

COURT OF APPEALS OF VIRGINIA

Record No. 1537-25-3

CARLOS B. HART, JR., INDIVIDUALLY, ET AL.
v.
CITY COUNCIL FOR THE CITY OF SALEM, ET AL.

Present: Judges Chaney, Callins and Bernhard

Argued by videoconference

Opinion Issued August 18, 2026

FROM THE CIRCUIT COURT OF THE CITY OF SALEM

David B. Carson, Judge

Daniel J. Martin (John P. Fishwick, Jr.; Carrol M. Ching; Zoë E. Dye; Fishwick & Associates PLC, on briefs), for appellants.

Christopher S. Dadak (Jim H. Guynn, Jr.; Guynn Waddell, P.C., on brief), for appellee City Council for the City of Salem.

Monica T. Monday (K. Brett Marston; Aidan C. Williams; Gentry Locke, on brief), for appellee Virginia Baptist Children's Home and Family Services d/b/a HopeTree Family Services (Salem CI).

PUBLISHED OPINION BY JUDGE DAVID BERNHARD

Carlos B. Hart, Jr., individually and as trustee for the Carlos B. Hart, Jr. Revocable Trust, appeals the final order of the Circuit Court for the City of Salem sustaining the demurrers filed by Virginia Baptist Children's Home and Family Services d/b/a HopeTree Family Services ("HopeTree") and the City Council for the City of Salem to Hart's complaint and dismissing it with prejudice. On appeal, Hart contends the circuit court erred in sustaining the demurrers because the complaint sufficiently alleged facts showing that Salem Code § 106-520(D) barred the City Council's consideration of HopeTree's second rezoning application. Specifically, Hart argues Salem Code § 106-520(D) prohibits the City Council from considering a new application that is

substantially the same as an initial application when either (1) the City Council denied the initial application, or (2) the application was “withdrawn after Council consideration.” Under Hart’s interpretation, an applicant withdraws an approved application by submitting a second one substantially the same as the first, barring the Council from considering the second for one year after that approval.

Hart asserts that HopeTree withdrew its first application when it submitted a second application, substantially the same as the first, that listed the zoning designation in effect before the first application’s approval as the current zoning designation of its property. Hart further argues that HopeTree’s request that the Council rely on the first application’s materials, and the Council’s reliance on them, show that the second application was meant to replace the first. Finally, Hart argues the circuit court erred in upholding the approval of the second application based on its finding that the zoning administrator had the authority to enforce Salem Code § 106-520(D) and simply chose not to do so.¹

We agree that Salem Code § 106-520(D) precludes the City Council from considering, for a period of one year, a second application that is substantially the same as the first application when the first was either *denied* by the Council or *withdrawn* after Council consideration but before the Council decided whether to approve or deny it. The statutes governing local zoning amendments support this interpretation, as the General Assembly provided that an applicant’s withdrawal of a proposed amendment halts the processing of that amendment—language that presupposes an amendment still being processed, and thus a withdrawal occurring before the governing body acts. Once a rezoning application has been approved, the process is complete, and the applicant has nothing left to withdraw. Here, however, HopeTree’s first application was

¹ We decline to address this portion of Hart’s appeal, as this Court’s ruling on whether the complaint sufficiently alleged HopeTree withdrew its first application is dispositive.

approved, not denied, and it was *not withdrawn* before the Council acted, so the one-year bar never attached. Even assuming an application could be withdrawn after approval, the complaint did not allege sufficient facts showing that HopeTree withdrew its first application. The legislative record, incorporated into the complaint by a motion craving oyer, forecloses that allegation: neither HopeTree nor the Council treated the first application as incomplete, and HopeTree stated repeatedly that it filed the second application in response to lawsuits alleging procedural defects in the approval of the first, as the Council recognized. Thus, the circuit court did not err in sustaining the demurrers to the complaint.

BACKGROUND

HopeTree, a Virginia nonstock corporation with a principal place of business in Salem, Virginia, “offers a wide range of ministries for at-risk children and youth and their families.” HopeTree owns parcels of land located in Salem (“Parcels”) totaling approximately 62.318 acres. For many years, the property served as an orphanage for youth residents, but “the use of this property has changed significantly, mainly due to a changing regulatory environment.” Because the provision of services for youths has shifted to communities in which those youths already live, HopeTree’s need for the property has changed. Prior to June 24, 2024, these Parcels were zoned residential single family (“RSF”). On November 30, 2023, HopeTree, under the name of Virginia Baptist Children’s Home, “submitted an application seeking to rezone the Parcels from RSF to PUD [(Planned Unit District)]².” Between January and June of 2024, the Planning Commission, jointly with the City Council, held public hearings on that application (the “first application”), which was revised during that period. On June 24, 2024, at a public hearing on the application, the City Council voted to approve the HopeTree Rezoning by a 3-2 margin.

² The PUD classification “allows a variety of housing options, as well as commercial, civic and office use types of a number and scale sufficient to serve the needs of the PUD residents.” Salem Code § 106-228.1(A).

Thereafter, Hart, who resides “directly across the street from the Parcels,” and other citizens, filed separate complaints for declaratory judgment and injunctive relief on July 23, 2024. In this original lawsuit, Hart alleged procedural and substantive defects with HopeTree’s November 30 rezoning application that rendered the Council’s approval invalid. Specifically, Hart asserted that the mayor did not meet the statutory requirements for appearing virtually at the June 24, 2024 hearing, that sufficient notice of the public hearing was not given, and that the rezoning application was submitted under a fictitious business name rather than the owner’s legal name.

On August 30, 2024, after the approval of the first application on June 24 and while Hart’s first lawsuit was pending, HopeTree filed another rezoning application (the “second application”) and later filed an Addendum on October 25, 2024. In the second application, HopeTree submitted a form listing the current zoning designation of its Parcels as RSF and requesting that the designation be changed to PUD. HopeTree also paid a new application fee for this submission.

In the second application, “HopeTree asked [the City] Council and the Planning Commission to consider any and all materials utilized in reviewing the [initial] rezoning application for the Parcels.” HopeTree also stated that “[t]his new Application is substantially similar to the original application . . . approved by City Council on June 24, 2024” but includes “supplemental information to support the rezoning application and Planned Unit District (PUD) document.” Finally, HopeTree stated that it had become “aware of allegations of procedural concerns with the rezoning approval process from the previous rezoning application” and “d[id] not wish for any uncertainties surrounding the procedural processes to detract from its efforts on behalf of those HopeTree serves.” Thus, HopeTree requested that the HopeTree Rezoning be “amend[ed], reamend[ed], adopt[ed] and/or readopt[ed].” The Addendum included “a

supplemental Development Schedule and Phasing Plan,” which was to “replace the prior phasing plans and provide greater detail about the development and provide the anticipated timeline for future development to occur.”

The Planning Commission and the City Council held a public hearing on November 13, 2024, to consider the second application. Notice of this hearing “was published twice in the *Roanoke Times*, on November 1, 2024, and on November 4, 2024.” The minutes for this hearing show that staff noted, “[t]his application is in response to the lawsuits following the previous approval in June 2024.” The minutes also stated that the second application differed in two ways from the previously approved application: (1) “the applicant’s/property owner’s name” was updated, and (2) the application included “[a]n adjusted phasing plan.” During the hearing, the President and CEO of HopeTree, Jon Morris, stated that “the new application was substantially similar to the one previously approved” but was resubmitted “due to litigation filed in July 2024, in which HopeTree was named in a lawsuit challenging the procedural aspects of the previous rezoning approval.” “Morris confirmed that there were no material changes to the project, and the new application included only minor updates.” Several citizens voiced concerns about the HopeTree Rezoning. At the end of the meeting, the Planning Commission voted 4-1 to recommend approval of the application.

At its regular meeting on November 25, 2024, the City Council voted 3-2 to approve the application. On December 9, 2024, the City Council finalized its approval of HopeTree’s second application with a vote of 3-2.

On January 7, 2025, Hart filed a complaint for declaratory judgment and injunctive relief against the City Council and HopeTree. In Count One of the complaint, Hart alleged that the approval of the second application violated Salem Code § 106-520(D). Specifically, Hart alleged that “[b]y declining to move forward with the original, approved application for the

HopeTree Rezoning, HopeTree effectively withdrew the original application.” In addition, Hart alleged HopeTree admitted its second application was substantially similar to the initial, approved application, and, in fact, the two applications were substantially similar. As such, under Salem Code § 106-520(D), the City Council was barred from considering the second application “prior to June 24, 2025, one year from the date it had taken action on the original application.” According to Hart, the approval of the second application is thus void.

In response to the filing of Hart’s second lawsuit, the City Council and HopeTree demurred.³ Both defendants argued that Salem Code § 106-520(D) did not bar approval of the second application because the first application was neither denied nor withdrawn. They further argued that Hart’s “effective withdrawal” theory would define “withdrawal” as any functionally equivalent action rather than an affirmative act, frustrating the ordinance’s legislative intent. According to HopeTree, “the statute aims to prevent repetitive rejected or withdrawn zoning applications (i.e., non-successful applications) and City resources being consumed thereby.” HopeTree also argued that its second application made clear that it was not withdrawing the first application but merely addressing the procedural concerns with it.⁴

Attached to HopeTree’s brief in support of its demurrer is the text of the rezoning ordinance adopted by the City Council on December 9, 2024. That ordinance noted that the City Council had previously adopted an ordinance on June 24, 2024, approving the HopeTree Rezoning; that five citizens had filed lawsuits alleging procedural and substantive defects in the June 24, 2024 ordinance; that HopeTree submitted a new application to address those potential

³ On May 16, 2025, the circuit court granted the City Council’s and HopeTree’s motions cravingoyer, thereby making the legislative record filed by the City Council and the current comprehensive plan for the city of Salem part of the complaint.

⁴ In addition to these arguments, HopeTree asserted that Hart’s original lawsuit, which was still pending at the time, was now moot.

defects; that the new application was substantially similar to the initial application; that the City Council again reviewed the previous application's materials, proffered conditions, and the new application; and that the City Council accepted the new application. The ordinance also stated that the City Council concluded "that the requested rezoning with the proffers . . . is consistent with the Comprehensive Plan and good zoning practice." The ordinance changed the relevant portions of HopeTree's property "from the zoning classification RSF Residential Single Family to the zoning classification PUD Planned Unit District." Any or all portions of ordinances in conflict with this ordinance were repealed. "[T]he adoption of [this] ordinance . . . constitute[d] acceptance of the HopeTree preliminary master plan and acceptance of the plan's provision and concepts as proffers as stated in the August 30, 2024 rezoning application and the October 25, 2024 supplement to the Rezoning application."

In his opposition, Hart argued that "Salem Code § 106-520(D) says nothing about success" and is triggered whenever an application is denied or withdrawn "*after consideration*." According to Hart, "Council consideration" includes the Council's act of approving an application; otherwise, if Salem Code § 106-520(D) was not intended to apply to approved applications, "the Council would have said so when it enacted the ordinance." In addition, he maintained that by listing the Parcels' current designation as RSF on the second application—despite the June 24 approval rezoning them PUD—HopeTree demonstrated that it was refraining from proceeding with the first application. Thus, because HopeTree withdrew its first application, and the Council had last considered the application on June 24, 2024, the Council was barred from considering the second application until June 24, 2025, under Salem Code § 106-520(D).

In reply, HopeTree contended that subsection (D) requires "affirmative action communicating withdrawal on part of the applicant," which HopeTree never undertook.

HopeTree additionally argued that subsection (D)’s restriction cannot sensibly reach an already-approved application that becomes part of the City’s zoning ordinance once approved; the provision’s purpose, HopeTree argued, is to spare City staff the administrative burden of repetitive applications following an unsuccessful one.

After oral argument, the circuit court issued a letter opinion explaining its ruling on the demurrers. In the letter opinion, the court disagreed with Hart’s “argument that HopeTree ‘effectively withdrew’ the originally approved rezoning application.” The circuit court reasoned that “[t]he legislative record shows that City Council and HopeTree relied on the original rezoning application during the second rezoning process.” The circuit court also found that adopting Hart’s interpretation of the ordinance “would require . . . read[ing] into the ordinance additional language concerning ‘withdrawn’ applications” and “would prevent supplementation and feedback from City Council and the community on new applications submitted within a one-year period by already *approved* and *successful* applicants seeking to provide further clarification on their application.” It further found that the ordinance’s legislative intent “*only* focuses on limiting the ability for applications to be resubmitted by those who have a denied or withdrawn application within the same year.” Finally, it found “that the zoning administrator had the authority to prohibit consideration of HopeTree’s second rezoning application, if he determined it was either denied or withdrawn, and chose not to exercise this authority as provided by Salem Code § 106-520(D).”

On August 22, 2025, the circuit court entered a final order incorporating the letter opinion, sustaining the demurrers, and dismissing all counts of the complaint with prejudice.

ANALYSIS

I. Standard of Review

“‘A demurrer tests the legal sufficiency of a [complaint],’ ensuring that the factual allegations set forth in the pleading are sufficient to state a cause of action.” *La Bella Dona Skin Care, Inc. v. Belle Femme Enters., LLC*, 294 Va. 243, 255 (2017) (alteration in original) (quoting *Harris v. Kreutzer*, 271 Va. 188, 195-96 (2006)). On appeal, this Court reviews the sustaining of a demurrer de novo. *Id.*

“[W]e accept as true all factual allegations in the complaint ‘made with “sufficient definiteness to enable the court to find the existence of a legal basis for its judgment.”’” *Patterson v. City of Danville*, 301 Va. 181, 197 (2022) (quoting *Squire v. Va. Hous. Dev. Auth.*, 287 Va. 507, 514 (2014)). “[W]e also accept as true unstated inferences to the extent that they are *reasonable*,” but “we give them no weight to the extent that they are *unreasonable*.” *Id.* (quoting *Doe ex rel. Doe v. Baker*, 299 Va. 628, 641 (2021)). This Court does not, however, assume “the correctness of the conclusions of law asserted in a . . . complaint.” *Riverview Farm Assocs. Va. Gen. P’ship v. Bd. of Supervisors*, 259 Va. 419, 427 (2000).

“When a demurrant’s motion craving oyer has been granted, the court in ruling on the demurrer may properly consider the facts alleged as amplified by any written [document] added to the record on the motion.” *Ward’s Equip., Inc. v. New Holland N. Am., Inc.*, 254 Va. 379, 382 (1997). This Court “may ignore a party’s factual allegations contradicted by the terms of authentic, unambiguous documents that properly are a part of the pleadings.” *Id.* In this case, we consider the facts as alleged in the complaint, as well as the legislative record filed by the City Council.

Questions of statutory interpretation presented on demurrer are reviewed de novo. *Ayers v. Brooke Rd., LLC*, 300 Va. 315, 321 (2021). The rules of statutory interpretation apply “to

local ordinances and acts of the General Assembly alike.” *Northampton Cnty. Bd. of Zoning Appeals v. E. Shore Dev. Corp.*, 277 Va. 198, 202-203 (2009). “When interpreting a statute or ordinance, ‘our primary objective is “to ascertain and give effect to legislative intent,” as expressed by the language used in the statute.’” *Berry v. Bd. of Supervisors*, 302 Va. 114, 127 (2023) (quoting *Cuccinelli v. Rector & Visitors of the Univ. of Va.*, 283 Va. 420, 425 (2012)).

That intent is determined “‘from the words contained in the statute’ or ordinance.” *Id.* at 128 (quoting *Williams v. Commonwealth*, 265 Va. 268, 271 (2003)); *see also* *Halifax Corp. v. First Union Nat’l Bank*, 262 Va. 91, 100 (2001) (“When analyzing a statute, we must assume that the General Assembly chose, with care, the words it used in enacting the statute, and we are bound by those words when we apply the statute.”). Courts “apply[] the plain meaning of the words unless they are ambiguous or [doing so] would lead to an absurd result.” *Smith v. Allen Creek Assocs., LLC*, 85 Va. App. 611, 626 (2025) (alterations in original) (quoting *Eley v. Commonwealth*, 70 Va. App. 158, 164 (2019)). “A statute’s plain language leads to ‘absurd results’ when it produces illogical or anomalous results.” *Emmanuel Worship Ctr. v. City of Petersburg*, 300 Va. 393, 405 (2022). We may not render any words meaningless, nor may we add to language in an ordinance. *Cook v. Commonwealth*, 268 Va. 111, 114 (2004); *Wintergreen Homestead, LLC v. Pennington*, 76 Va. App. 69, 76 (2022). Finally, courts “must consider the statute as a whole.” *Wintergreen Homestead*, 76 Va. App. at 76.

II. Interpreting Salem Code § 106-520(D)

Under Salem Code § 106-520(D), “[i]f the Council denies any amendment application submitted for its review, or the application is withdrawn after Council consideration, the city shall not consider substantially the same application for the same property within one year of the

Council action.”⁵ According to Hart, HopeTree withdrew its approved first application by submitting a second application substantially the same as the first, thereby refraining from proceeding with the first. He points to HopeTree’s request that the Council use the materials submitted with the first application, and to the second application’s listing of the Parcels’ “current” zoning designation as RSF even though approval of the first had changed that designation to PUD. Because HopeTree withdrew the first application, he contends, Salem Code § 106-520(D) barred the City Council from considering the second application before June 24, 2025, one year after the Council approved the first.

The City Council and HopeTree respond that the time bar in Salem Code § 106-520(D) applies only when an application is denied or withdrawn. Because the ordinance does not state that submitting an application substantially the same as one already approved triggers the time bar, Salem Code § 106-520(D) does not apply where the first application was approved. The City Council further argues that it is logically impossible to withdraw an application after it has been approved. Once the City Council approves (or denies) an application, the application is no longer pending and therefore cannot be withdrawn because the application process is complete. Hart’s interpretation would also prevent applicants from amending a previously approved application within one year, because any application that does not materially alter the use or zoning map would be substantially the same. The Council adds that Hart’s interpretation would create a loophole for applicants to undo already approved rezoning applications. Under Hart’s argument, submitting a second application substantially the same as the first withdraws and voids the approved application without the governing body’s consent. This would lead to uncertainty in the finality of enacted zoning amendments. Finally, the City Council argues that Hart’s interpretation would frustrate the

⁵ This ordinance has since been amended. Salem Code § 106-520 was modified to remove subsection (C). Subsection (D) is now subsection (C) in the ordinance, and the wording of the subsection remains the same.

legislative intent of Salem Code § 106-520(D), which is to prevent the city from being overwhelmed by repetitive applications after the first application was either denied by the Council or withdrawn by the applicant.

HopeTree separately contends that even if an application could be withdrawn after approval, Salem Code § 106-520(D) did not bar the City Council’s consideration of its second application. When submitting the second application, HopeTree never said it was withdrawing its first application. If HopeTree had asked to withdraw the first application, there would have been no need to request that the Council use the first application’s materials in considering the second. Finally, HopeTree asserted that Hart’s argument—that HopeTree withdrew the first application because it did not move forward with the approved PUD project—lacks merit, because the ordinance applies only when the application itself, not an approved project, is withdrawn.⁶

This Court holds that the time bar in Salem Code § 106-520(D) applies only to an application the Council has denied, or one the applicant withdraws after the Council takes it up but before the Council votes to approve or deny it. “Local ordinances must derive their authority from a validly enacted state law,” and thus “ordinances [are interpreted] consistent with their enabling schemes.” *Manors LLC v. Bd. of Supervisors*, 76 Va. App. 737, 747-48 (2023). Here, Code § 15.2-2286(A)(7) provides that “[a] zoning ordinance may include . . . reasonable regulations and provisions as to . . . the amendment of the regulations or district maps from time to time, or for their repeal.” Such zoning ordinances “may . . . provide that substantially the same petition will not be reconsidered within a specific period, not exceeding one year.” *Id.* The Code does not define withdrawal for this purpose, but two provisions of Article 7 use the term, and both use it the same way.

⁶ This Court agrees with HopeTree on this point. The word “withdrawn” in Salem Code § 106-520(D) clearly applies to the application itself as opposed to the proposed project outlined in the application.

Code § 15.2-2285(B), which governs the amendment or reenactment of the zoning ordinance of every locality, deems a proposed amendment approved if the planning commission fails to report within the prescribed period, “unless the proposed amendment or reenactment has been withdrawn by the applicant prior to the expiration of the time period.” Code § 15.2-2285(B). On such a withdrawal, “processing of the proposed amendment or reenactment shall cease without further action as otherwise would be required by this subsection.” *Id.* Withdrawal in that provision is something an applicant does while the amendment remains pending, and its consequence is that the locality stops processing it. Code § 15.2-2286(A)(7) uses the term the same way. Addressing counties, it provides,

In any county having adopted such zoning ordinance, all motions, resolutions or petitions for amendment to the zoning ordinance, and/or map shall be acted upon and a decision made within such reasonable time as may be necessary which shall not exceed 12 months unless the applicant requests or consents to action beyond such period or unless the applicant withdraws his motion, resolution or petition for amendment to the zoning ordinance or map, or both. *In the event of and upon such withdrawal, processing of the motion, resolution or petition shall cease without further action as otherwise would be required by this subdivision.*

Code § 15.2-2286(A)(7) (emphasis added).

That paragraph likewise treats withdrawal as something that occurs before the governing body has approved or denied “the motion, resolution or petition.” *Id.* That this paragraph of Code § 15.2-2286(A)(7) is addressed to counties is of no moment, because this Court does not rest on it: the conception of withdrawal it reflects is the one the General Assembly wrote into Code § 15.2-2285(B) for every locality, Salem included. In both provisions, a withdrawal operates only while the amendment remains pending, halting further processing before the governing body has acted.

After a petition for amendment of a zoning ordinance has been approved or denied, the local governing body necessarily cannot further act on that petition. Because approval of a rezoning

application changes the property’s official zoning classification, there is nothing left for an applicant to withdraw. Hart’s contrary reading also yields an anomalous, self-referential result. Under it, the very submission Hart says the Council was barred from considering—the second application, substantially the same as the first—is itself the “withdrawal” that triggers the one-year bar, so that a single filing would both activate the bar and be the very filing the bar forbids. That is a result we decline to attribute to the ordinance. Reading “withdrawn after Council consideration” to reach an already-approved application in Salem Code § 106-520(D) would also unsettle the finality of enacted zoning amendments, for it is unclear what it would even mean to withdraw an application the Council has already granted. So limited, Salem Code § 106-520(D) still prevents applicants from burdening the governing body with repetitive applications after an application has been denied or withdrawn. This construction adds no words to the ordinance. It gives “withdrawn after Council consideration” its ordinary meaning while confining the clause to a petition still pending—one the Council has taken up but not yet approved or denied. So read, the clause retains full effect without reaching applications the Council has already granted.

Applying this construction, Salem Code § 106-520(D) did not bar the City Council from considering HopeTree’s second application. HopeTree’s first application was approved, not denied, and it was not withdrawn before the Council acted on it. The time bar therefore never attached.

Hart contends that HopeTree treated the first application as incomplete. Hart points out that HopeTree listed the current designation of the Parcels as RSF in the second application even though the Parcels had been previously rezoned PUD on June 24, 2024. Hart further argues that the City Council likewise treated the application as incomplete when it adopted an ordinance changing the designation of the Parcels from RSF to PUD on December 9, 2024.

Both contentions, however, are contradicted by the legislative record incorporated into the complaint by the motion craving over. In any event, whether HopeTree’s documented conduct

amounted to a “withdrawal” is a conclusion of law that this Court need not accept as true on demurrer. *See Riverview Farm*, 259 Va. at 427. The plain meaning of “withdraw” is “[t]o take back (something presented, granted, enjoyed, possessed, or allowed)” or “[t]o refrain from prosecuting or proceeding with (an action).” *Withdraw*, *Black’s Law Dictionary* (12th ed. 2024). Even on the assumption that a granted application could be taken back, HopeTree’s submission of the second application fits neither meaning. As set forth in the Background, HopeTree did not take back its first application or refrain from proceeding with it; to the contrary, it affirmed that application, asked the Council to rely on the materials already submitted, and explained—through its filings, the hearing minutes, and the statements of its President and CEO—that it resubmitted only to address the procedural challenges raised in Hart’s first lawsuit. The recitals of the December 9, 2024 rezoning ordinance, set out in the Background, confirm as much: the Council reviewed the first application’s materials and proffers before accepting the second.

That HopeTree listed the Parcels’ current zoning as RSF on the second application, and that the December 9, 2024 ordinance recited a change from RSF to PUD, are consistent with protective re-adoption and do not, standing alone, establish withdrawal. On the face of the unambiguous documents the motion craving oyer made part of the pleadings, both entries reflect the mechanics of a protective re-adoption rather than a withdrawal: because the validity of the June 24 approval was itself under challenge in Hart’s first lawsuit, HopeTree and the Council restated the pre-June-24 classification and re-enacted the rezoning to place the change beyond doubt—not to abandon or undo the earlier approval. Any contrary inference is not one we must credit on demurrer. *See Riverview Farm*, 259 Va. at 427; *Ward’s Equip.*, 254 Va. at 382.

Because the legislative record forecloses both the allegation of withdrawal and the contention that the first application was treated as incomplete, the circuit court did not err in sustaining the demurrers to Hart’s complaint.

CONCLUSION

For the foregoing reasons, the circuit court's judgment is affirmed.

Affirmed.