



Virginia Local Government Law

West Creek Redux? TB Venture LLC v Arlington County

By: Andrew McRoberts. *This was posted Tuesday, November 23rd, 2010*

Another opinion issued by the Virginia Supreme Court on November 4, 2010, [TB Venture LLC v Arlington County](#) involved the proper assessment of a 21-unit condominium development in urban Arlington County, which is *a lot different* from the assessment of a 1,500 acre Class A business park at issue in [West Creek Associates LLC v County of Goochland](#). Right?

Wrong. The facts are actually quite analogous and the law is essentially the same.

At issue in *TB Venture* was whether the condominium development could be valued as a whole on a “leased fee” basis, with the value of the whole then allocated to each unit, rather than a fee simple valuation of each unit. The plaintiff’s expert justified his “leased fee” approach on rent restrictions that applied across the entire development. On cross-examination, the expert admitted his was a “bulk valuation” and “purely an allocation.” The trial court granted the County’s motion to strike.

On appeal, the Virginia Supreme Court upheld the striking of plaintiff’s evidence. Just like the individual parcels in the business park in *West Creek*, the Court noted, each unit in a condominium is a separate piece of real estate, and the value of each must be at fair market value. Any restrictions on sale or rental, just like the alleged limitations on access and utilities in *West Creek*, can be taken into account in the individual fair market value, but does not alter the need to treat condominiums as separate parcels of real estate. Nor, the Court noted, do such factors alter the plaintiff’s burden to establish the value of each unit in order to prevail.

Yes, indeed. A condominium development in Arlington and a business park in Goochland can have a lot in common.

*Note: [West Creek Associates LLC v County of Goochland](#) and its 8-year saga is discussed by this author earlier on the *VaLocalityLaw* blog in a three-part series, [Part 1](#), [Part 2](#), and [Part 3](#).*

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