

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

IN AND FOR KENT COUNTY

BON AYRE LAND LLC, a	:	
Delaware Limited Liability Co.,	:	C.A. No. K14A-08-001 WLW
	:	
Appellant,	:	
	:	
v.	:	
	:	
BON AYRE COMMUNITY	:	
ASSOCIATION,	:	
	:	
Appellee.	:	

Submitted: March 6, 2015

Decided: April 15, 2015

ORDER

Upon Appellant's Motion for Reargument
and Reconsideration.

Denied.

L. Vincent Ramunno, Esquire of Ramunno & Ramunno, P.A., Wilmington, Delaware;
attorney for Appellant.

James G. McGiffin, Jr., Esquire of Community Legal Aid Society, Inc., Dover,
Delaware; attorney for Appellee.

WITHAM, R.J.

Upon consideration of the Appellant’s Motion for Reargument and Reconsideration, the Appellee’s opposition, and the record in this case, it appears to the Court that:

1. On February 26, 2015, the Court entered judgment against the Appellant, Bon Ayre Land LLC (“Appellant”), finding the proposed rent increase did not comply with the Delaware Manufactured Home Owners and Community Owners Act (“Act”).¹ The Appellant timely filed this motion thereafter.

2. A motion for reargument seeks reconsideration of findings of fact, conclusions of law, or judgments of law.² A motion for reargument will be denied unless the moving party has demonstrated that the court has “overlooked a controlling precedent or legal principles, or the Court has misapprehended the law or facts such as would have changed the outcome of the underlying decision.”³ Specifically, “[a] motion for reargument should not be used merely to rehash the arguments already decided by the Court, nor will the Court consider new arguments that the movant could have previously raised.”⁴

3. The issues raised in the Appellant’s Motion for Reargument were considered by the Court in making its original decision. An independent review of

¹ *See* 25 Del. C. § 7040 *et. seq.*

² *Hessler, Inc. v. Farrell*, 260 A.2d 701, 702 (Del. 1969).

³ *First Bank of Delaware, Inc. v. Fidelity and Deposit Co. of Maryland*, 2013 WL 6407603 at *1 (Del. Super. Dec. 4, 2013).

⁴ *Id.*

the record showed the Appellant did not comply with the statutory mandates of 25 *Del. C.* § 7043(b). Contrary to the Appellant’s arguments, the Court was not required to give any deference to the Arbitrator’s decision. As this Court’s February 26th Order explained, it is a general rule of statutory interpretation that legislation is to be accorded prospective effect unless the General Assembly makes its intention clear to give it retroactive effect.⁵ The General Assembly expressed no such intention. Accordingly, the Court exercised its appellate review under the Act as it existed at the time of the arbitrator’s decision and the Appellant’s notice of appeal. At that time, the relevant portion of the Act – 25 *Del. C.* § 7044 – instructed this Court to decide the appeal “on the record without a trial *de novo*.”

4. The Appellant also argues the Court erred in failing to schedule oral argument.⁶ Oral argument is granted at the discretion of the Court and in the present case, the Court decided it was neither necessary nor helpful.

⁵ See *Chrysler Corp. v. State*, 457 A.2d 345, 351 (Del. 1983).

⁶ In doing so, it appears to the Court – perhaps mistakenly – that the Appellant is accusing the Court of some level of impropriety surrounding the timing of the Court’s original decision. The Appellant stated: “It is concerning that while Bon Ayre’s attorney was waiting for the oral argument to be scheduled, BACA’s President,[] knew that a decision would be issued ‘around March 1st.’” However, as the Appellee noted in its answering brief, the Administrative Directives of the Delaware Supreme Court – which are public – require this Court to place matters on a 90 day calendar. In the present case, in order to comply with the calendar, the decision had to issue prior to March 1st. Accordingly, the timing of the decision should have come as no surprise to anyone, much less counsel.

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5. Since the Appellant has not met the standard for granting a motion for reargument, the motion is **DENIED**.

IT IS SO ORDERED.

/s/ William L. Witham, Jr.
Resident Judge

WLW/dmh