Beach Road." But, Echo contends, the Recorded Instruments permitted it to construct the Improvements within the easement without Mar-Ber's consent. Echo and the circuit court took diverging paths in following this "North Star" of interpretation. Determining where they diverged is the key to setting Echo on the correct path.

An easement is a "non-possessory interest in the real property of another that can arise either by express grant or implication," *Emerald Hills Homeowners' Ass'n, Inc v. Peter*, 446 Md. 155, 162 (2016) (quoting *Clickner v. Magothy River Ass'n*, 424 Md. 253, 268 (2012), and can be created by express grant, by reservation in a conveyance of land, or by

implication. *Kobrine, L.L.C. v. Metzger*, 380 Md. 620, 635 (2004). Here, it is not disputed that an express easement was created by the 1973 Declaration.

As a general rule, express easements may not be altered by the owner of the dominant estate in such a way that would restrict the rights of the servient owner. *Miller v. Kirkpatrick*, 377 Md. 335, 349 (2003). Conversely, the owner of the servient estate may not cause any permanent interference with the reasonable use of the easement by the owner of the dominant estate. *Id*. at 355. It follows then, that an access easement, such as the one in this case, "may not be relocated without the consent of the owners of both the dominant and the servient estates." *Everdell v. Carroll*, 25 Md. App. 458. 473 (1975) (citing *Millson v. Laughlin*, 217 Md. 576, 588 (1958)).

The circuit court, in making its ruling, relied on *Miller v. Kirkpatrick*, 377 Md. 335 (2003). The Court's analysis in that case is particularly instructive. In *Miller*, a twenty-foot wide right-of-way was granted over the Kirkpatricks' property to allow for the ingress and egress, including farm equipment, to the Millers' property. *Miller*, 377 Md. at 342. When the relationship between the Kirkpatricks and Millers deteriorated, Kirkpatrick erected two barbed wire fences along each side of the access road, reducing the width of the right-of-way by forty percent and effectively preventing direct vehicular access from the right-of-way to the Miller farm fields. *Id*. at 343. Both the Circuit Court for Dorchester County and the Court of Special Appeals found for the Kirkpatricks. *Id*. at 347. But the Court of Appeals reversed, concluding that both courts incorrectly "concerned themselves with whether the Kirkpatricks' alteration of the easement, by installation of the fences, afforded

the Millers reasonable access to their home and farm property." *Id*. at 348. Rather, the Court held that "the Kirkpatricks, standing in chain of title as grantors of an express easement, may not unilaterally narrow the right-of-way easement from twenty feet to twelve feet by the installation of the fences." *Id*. The Court concluded that the Millers were entitled to use the entire easement and that the fences were unreasonable because "it is axiomatic that the owner of a servient tenement cannot close or obstruct the easement against those who are entitled to its use in such manner as to prevent or interfere with their reasonable enjoyment." *Id*. at 350 (*quoting Maddran v. Mullendore*, 206 Md. 291, 297 (1955)). The Court further held that "*any* interference of a permanent nature within a right-of-way that obstructs an express easement, created by reservation, for ingress and egress is unlawful as a matter of law and should be ordered removed." *Id*. at 354 (emphasis added).

With these principles in mind, we turn our focus to the parties' arguments. According to Echo, the circuit court failed to consider two provisions in the 1985 Amendment in making its ruling. First, the 1985 Amendment states that "[a]ll easements granted pursuant to this Easement Agreement shall be utilized in such a manner as to cause the least practical amount of disruption to the businesses conducted on the properties affected by such easements[.]" Second, the 1985 Amendment states that Echo can use the easement in a manner "that is not inconsistent with the rights herein conveyed to [Mar-Ber] and does not interfere with the use of said easement for its intended purpose." These two provisions, Echo argues, allow it to use any portion of the easement so long as its use does not interfere with Mar-Ber's use and enjoyment the easement. Echo is correct. Echo further asserts that

the Improvements do not interfere with Mar-Ber's use of the easement. At this point, we part company with Echo.

Echo's argument overlooks the fact that the easement as depicted in the Recorded Instruments gave Mar-Ber the right of ingress and egress at any point, or at multiple points, within the Access Strip. The plat appended to the 1973 Declaration shows the easement as originally proposed: extending from West Dares Beach Road, a sizable portion of the easement wraps its way along the common boundary of the two properties around the right side Shopping Center. The plat map appended to the 1985 Amendment shifts the easement to, more or less, its current state on the left side of the Shopping Center, and continues the trend of wrapping itself along the common boundary of the properties. The three plat maps display a pattern: the easement tracked the common boundary of the two properties—that is, the northern boundary of the Mar-Ber Property and the southern boundary of the Shopping Center—allowing access to the Mar-Ber Property at any point along the common boundary.

The Improvements are inconsistent with what is clearly an intended purpose of the easement. The Improvements consist of nineteen parking spaces, curbs and parking bumpers, islands, and an above-grade stormwater drain. The Improvements, which span some two hundred feet, lie within the Access Strip and inhibit Mar-Ber's ability to access its property anywhere within that area. The raised curbs, parking bumpers, islands, and the stormwater drain block Mar-Ber's access to its property just as effectively as did the fences at issue in *Miller v. Kirkpatrick.* That Echo's Improvements affect only a portion of the

entire easement does not matter here, for Mar-Ber has the right to use the easement from "'the last inch as well as the first inch.'" *Miller*, 377 Md. at 352 (citing *Bump v. Sanner*, 37 Md. 621, 627 (1873).[1] Because "it is axiomatic that the owner of a servient tenement cannot close or obstruct the easement against those who are entitled to its use in such manner as to prevent or interfere with their reasonable enjoyment[,]"*Miller*, at 350, we agree with the circuit court's conclusion that it "cannot find, in light of the circumstances, that the construction at issue was 'reciprocal' or 'mutually advantageous' as the right-of-way is now effectively blocked" because Echo "unilaterally installed parking spaces, traffic islands, plantings, and curb-like abutments along the *access point* of the easement . . . ." (emphasis added).

Echo further claims that the Improvements do not unreasonably interfere with Mar-Ber's use and enjoyment of the easement because it can remove the Improvements at any time. This argument is not persuasive. Echo is correct that the 1975 Declaration allows the servient owner to "close temporarily all or any portion of the said access easement . . . as may be legally necessary and sufficient[.]" Echo contends that the Improvements are "temporary" in an effort to fit them into this provision. But calling the Improvements "temporary" does not make them so. The Improvements, consisting of poured concrete and

[1] We see no difference between this case and *Miller*, in which Mr. Kirkpatrick's fences not only prevented Miller from using forty percent of his right-of-way, but also prevented Miller from accessing his farm fields from the right-of-way. *Miller*, 377 Md. at 343.

concrete curbs, as well as foliage and an above-ground storm water drain, are analogous to the Improvements at issue in *USA Cartage Leasing, LLC v. Baer*, 202 Md. App. 138, 202–03 (2011), *aff'd*, 429 Md. 199, 55 A.3d 510 (2012) ("[P]lanting a row of trees along the boundary with the Baer Parcel [and placing] a row of telephone poles inside the trees had the effect of obstructing the easement and could give rise to a right to both injunctive relief and damages.").

Implicit in Echo's arguments is the idea it is permissible to construct the Improvements within the easement because the Mar-Ber property is currently undeveloped, and because Mar-Ber has no current plans to develop the property. The circuit court was "certain that this fact may not permit Echo to block or move the right-of-way." We agree. There is nothing in any of the Recorded Instruments that conditions Mar-Ber's right to access its property upon development and Echo points to no authority for the proposition that, absent a specific provision in the agreement, a servient estate may interfere with an easement because the dominant estate is undeveloped real property.

Finally, Echo asks us to extend the holding in *Millson v. Laughlin*, 217 Md. 576 (1958), as well as adopt the test set out in the Restatement 3d of Property, Servitudes, § 4.8 (3rd 2000). We will decline Echo's offer and explain why.

At issue in *Millson* was a pole and an electric line, running through Laughlin's property, that provided electricity to Millson, a neighbor. *Millson*, 217 Md. at 581 (1958). Laughlin, who planned to develop the portion of his property over which the power line ran, requested a declaratory decree of his right to relocate the pole and lines. *Id*. at 582. The

Court of Appeals held that Millson had an easement to maintain the electric line across the Laughlin's property, but that this did not mean that she had the right to insist that the pole and line "remain in the exact location previously established." *Id*. at 584. The court reasoned:

> We think it was not the intention of the parties to unduly burden the property now owned by [Laughlin] by freezing for all time the exact location of the pole which is the bone of contention in this case.

Id. Noting that, generally, an easement by grant, either express or implied, cannot be changed without the mutual agreement of the parties, the Court carved out an exception to this rule, distinguishing between the easement at issue in that case and easements of travel. *Id*. at 585. Easements of travel, the Court explained, involve the use of a specific piece of land occupied by a roadway. *Id*. Because such an easement involves the alignment of the road, grading, and stormwater and other drainage, any change of substantial character would materially affect the use of the easement. *Id*. In *Millson*, the Court declined to extend this doctrine to an easement for power lines. *Id*.

Echo, having built the Improvements within the easement without Mar-Ber's consent, requests that we extend the Court's exception in *Millson* and permit Echo to unilaterally relocate the easement.[2]

[2] Echo has offered to relocate that portion of the easement lying within the improvements in the lane between the new parking spaces and the old parking spaces. This proposal was not presented to the circuit court and so is not preserved for our review pursuant to Md. Rule 8-131(a).

Following the Court's distinction in *Millson*, we conclude that the easement running through the Echo Property is an easement of travel because it allows ingress and egress to West Dares Beach Road—such an easement, the *Millson* court held, cannot be unilaterally relocated by the servient owner. In effect, Echo asks us to set aside the *Millson* Court's explicit distinction between utility easements and travel easements. Even if we considered Echo's arguments on this point persuasive—and we do not—this Court "does not have the option of disregarding Court of Appeals' decisions[.]" *USA Cartage*, 202 Md. App. at 181 n.13 (quoting *Johns Hopkins Hospital v. Correia*, 174 Md. App. 359, 382 (2007)).

We also decline Echo's request to adopt the Restatement 3d of Property, Servitudes, § 4.8 (3rd 2000). Section 4.8 reads, in pertinent part:

> (3) Unless expressly denied by the terms of an easement . . ., the owner of the servient estate is entitled to make reasonable changes in the location or dimensions of an easement, at the servient owner's expense, to permit normal use or development of the servient estate, but only if the changes do not
> (a) significantly lessen the utility of the easement,
> (b) increase the burdens on the owner of the easement in its use and enjoyment, or
> (c) frustrate the purpose for which the easement was created.

It is not necessary for us to linger on § 4.8. The text of § 4.8 itself does not support Echo's argument that we should "extend" *Millson* to permit Echo to unilaterally relocate the easement. Both § 4.8 and *Millson* stand for the principal that a servient owner may not frustrate the purpose for which the easement was created. *See* § 4.8(3)(c); *Millson*, 217 Md. at 585. In *Millson*, the Court of Appeals permitted the servient owner to relocate the easement because the purpose of the easement—providing electricity—was not frustrated

by relocating power lines. *Id.* at 584. As we have already explained, the Improvements frustrated the purpose of the easement, and allowing the Improvements to remain is inconsistent with both § 4.8 and the *Millson* Court's reasoning. Echo's arguments on this issue are is not persuasive.

Additionally, as the drafters of the Restatement note in Comment (f) to § 4.8, that section "adopts the civil-law rule that is in effect in Louisiana and a few other states. It rejects the rule espoused by the weight of authority in the United States—that the servient owner may not unilaterally relocate an easement." Maryland follows the majority rule, at least with regard to travel easements. *See, e.g.*, *Millson*, 217 Md. at 584–85. And, we have explained, we are not free to disregard the decisions of the Court of Appeals.

Finally, we turn to the circuit court's order that Echo remove the Improvements. After concluding that the Improvements obstructed Mar-Ber's use of the easement, the circuit court ordered that Echo have six months to remove the Improvements. The court found that six months was appropriate because it allowed Echo time to not only remove the Improvements, but to relocate them as well. Additionally, no immediate removal was necessary, the court held, because the Mar-Ber Property is undeveloped. Not satisfied with this, Echo argues that it should not be required to remove the Improvements until development occurs. Without belaboring the issue, Echo is wrong—Mar-Ber's right to use the easement to access its property is not contingent upon development. We find no abuse of discretion in the circuit court's entirely proper refusal to rewrite the terms of the parties' agreements to Mar-Ber's detriment.

THE JUDGMENT OF THE CIRCUIT COURT FOR CALVERT COUNTY IS AFFIRMED. APPELLANT TO PAY COSTS.