UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No.'s 1521 & 1998

September Term, 2015

SIENA CORPORATION, ET AL.

v.

MAYOR AND CITY COUNCIL OF ROCKVILLE, MARYLAND

Meredith,
Wright,
Zarnoch, Robert A.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Wright, J.

Filed: September 27, 2016

This case comes to this Court as an appeal by Siena Corporation ("Siena"), a Maryland corporation, and Rockville North Land, LLLP, a Maryland limited liability limited partnership, appellants, regarding the adoption of Zoning Text Amendment TXT2015-00239 ("Text Amendment") by the Mayor and Council of Rockville ("the City"), appellee. On February 26, 2015, Siena filed a complaint ("Complaint") in the Circuit Court for Montgomery County alleging that the purpose of adopting Zoning Text Amendment TXT2015-00239 was to prevent the construction of a proposed self-storage facility. On the same day, Siena filed a petition for judicial review ("Petition").

During the Petition proceeding on May 5, 2015, the City filed the "Administrative Agency Record." Siena responded by filing a notice of failure to file complete record and a motion to compel filing of the record, production of the record, and to compel discovery. Also on May 5, 2015, the City filed a motion to dismiss Siena's Petition. On May 12, 2015, Siena filed a motion to consolidate the Complaint and the Petition. On August 19, 2015, the City's motion to dismiss was granted because the circuit court found that the Text Amendment was a legislative action rather than a quasi-judicial decision, and therefore, not properly before the court. The motion to consolidate was subsequently denied as moot. Siena appealed on September 17, 2015.

Questions Presented

We have combined, renumbered, and reworded appellants' questions for clarity, as follows:[1]

[1]In their brief, appellants asked:

1. Did the circuit court err by concluding that the enactment of the text amendment was a legislative action, not a quasi-judicial act or a zoning action, and in granting the City's motion to dismiss?

2. Did the circuit court err or abuse its discretion by denying Siena's motion to consolidate the Complaint Action and the Petition Proceeding?

3. Did the circuit court abuse its discretion by not compelling additional discovery, prior to ruling on the motion to dismiss?

4. If the circuit court erred, has Siena shown that the Text Amendment was arbitrary and capricious and should be nullified?

For the reasons stated below, we affirm the judgment of the circuit court.

---

1. Did the Circuit Court err in denying Siena's Motion to Consolidate the Complaint Action and the Petition Proceeding, when both cases dealt with identical issues of fact and subject matter, and when outstanding issues in the Complaint Action were integral to proper resolution of the Petition Proceeding?

2. Did the Circuit Court err in failing to compel Appellee to produce a complete and accurate Administrative Record?

3. Did the Circuit Court err in failing to allow discovery in the Petition Proceeding?

4. Did the Circuit Court err in granting Appellee's Motion to Dismiss the Petition after concluding, without a complete Administrative Record before it and without the benefit of discovery or consolidation with the Complaint Action, that the underlying Petition Proceeding was not quasi-judicial in nature or a zoning action?

5. Has Siena presented enough evidence for this Honorable Court to find that Zoning Text Amendment TXT2015-00239 is arbitrary and capricious and should be nullified?

FACTS

In March 2014, Siena purchased property located at 1175 Taft Street, Rockville, Maryland 20850, with the intention of using the land to build "ezStorage," a self-storage warehouse. The property is located in a Light Industrial (I-L) zone and is within 250 feet from the lot on which Maryvale Elementary School is located.

In response to concerns raised by citizens "about . . . children walking to school and their health and safety and welfare," the City requested that staff draft a zoning text amendment to "to allow a self-storage warehouse in [four specified] zones only as a condition use, conditioned on the use not being with a lot within 250 feet of a public school."

The City's Zoning Ordinance ("the Ordinance"), which is codified at Chapter 25 of the Rockville City Code ("RCC"), and Md. Code (2012), Land Use Article ("LU"), governs the procedure for text amendments. RCC § 25.06.02 provides that "[a]n application for an amendment to the text of [the Ordinance] may be made by any interested party or governmental agency." RCC § 25.06.02.b.1. The application must be submitted to the City Clerk on a form provided by the City's Chief of Planning and be accompanied by a filing fee as determined by the Mayor and Council. RCC § 25.06.02.b.2. Within five days of acceptance of any text amendment application, the City Clerk must transmit a copy of the application to the Planning Commission. RCC § 25.06.02.d.1. The Planning Commission "may submit a written recommendation to the Mayor and Council." *Id.* If the Planning Commission submits a recommendation, it becomes part of the record on the application. *Id.*

No application may be granted unless a public hearing has been held by the Mayor and Council. RCC § 25.06.02.f. Prior to the hearing, notice of "the time and place of the public hearing together with a summary of the proposed zoning regulation" must be published in a newspaper of general circulation at least once each week for two successive weeks. LU § 4-203(b)(2)(i). After the hearing, the Mayor and Council may grant the text amendment "by ordinance" or may deny, dismiss, or allow for the withdrawal of the text amendment. RCC § 25.06.02.g.1.

The City filed an application for the Text Amendment on November 10, 2014, in accordance with these provisions. The application was designated TXT2015-00239 by the City Clerk.

The Text Amendment proposed to amend two definitions in the Ordinance, and to amend the Land Use Tables in RCC §§ 15.12.03 and 25.13.03. The relevant proposed change would prohibit self-storage warehouse use in the I-L (Light Industrial), I-H (Heavy Industrial), MXB (Mixed-Use Business), and MXE (Mixed-Use Employment) zones from being located on a lot within 250 feet of a public school.

Pursuant to the Ordinance, the Text Amendment was filed with the City Clerk and forwarded to the Planning Commission. On December 12, 2015, the Planning Commission recommended by a 5-1 vote that the Mayor and Council deny the Text Amendment.

On December 15, 2015, in accordance with § 25.06.02.f, the City held a public hearing on the Text Amendment. The Mayor introduced the meeting as "a public hearing on zoning ordinance text amendment TXT2015- 00239 to add Self-Storage Warehouse as

a listed condition use in the I-L, I-H, MXE, and MXB zones with the proposed condition that the use not be located on a lot within 250 feet of a public school property line."

The City introduced the original Text Amendment along with an amended version at the Mayor and Council's meeting on January 26, 2015. The amended version changed the prohibition on self-storage warehouses in the identified zones to "within 250 feet of a lot on which a public school is located" from "within 250 feet of a public school."[2] The amended language was published in the notice of the hearing.

On February 2, 2015, the City adopted the Text Amendment, amending the land use tables to include that Self-Storage Warehouses in the Industrial and Mixed-Use Zones are "[n]ot permitted on a lot within 250 feet of any lot on which a public school is located."

Siena filed a petition for judicial review of the Mayor and Council's adoption of the Text Amendment on February 26, 2015 in the circuit court. At the same time, Siena also filed a complaint seeking declaratory judgment that the Text Amendment was unconstitutional and invalid.

On May 5, 2015, the City filed a motion to dismiss. The City asserted that the enactment of the Text Amendment was a legislative act not subject to judicial or administrative mandamus review.

[2] The amended version also added an additional conditional limitation to the Md. Code's Land and Use Tables that self-storage warehouses in mixed-use business zones not adjoin or confront single-unit residential dwellings.

On May 18, 2015, Siena filed a motion to consolidate the Petition and the Complaint. Then, on May 20, 2015, Siena filed a notice of failure to file complete record pursuant to Md. Rule 7-206. On the same day, Siena also filed a motion to compel filing of the record, production of the record, and to obtain discovery.

On June 24, 2015, the circuit court heard arguments on the City's motion to dismiss. On the same day, the court stayed the discovery motions.

On August 19, 2015, the City's motion to dismiss was granted because the court found that the Text Amendment was a legislative action rather than a quasi-judicial decision, and therefore, not properly before the circuit court. The motion to consolidate was subsequently denied as moot. Siena then filed a motion for reconsideration on August 25, 2015, which was denied on November 4, 2015.[3] This appeal followed.[4]

[3] This issue was not included in appellants' appeal.

[4] On January 14, 2016, the City filed a second amended complaint in Montgomery County circuit court against the Mayor and City Council of Rockville, as well as the Mayor and two City Councilmembers individually, and an unnamed Jane Doe. The action was seeking: (1) a declaratory judgment that the Text Amendment is an invalid exercise of the City's zoning authority; (2) a declaratory judgment that the Text Amendment is invalid because it violates the Fourteenth Amendment of the United States Constitution; (3) a declaratory judgment that the Text Amendment is invalid because it violate the Maryland Constitution; (4) a declaratory judgment that the Text Amendment is invalid because it is an illegal spot zoning ordinance; (5) a permanent injunction preventing the Text Amendment from being enforced; and (6) a declaratory judgment stating that the Mayor and City Council are equitably estopped from preventing Siena's development of a self-storage facility on the Property.

The City subsequently removed the case to federal district court pursuant to 28 U.S.C § 1331, 1441, and 1446 on the basis of federal question jurisdiction. Siena further added a count of conspiracy in violation of 42 U.S.C. § 1983.

(continued…)

Additional facts will be included as they become relevant to our discussion, below.

DISCUSSION

I. Motion to Dismiss

Appellants argue that the circuit court erred in granting the City's motion to dismiss. Specifically, appellants contend that the court incorrectly concluded that the City's adoption of the Text Amendment was a legislative act rather than a quasi-judicial act or a zoning action. Appellants argue that the Text Amendment was a zoning action that targeted the specific property. Further, appellants contend that the Text Amendment was a quasi-judicial act because the City engaged in fact-finding.

In response, the City argues that the circuit court properly dismissed the case "since [the City's] action was a purely legislative action . . . not subject to judicial review." We agree with the City.

Siena alleged that the Text Amendment was not rationally based, that the safety concerns raised were pretextual, and that the Text Amendment was the product of arbitrary, unconstitutional government action because there were procedural irregularities in the process under which the ZTA was adopted.

The City filed a motion to dismiss, or in the alternative, a motion for summary judgment. On May 26, 2016, a hearing was held and the Federal District Court for the District of Maryland granted the motion following oral arguments.

Siena appealed and the case is currently pending before the Fourth Circuit Court of Appeals.

The ongoing federal case does not have an impact on this Court's consideration of the issues presented by this appeal.

We review the circuit court's grant of the City's motion to dismiss *de novo*. *See Nesbit v. Gov't Employees Ins. Co.,* 382 Md. 65, 72 (2004) ("When the trial court's order 'involves an interpretation and application of Maryland statutory and case law, [Maryland appellate courts] must determine whether the lower court's conclusions are legally correct under a *de novo* standard of review.'" (Quoting *Walter v. Gunter,* 367 Md. 386, 392 (2002))). The circuit court granted the motion because it concluded that the enactment of the Text Amendment was not a quasi-judicial act or a zoning action, and therefore, the statute did not grant jurisdiction for review. LU § 4-401.

The right to challenge certain zoning and land use decisions in the circuit court is created by LU § 4-401. It provides:

> (a) Any of the following persons may file a request for judicial review of a decision of a board of appeals or a zoning action of a legislative body by the circuit court of the county:
>
> (1) a person aggrieved by the decision or action;
> (2) a taxpayer; or
> (3) an officer or unit of the local jurisdiction.
>
> (b) The judicial review shall be in accordance with Title 7, Chapter 200 of the Maryland Rules.
>
> (c) This section does not change the existing standards for judicial review of a zoning action.

Additionally, Md. Rule 7-401(a) provides that an "action[ ] for judicial review of a quasi-judicial order or action of an administrative agency" may be pursued as an action for writ of administrative mandamus.

Following the previous decisions by this Court and the Court of Appeals, and for the reasons set out below, we agree with the circuit court that the Text Amendment at

issue was neither a zoning action subject to judicial review, nor a quasi-judicial order subject to administrative mandamus review.

Both appellants and appellee rely heavily on this Court's opinion in *Mayor & Council of Rockville v. Pumphrey,* 218 Md. App. 160 (2013). In *Pumphrey,* we reversed the circuit court's finding that the City of Rockville's implementation of a text amendment to delete a recently adopted amendment was a quasi-judicial act. *Id*. at 170-72. Before addressing the question in *Pumphrey*, this Court detailed a thorough review of Maryland precedent regarding zoning actions and quasi-judicial proceedings. *Id.* at 180-87.

Historically in Maryland, only "zoning reclassification" constituted a "zoning action." *Md. Overpak Corp. v. Mayor & City Council of Baltimore,* 395 Md. 16, 32 (2006). The historical scope of the two phrases was summarized in *MBC Realty, LLC v. Mayor & City Council of Baltimore,* 160 Md. App. 376, 287 (2004), as follows:

> We know . . . that when a legislative body comprehensively zones, comprehensively rezones, or adopts a text amendment to a zoning ordinance, it is not "zoning action." We also know that when a legislative body changes the zoning classification of a particular property, it is "zoning action" subject to administrative appeal.

However, since *MBC Realty,* the Maryland Appellate Courts have clarified where actions, other than zoning classifications by local legislative bodies, may be "zoning actions."

In *Maryland Overpak,* 395 Md. at 50, the Court of Appeals defined "zoning action" to mean:

> any act by the Mayor and City Council that (1) decides the use of a specific parcel or assemblage of parcels of land, (2) was initiated by an individual application by a property owner or its representative, (3) was based on factfinding (from a record containing evidence, usually both pro and *con*) adduced through governmental agency analysis of the proposal and through a public hearing, and (4) either creates or modifies substantively the governing zoning classification or defines the permissible uses, building and lot sizes, population density, topographical and physical features, and other characteristics of a specific parcel or assemblage of parcels of land by exercising some discretionary judgment after the consideration of the unique circumstances of the affected parcels and buildings.

(Footnote omitted). The Court applied this framework to the ordinance in question and concluded that it was the result of a "quasi-judicial process" because its "prevailing purpose" was "to define the permissible uses . . . of the specific parcel." *Id.* at 53.

In *Talbot County v. Miles Point Property, LLC,* 415 Md. 372 (2010), the Court of Appeals granted *certiorari* to again consider whether the circuit court had jurisdiction to hear a challenge to a zoning application. There, the key inquiry was not whether the action was a "zoning action," but whether the County Council was acting in a legislative or quasi-judicial capacity when considering the application. The *Miles Point* Court relied on the holding in *Bucktail, LLC v. County Council of Talbot County,* 352 Md. 530, 545 (1999), where the Court held that the determination of whether a local body is acting in a legislative or quasi-judicial capacity is "not based on whether the zoning decision adversely affects an individual piece of property but whether the decision itself is made on individual or general grounds." The Court further held that "adjudicative facts concern questions of 'who did what, where, when, how, why . . . ' while legislative facts 'do not usually concern the immediate parties but are general facts which help the tribunal decide questions of law and policy and discretion.'" *Miles Point,* 415 Md. at

387. The *Miles Point* Court further noted that although the County identified the property owner and the specifics of the application in its finding of fact, the Council focused on "broad-based facts relating to [the county's] infrastructure" rather than the "the merits and flaws of reclassifying [the] specific property." *Miles Point,* 415 Md. at 388, 391. The Court noted that although the action only affected one property, that did not transform a legislative action by the Council into an adjudicatory one. *Id.*

In *Pumphrey,* 218 Md. App. 188-92, this Court applied both the *Maryland Overpak* test and the *Miles Point* analysis and determined that the adoption of text amendment by the City of Rockville was neither a zoning action nor a quasi-judicial action. Here, although appellants attempt to distinguish this case from *Pumphrey,* we disagree and hold that the City Council was acting as a legislative body.

Once again, our starting point in analyzing the Text Amendment is the *Maryland Overpak* test to determine if the Text Amendment was a "zoning action." The first prong of the *Maryland Overpak* "zoning action" test is that the action by the local legislative body must "decide[] the use of a specific parcel or assemblage of parcels of land." 395 Md. at 50. Here, the Mayor and Council did not decide the use of Siena's parcel of land. The Text Amendment did not change the zoning which remains still zoned as I-L. It did not grant a variance or special exception. It did not mention Siena or the land parcel by name or address. Although the Text Amendment disallowed one use for the land, because it eliminated the ability to build a warehouse storage facility on the plot, it did not otherwise restrict the use of Siena's land.

The second prong requires that the action "was initiated by an individual application by a property owner or its representative" but here to the contrary, the Text Amendment was initiated by the City Council. *Id.*

The third and fourth prongs require that the decision be "based on fact-finding (from a record containing evidence, usually both pro and *con*) adduced through governmental agency analysis of the proposal and through a public hearing," and that the action "either creates or modifies substantively the governing zoning classification or defines the permissible uses . . . [or] other characteristics of a *specific parcel . . . by exercising some discretionary judgment after the consideration of the unique circumstances of the affected parcel[] . . . ." Id.* (emphasis added) (footnote omitted). Here, although appellants contend that the City engaged in fact-finding, nowhere in the record of the Text Amendment proceedings does the Council set out any findings of fact pertaining to Siena's parcel or the impact the storage facility would have on Maryvale Elementary School, or that particular neighborhood. Rather, in Ordinance 02-15 granting the Text Amendment, the City made the generalized statement that, "granting this application . . . would promote the health, safety and welfare of the citizens of the City of Rockville."

Siena contends that the "Planning Commission engage[d] in fact-finding on behalf of the City" but supports this assertion with a memo in which the Planning Commission states, "[t]here has been no data or study to address any of the safety issues that have been raised." Siena further points to the testimony provided at the December 15, 2014 public hearing as adequate fact-finding. However, the transcript from the hearing

demonstrates that the testimony was far broader than Siena's parcel of land, as multiple residents called for even broader expansion of the limitation on self-storage facilities in order to preserve the character of the city and to protect children in their schools and homes.

However, even if the hearing testimony could be considered fact-finding, there remains the fourth prong of *Maryland Overpak*. The Text Amendment affects self-storage near all schools, not this specific parcel based on any unique characteristics of Siena's parcel of land. Siena avers that because testimony, often by Siena's representatives, included reference to the proposed ezStorage facility, the City's action was particular enough to meet the *Maryland Overpak* test for specificity. Siena points out that currently, only this parcel of land will be affected, but that does not change the fact that the Text Amendment will prohibit self-storage warehouses within 250 feet of a lot on which a school is located in four zones (I-L, I-H, MXB, and MXE) throughout the City. Finally, although Siena alleges that the Text Amendment was written based on the specific distance between the proposed ezStorage and Maryvale Elementary School, the record does not reflect that the amendment was based on unique characteristics of that parcel.

Next, Appellants contend that the circuit court was not "properly positioned" to apply the *Maryland Overpak* criteria due to a lack of discovery and what Siena deemed to be "incomplete evidence" prior to the determination. However, it is clear from the motion to dismiss hearing that Siena was seeking documents which were publically available to both parties. More importantly, the court had access to adequate information

on which to base its analysis that the adoption of the Text Amendment was not a zoning action.

Turning to the issue as to whether the action was quasi-judicial, Siena alleges that the Text Amendment was quasi-judicial because it was adopted against the recommendation of the Planning Commission, and because it "targeted" the proposed ezStorage location. The City responds that the analysis of whether the Mayor and Council's action was a zoning action makes the analysis of whether the action was quasi-judicial duplicative. While we agree that the Text Amendment was not a quasi-judicial action, there must be a separate analysis.

In *Pumphrey,* 218 Md. App. at 19, the City relied on the Planning Commission's recommendation in their vote to adopt a text amendment, and we identified that reliance as an indicator that the adoption of the text amendment was legislative rather than quasi-judicial. However, contrary to Siena's reading, *Pumphrey* does not stand for the proposition that any action not in accordance with a Planning Commission recommendation is quasi-judicial. To adopt this rule would grant legislative power to the Planning Commission, rather than with the Mayor and City Council where it is rightly vested. Rather, the test, identified in *Bucktail,* is whether the decision was made on individual or general grounds. 352 Md. at 545.

Here, the Planning Commission's recommendation focused on individual grounds, while the final decision of the Mayor and City Council was based on broad policy considerations. Council members who voted in favor of the Text Amendment primarily cited an interest in protecting public safety, specifically as it related to children. One

council member specifically stated that her interest was in protecting children and the public schools city-wide, which is why the Text Amendment applies across the City of Rockville. Additionally, as with *Pumphrey* and as discussed previously, the Text Amendment does not include any finding of fact. It contains only a generalized statement that, "[the] Mayor and City Council having decided that the granting of this application . . . would promote the health, safety and welfare of the citizens of the City of Rockville." Neither the Council nor the Text Amendment focused on why Siena's land was an undesirable place for a self-storage warehouse, but rather why all lots within 250 feet of a school lot, were undesirable places for self-storage warehouses, making the action purely legislative rather than quasi-judicial. *Pumphrey,* 218 Md. App. at 191 (citing *Miles Point,* 415 Md. at 391).

As in *Pumphrey,* where the Text Amendment was motivated by issues raised from one specific property on which a funeral home was operated, the Text Amendment may have been initially motivated by issues raised by one specific property. 218 Md. App. at 165. It is common for legislative action to be prompted by general welfare concerns which were first identified by an individual situation. When the judiciary reviews a government enactment it is "ordinarily not concerned with whatever may have motivated the legislative body." *Workers Comp. Comm'n v. Driver*, 336 Md. 105, 118 (1994). As stated above, the test for whether an action is quasi-judicial or legislative, is whether the decision was made based on individual or general grounds, not whether an individual situation initially motivated the action.

Finally, the legislative acts of the Mayor and Council did not become quasi-judicial because the Text Amendment only affected Siena's property. In *Miles Point,* where the application at issue only affected the applicant's properties, the Court of Appeals held that, because the decision regarding the application was based on broad policy-based reasons, the act was legislative.

For the above stated reasons, the circuit court lacked jurisdiction to undertake judicial review of the enactment of the Text Amendment because the action was neither a zoning action nor a quasi-judicial act. Accordingly, the circuit court did not err by granting the City's motion to dismiss.

II. Motion to Consolidate

Appellants argue that the circuit court erred in denying their motion to consolidate the Petition and the Complaint. We disagree.

In reviewing the denial of a motion to consolidate, we review a ruling in respect to a procedural issue, and therefore, the standard of review is whether the trial court abused its discretion. *Jenkins v. City of College Park,* 379 Md. 142, 164 (2003). "The 'abuse of discretion' standard of review is premised, at least in part, on the concept that matters within the discretion of the trial court are much better decided by the trial judges than by appellate courts[.]" *Aventis Pasteur, Inc. v. Skevofilax*, 396 Md. 405, 436 (2007) (citations omitted). A ruling reviewed under an abuse of discretion standard will not be reversed unless "[t]he decision under consideration [is] well removed from any center mark imagined by the reviewing court and beyond the fringe of what that court deems minimally acceptable." *North v. North*, 102 Md. App. 1, 14 (1994). "Thus, an abuse of

discretion should only be found in the extraordinary, exceptional, or most egregious case." *Wilson v. John Crane, Inc.*, 385 Md. 185, 199 (2005).

According to appellants, the motion to consolidate should have been granted in accordance with Maryland precedent where consolidation was appropriate. Appellants, in support of their argument, cite *Anderson House, LLC v. Mayor & City Council of Rockville,* 402 Md. 689, 701-03 (2008), where a similarly situation petitioner filed both a complaint and a petition for judicial review and sought to consolidate the cases which was deemed to be an appropriate action by the Court of Appeals. Next, appellants argue that consolidation was appropriate because the two cases arise out of the same facts and were based on the same subject matter, citing *Fallston Meadows Community Ass'n, Inc. v. Board of Child Care of Baltimore Annual Conference of United Methodist Church,* 122 Md. App. 683, 699 (1998), and *Pumphrey*, 218 Md. App. at 196.

We agree with Siena's assertion that the circuit court *could* have granted the motion to consolidate prior to hearing the motion to dismiss. However, that is not the question before this Court. Rather, the issue is whether the circuit court abused its discretion in denying the motion to consolidate. "The analytical paradigm by which we assess whether a trial court's action constitutes an abuse of discretion has been stated frequently." *Aventis Pasteur, Inc.*, 396 Md. at 418. Quoting *Wilson*, 385 Md. at 185, the Court reiterated:

> [t]here is an abuse of discretion "where no reasonable person would take the view adopted by the [trial] court [ ]" . . . or when the court acts "without reference to any guiding principles." An abuse of discretion may also be found where the ruling under consideration is clearly against the logic and

> effect of facts and inferences before the court [ ]" . . . or when the ruling is "violative of fact or logic."

The circuit court did not abuse its discretion.

As we have thoroughly discussed, the circuit court properly granted the motion to dismiss. Following the dismissal, the motion to consolidate was then deemed to be moot because there was no case with which to consolidate the declaratory judgment action. *Coburn v. Coburn*, 342 Md. 244, 250 (1996) (stating that an issue "is moot when there is no longer an existing controversy . . . so that the court cannot provide an effective remedy").

III. Motion Regarding Discovery

Appellants argue that the circuit court erred by failing to compel the City to produce additional documents related to the "administrative record" and in ruling on the motion to dismiss without allowing additional discovery. The circuit court properly dismissed the case. The circuit court was not lacking for information on which to base its finding regarding the motion to dismiss. The circuit court's action to stay discovery in both cases pending the motion to dismiss was, therefore, appropriate and need not be further reviewed by this Court.

IV. Challenge to the Text Amendment Itself

Finally, appellants allege that the Text Amendment was an arbitrary and capricious quasi-judicial action and asks this Court to nullify. This argument assumes

that the Text Amendment was a quasi-judicial act, which it is not. Therefore, the inquiry ends.

JUDGMENT OF THE CIRCUIT COURT FOR MONTGOMERY COUNTY AFFIRMED. COSTS TO BE PAID BY APPELLANTS.