

Circuit Court for Baltimore City
Case No. 24-C-23-002563

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND

No. 1453

September Term, 2023

EDDUARD PRINCE

v.

BILL HENRY

Leahy,
Kehoe, S.,
Eyler, James R.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: August 6, 2024

*This is a per curiam opinion. Consistent with Rule 1-104, the opinion is not precedent within the rule of stare decisis nor may it be cited as persuasive authority.

Edduard Prince, appellant, appeals from an order issued by the Circuit Court for Baltimore City dismissing his complaint against Bill Henry, appellee, on the grounds that appellee was immune from suit and that appellant had failed to state a claim upon which relief could be granted. On appeal, appellant’s sole contention is that the court erred in dismissing his complaint because the “Local Government Torts Claim Act is a law that allows you to sue the government or a government employee for an injury” and thus it “lifts immunity from local Government employees.” For the reasons that follow, we shall affirm.¹

In 2023, the Baltimore City Board of Estimates (BOE) approved a land disposition agreement wherein the City of Baltimore agreed to sell a 5.1 acre parcel of land located at 844 Roundview Road to the Cherry Hill Community Development Corporation, a 501(c)(3) corporation, which was partnering with Kairos Development, LLC and Landex Development, LLC to construct a “mixed-income, mixed use community.” Appellee, the Baltimore City Comptroller, is a member of the BOE. Thereafter, appellant, who is a local land developer, filed a complaint against appellee claiming that he had “secretly arranged [the] land deal . . . with the intent of gentrifying the predominantly African-American community” of Cherry Hill; that the sale “was conducted behind closed doors, without public notice or input in violation of the Maryland Open Meetings Act[;]” and that the sale “was deliberately kept hidden from the public, violating the Maryland Public Information

¹ Appellee has filed a motion to dismiss the appeal on the grounds that appellant filed his brief four days late and failed to properly serve it on appellee. We shall deny that motion.

Act[.]” In addition, appellant claimed that by “engaging in the secret sale of public land and failing to provide opportunities to local developers,” appellee had breached his fiduciary duty to him and the Cherry Hill community.

Appellee filed a motion to dismiss, wherein he argued that he was individually immune from suit because he was a public official, and his approval of the land deal constituted a discretionary act within the scope of his official duties. Appellee further argued that, even if he were not immune, appellant failed to state a claim upon which relief could be granted because: (1) appellant failed to allege the existence of a fiduciary relationship; (2) appellee did not have the sole power to approve the land disposition agreement; and (3) appellant failed to specifically allege how the approval of the land disposition agreement violated the Maryland Open Meetings Act or the Maryland Public Information Act in light of the fact that the BOE hearing was open to the public and he testified at that hearing. The court granted the motion to dismiss without a hearing, alternatively finding that appellee was immune from suit and that appellant’s complaint failed to state a claim upon which relief could be granted. This appeal followed.

On appeal, appellant contends that appellee is not immune from suit because the Local Government Tort Claims Act allows lawsuits against government employees. The LGTCA provides, however, that it “does not waive any common law or statutory defense or immunity . . . possessed by an employee of a local government.” Md. Code Ann., Cts. & Jud. Proc. § 5-303(d). This includes common law public official immunity. *See Livesay v. Baltimore Cnty.*, 384 Md. 1, 11 (2004). Because appellant has not demonstrated, either

in his complaint or in this appeal, why common law public official immunity does not apply to appellee in this case, we shall affirm for that reason.

Moreover, we note that in addition to finding that appellee was immune from suit, the court also found that appellant’s complaint failed to state a claim upon which relief could be granted. In *Bailiff v. Woolman*, 169 Md. App. 646 (2006), this Court held that when the appellant failed to challenge one of the two grounds for the circuit court’s decision in his brief, he waived any claim of error with respect to that issue. *Id.* at 653. Moreover, we held that, having waived the issue, affirmance was required if the unraised ground “provided an adequate and independent basis for the circuit court’s decision[.]” *Id.* at 654. Here, appellant’s brief does not address the court’s alternative finding that his complaint failed to state a claim upon which relief could be granted. And because a complaint must be dismissed if it fails to state a cause of action, the court’s reliance on that ground served as an adequate and independent basis for its ruling. Consequently, even if appellee were not immune from suit, we would still affirm the court’s judgment dismissing appellant’s complaint.

**APPELLEE’S MOTION TO
DISMISS DENIED. JUDGMENT
OF THE CIRCUIT COURT FOR
BALTIMORE CITY AFFIRMED.
COSTS TO BE PAID BY
APPELLANT.**