

Circuit Court for Anne Arundel County  
Case No. C-02-CV-22-000966

UNREPORTED\*

IN THE APPELLATE COURT

OF MARYLAND

No. 0757

September Term, 2024

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OLD TOWN FIREHOUSE, LLC, ET AL

v.

WEST RIVER IMPROVEMENT

ASSOCIATION, INC.

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Wells, C.J.,  
Beachley,\*\*  
Battaglia, Lynne A.  
(Senior Judge, Specially Assigned),

JJ.

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Opinion by Battaglia, J.

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Filed: February 24, 2026

\*This is an unreported opinion. This opinion may not be cited as precedent within the rule of stare decisis. It may be cited for its persuasive value only if the citation conforms to Rule 1-104(a)(2)(B).

\*\*Beachley, J., now retired, participated in the hearing and conference of this case while an active member of this Court. He participated in the adoption of this opinion after being recalled pursuant to Maryland Constitution, Article IV, Section 3A.

The present appeal involves a dispute over ownership of the land between a historic Galesville, Maryland firehouse acquired in February 2021 by Old Town Firehouse, LLC<sup>1</sup> and Thomas Bowen (collectively “Old Town,” Appellant), and its neighbor West River Improvement Association, Inc. (“West River,” Appellee), a civic organization that hosts community events on adjacent land in Galesville, Maryland.

Appellant Old Town asks us to review the Anne Arundel County Circuit Court’s finding that Old Town failed to establish the elements of adverse possession of a portion of West River’s property and, in the alternative, also failed to establish the elements of a prescriptive easement on the disputed area. Old Town also asks us to review the Circuit Court’s denial of its motion to amend its Complaint during trial.

In this appeal, Old Town presents several questions for our review, which we have rephrased and restyled as follows:

1. Did the Circuit Court err when it found that Old Town failed to establish the elements of adverse possession?
2. Did the Circuit Court err when it found that Old Town failed to establish the elements of a prescriptive easement?
3. Did the Circuit Court abuse its discretion by denying Old Town’s motion to amend its complaint based on new evidence presented at trial?<sup>2</sup>

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<sup>1</sup> Old Town Firehouse, LLC, was formed in February of 2021 with Thomas Bowen as its sole member. Mr. Bowen testified that he intended to use the Firehouse property “to put an antique boat club in a small town that was geared towards the water.”

<sup>2</sup> Old Town phrased the questions as follows:

1. With respect to the adverse possession claim, did the Trial Court err in holding that Old Town’s predecessor in interest did not continuously possess the Disputed Area for the statutory period, even though Old Town’s predecessor dug a well in 1984,

For reasons to follow, we shall hold that the Circuit Court did not err when it ruled in favor of West River. We shall, therefore, answer all three questions in the negative and affirm the decision of the Circuit Court.

### **BACKGROUND**

In February 2021, Thomas Bowen, the sole member of Appellant Old Town Firehouse, LLC, purchased property located at 954 Main Street in Galesville, Maryland from the Galesville Volunteer Fire Department (“the Fire Department”). The Firehouse property stands adjacent to that of Appellee West River Improvement Association, Inc. West River acquired its land in 1914 from a charitable donation for the purpose of building a hall on the land to host community events for the people of Galesville.

The area in dispute, a thirty-five-foot-wide strip of land belonging to West River

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paved driveway in the 1990s or earlier, and instructed WRIA not to use the property for more than 20 years?

2. With respect to the adverse possession claim, did the Trial Court err in holding that Old Town and its predecessor did not openly and notoriously possess the Disputed Area, even though there was evidence that its predecessor used and maintained the land and put up signs prohibiting access?
3. With respect to the adverse possession claim, did the Trial Court err in failing to analyze the elements of actual, exclusive, and hostile possession, and in finding that Old Town did not adversely possess the Disputed Area?
4. With respect to the prescriptive easement claim, did the Trial Court err in holding that Old Town’s predecessor did not use the Disputed Area adversely, even though there was no admissible evidence of any actual permission by which West River gave the Fire Department use of the Disputed Area, and in finding that there was no presumption of Old Town’s adverse use?
5. Did the Trial Court err in refusing to allow Plaintiffs to amend their complaint to conform to evidence West River presented for the first time at trial?



easement by prescription on the disputed area; (3) requesting a declaratory decree as to Old Town's right to the disputed area; (4) requesting injunctive relief against West River's use of the disputed area; (5) breach of contract against the Fire Department; (6) intentional misrepresentation by the Fire Department; and (7) in the alternative, negligent misrepresentation by the Fire Department.

In Count One, Old Town claimed it had established the elements for adverse possession of the disputed area because Old Town together with the Fire Department as its predecessor in interest used the disputed area "adversely, openly, consecutively, . . . exclusively and notoriously, for over twenty (20) years without interruption since the 1960's." Old Town asserted that the adverse use included "building[] and maintaining a driveway, applying for permits, constructing a well in 1985, maintain[ing] the disputed area, and keeping members of West River from using the driveway which exclusively leads to the rear of the Oldtown Property."

In Count Two, Old Town asserted that, in the alternative to a claim of adverse possession, it had established the elements for a prescriptive easement on the disputed area based on its use of the driveway and the well.

In Counts Three and Four, Old Town requested relief in the form of a declaratory judgment establishing its right to the disputed area and injunctive relief against West River to prohibit its use of the disputed area.

In Count Five, Old Town asserted that the Fire Department breached its sales contract for the firehouse property by failing to transfer the entirety of the property to Old Town as promised in the sales contract.

In Counts Six and Seven, Old Town asserted that the Fire Department intentionally misrepresented or, in the alternative, negligently misrepresented the property line during the sale of the property.<sup>4</sup>

A bench trial took place over three days beginning on January 10th, 2024. Eight witnesses testified on behalf of Old Town, including Mr. Bowen himself, as well as: Nathaniel Scotten, the former President of the Fire Department; Raymond Hardesty, the current Chief of the Fire Department; Benjamin Henry, Mr. Bowen’s former attorney; Jacolyn Wetmore, Mr. Bowen’s girlfriend; Bruce Ogden, a former prospective buyer for the Fire Department property; David Plott, another attorney representing Mr. Bowen; and Janet LaBella, the corporate representative for West River. West River called four witnesses: Brian Scrivener, a former prospective buyer for the Fire Department property; Sue Hines, a former member of West River’s Board of Directors from about 1980–2010; Mary Tod Hartge Winchester, another former board member and President of West River in the early 2000s; and Vincenza Clark, West River’s current Treasurer at the time of trial and member of the Board since 1995.

On the final day of the trial, after Old Town had rested its case, it moved to amend its Complaint based on Ms. LaBella’s testimony the previous day, which Old Town asserted established the foundation for “an implied easement based on the grant and the

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<sup>4</sup> Old Town dismissed Counts Five, Six, and Seven when it dismissed the Fire Department as a party prior to trial.

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purpose of the grant in 1957 that Ms. LaBella testified to.”<sup>5</sup> In response to the claim that the testimony represented newly-discovered evidence, the judge queried:

THE COURT: And the[] testimony of the association yesterday was from documents that were provided in discovery, correct? I just want to make sure I understand.

[COUNSEL FOR OLD TOWN]: So that evidence was admitted yesterday. And as the Court recalled that evidence was given to me at Ms. LaBella’s deposition for the first time.

THE COURT: Which was when?

[COUNSEL FOR OLD TOWN]: It was in May of 2023.

THE COURT: Okay.

Counsel for West River responded:

Your Honor, we’re not really in the middle of trial. I mean, the Plaintiff has rested. So they have closed their case as confirmed on the record. So we are more than just in the middle of trial.

So I can’t believe that [counsel for Old Town] would say that my client wouldn’t be prejudiced. Apparently he talked to his expert and came up with this theory this morning. I mean, I don’t have an opportunity to depose Mr. Dowling<sup>6</sup> at this point in time, I don’t have an opportunity to talk to my expert, I don’t have an opportunity to have my expert come in. I mean, this information, I guess this 1957 deed which I think is the genesis as I understand it of this theory that is being put forth, has always been out there. Right? I mean it came, the deed came from a bunch of different places including Mid-Maryland Title’s file.

So I don’t think it’s fair to after they’ve closed their case to allow them to somehow amend, to put forth this other theory that I can’t even test. I have nothing — I don’t even know what archaic law he’s referring to and he’s going to provide documents to me later I guess, or case law. But it’s wholly prejudicial. It’s unfair at this point. They already tried to amend their

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<sup>5</sup> Ms. LaBella testified from West River’s business records that meeting minutes from 1956 indicated “a discussion . . . about the Fire Company getting a piece of land” which, to her understanding, led to “the 1957 deed” from West River to the Fire Department.

<sup>6</sup> John Dowling conducted a formal survey of the properties pictured *supra*.

complaint a second time previously and that was denied.<sup>[7]</sup> So we're at trial, I'm ready to start the Defense case. And I think it would be inappropriate to allow him to amend his complaint.

The judge denied Old Town's motion, because "I do believe at this late, very late stage that it would be extremely prejudicial for the reasons that [counsel for West River] stated."

At the end of trial, the judge directed the parties to submit proposed findings of fact and conclusions of law. Both parties did so on February 16, 2024. At a subsequent hearing held on June 3, 2024, the judge issued an oral ruling, finding in favor of West River on all counts and signed the hearing sheet as an Order of the Court.<sup>8</sup>

West River, thereafter, filed a motion to alter or amend the judgment, requesting that the court issue a written order incorporating its oral findings and declaring the parties' rights, which Old Town opposed. By Order dated September 9, 2024, the judge granted West River's motion, incorporated her findings announced during the hearing and entered a declaratory judgment in favor of West River and against Old Town on all counts. In the written order, the Court rescinded its oral finding denying declaratory relief to West River in fact and declared:

**ORDERED**, that the Hearing Sheet, signed as the Order of Court, is hereby

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<sup>7</sup> On February 6th, 2023, Old Town had filed a motion for leave to file a second amended complaint wherein it sought to add Nathaniel Scotten as a party, rescission of the land sale contract with the Fire Department as an alternative form of relief, and damages from West River for alleged trespassing on Old Town's property. The court denied the motion on February 17th, 2023.

<sup>8</sup> The court also denied Old Town's motion in limine to exclude certain witness affidavits submitted by West River, and West River's motion for judgment at the conclusion of Old Town's case.

incorporated into the instant Order, granting judgment in favor of Defendant and against Plaintiff on all counts; and it is further **DECREED** as follows:

**DECREED**, that Plaintiff does not hold fee simple title of the Disputed Area, as identified and stipulated by the parties; and further

**DECREED**, that Plaintiff is not entitled to an easement by prescription over any area of the Disputed Area, as identified and stipulated by the parties.

Old Town timely noted this appeal.

### **TRIAL COURT’S FINDINGS**

At the June 3rd hearing, the judge made various findings.

The Court first addressed Old Town’s claim for title by adverse possession. In discussing the element of continuous use, the court noted that Old Town’s claim required “tacking”<sup>9</sup> the Fire Department’s actions as predecessor in interest to the disputed area:

Here, there is no dispute that Old Town's predecessor in title [was the] Galesville Voluntary Fire Department[.] . . . However, there is significant dispute regarding whether Galesville Voluntary Fire Department adversely used the property as its own during its ownership of the property.

Plaintiffs argue that Galesville Fire Department[’s] actions showed that it was in possession of the land for itself, as its own, and not for another, including putting up signs and cones preventing people from parking in the driveway, directing the West River Improvement Association to take down a basketball hoop, and directing where the West River Improvement Association could park on the disputed area.

Even if the Court were persuaded that those actions demonstrated that the

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<sup>9</sup> Tacking is “[t]he joining of consecutive periods of possession by different persons to treat the periods as one continuous period; esp., the adding of one's own period of land possession to that of a prior possessor to establish continuous adverse possession for the statutory period.” *Tacking*, Black's Law Dictionary (12th ed. 2024).

fire department used the disputed area as its own, there was no persuasive or credible evidence before this Court as to when the fire department began to take those actions, and if the fire department continuously took those actions during the statutory period of 20 years. As a result, Plaintiffs have not persuaded this Court that its predecessor in title continuously held itself out as the owners of the disputed area for the duration necessary for tacking purposes.

The Court then discussed the element of open and notorious use:

The second element I will address is open and notorious. Even if this Court were persuaded that the Plaintiffs met their initial burden of proving that the adverse use was continuous, the Plaintiffs' claim would fail because it has not met its burden to demonstrate that its use was open and notorious.

[...]

Here, this Court is not persuaded that the Plaintiffs or its predecessor used the property in a manner sufficient to demonstrate that it was using the property for its own use and enjoyment. The Court is persuaded that the evidence demonstrated that after initial permission was granted by the West River Improvement Association decades prior to the sale of the property to the Plaintiffs, the Fire Department and the West River Improvement Association cooperated to use the disputed property for the benefit of the community in a manner that did not restrict either party.

This Court has determined that Plaintiffs have failed to establish at least two of the elements necessary to prove adverse possession. Therefore, the Court will not address the remaining elements.

Since the Plaintiffs have failed to meet [their] burden of proof to establish a claim for adverse possession, this Court will enter a judgment in favor of the Defendant for Count 1.

Next, the Court turned to the issue of a prescriptive easement:

Here, this Court is persuaded that the use of the disputed property by Old Town Firehouse and its predecessors was by permission. This Court is not persuaded by Plaintiff's argument that burden shifts to the West River Improvement Association because the fire department used the driveway and the well openly, continuously, and without explanation for 20 years. Rather than the firehouse using the disputed area without explanation, Plaintiff's argument ignores the cooperation between the West River Improvement

Association and the firehouse that dates back to a century — over a century.

Furthermore, this argument ignores the history of the West River Improvement Association granting the fire department permission to use the disputed area for various purposes over time. This Court is persuaded that the fire department began using the disputed area once it was granted permission by the West River Improvement Association. Therefore, the presumption of adverse use does not apply under these circumstances. As such, the burden falls on Plaintiffs rather than the West River Improvement Association to demonstrate that their use was under a claim of right.

As a general rule, permissive use can never ripen into a prescriptive easement. Use that is ordinarily permissive is presumed to continue, and there must be affirmative evidence of a change to adverse use. Here, the Court was not persuaded by Plaintiff's argument and said there was affirmative evidence that its use was adverse. The burden is on the Plaintiffs to show all the elements of a prescriptive easement have been met.

They have not done so; therefore, the Court will enter a judgment in favor of the Defendant for Count 2, prescriptive easement.

### **STANDARD OF REVIEW**

When an action is tried without a jury, this Court reviews the case on both the law and the evidence. Md. Rule 8-131(c). We will not set aside the findings of the Circuit Court on the evidence unless clearly erroneous and will give due regard to the opportunity of the trial court to judge the credibility of witnesses. *Id.* We review the Circuit Court's legal conclusions without deference. *Breeding v. Koste*, 443 Md. 15, 27 (2015).

### **ADVERSE POSSESSION**

#### **The Law of Adverse Possession**

“In Maryland, adverse possession is a legal doctrine by which a claimant may acquire title to land despite lacking record ownership. To establish ownership by adverse possession, a claimant must demonstrate possession of the property for the statutory period

of twenty years.” *Saunders v. Gilman*, 490 Md. 413, 421 (2025) (citing Md. Code, Cts. & Jud. Proc. § 5-103). Throughout the twenty-year period, the claimant’s possession of the land must be “actual, open, notorious, exclusive, hostile, under claim of title or ownership, and continuous or uninterrupted[.]” *Id.* (quoting *White v. Pines Cmty. Improvement Ass’n, Inc.*, 403 Md. 13, 36 (2008)). The claimant bears the burden of proving title by adverse possession by a preponderance of the evidence. *Senez v. Collins*, 182 Md. App. 300, 322, 324 (2008). The claimant must satisfy all elements of adverse possession for the entire twenty-year period; otherwise, title will not pass. *Saunders*, 490 Md. at 421 (citing *White*, 403 Md. at 36).

Land use with the owner’s permission “can never ripen into title against anyone.” *Hostility of possession—Necessity and character generally*, 4 Tiffany Real Prop. § 1142 (3d ed.). “[I]f the possession was originally not adverse to the true owner, the statute cannot be set in motion against him until the possessor has changed the character of the possession[.]” *Id.*

“[W]hen a person has used a right of way openly, continuously, and without explanation for twenty years, it is presumed that the use has been adverse under a claim of right.” *Clickner v. Magothy River Ass’n, Inc.*, 424 Md. 253, 281 (2012) (citing *Cox v. Forrest*, 60 Md. 74, 79–80 (1883)). However, “[l]ogic dictates that a presumption of adverse use is created only when there is an absence of any evidence which would indicate that the respondent had the permission of [the landowners]. Or, phrased another way, it is only when no appearance of permission permeates the record, that a presumption of adverse use will arise.” *Banks v. Pusey*, 393 Md. 688, 701 (2006).

### **Findings of Fact**

We review the judge’s findings of fact to determine whether there were bases in the record to support the findings and that the judge did not clearly err.

At the June 3rd hearing, the judge found that Old Town failed to establish the elements for adverse possession, because it could not establish continuous and open and notorious use. Old Town asserts that the court’s findings were clearly erroneous because “there plainly was such evidence” to support these elements of its claims, arguing that the court did not consider its use of the well and driveway.

The record reflects that testimony supported that the Fire Department took the actions in issue, including drilling and maintaining the well on the disputed area, placing cones or signs directing where West River could park, and directing West River to remove a basketball hoop from the driveway, but that the actions were not hostile to West River. The testimony supported that the Fire Department drilled a well on the disputed area with West River’s permission and that the well water had benefitted both properties. The testimony likewise showed that the Fire Department had West River’s permission to use the driveway and that restrictions on West River’s use of the driveway were for safety reasons.

On the elements of continuous, adverse, and open and notorious use, the judge found:

- In order to succeed on its adverse possession claim, Old Town had to add its three years of ownership to the previous owner’s time owning the property.

- During the time the Fire Department owned the property, the Fire Department's actions on the disputed area included directing where West River could park, placing cones or signs directing where West River could park and objecting to West River's placement of a basketball hoop on the driveway in the disputed area.
- The judge was not persuaded that those aforementioned actions were adverse, because the evidence demonstrated that the Fire Department and West River cooperated in using the disputed area for the benefit of the community in a manner that did not restrict either party.
- No evidence was adduced to establish when the allegedly adverse actions in issue began or whether they occurred continuously for twenty years.
- Neither Old Town nor its predecessor demonstrated exclusive use and enjoyment of the disputed area in testimony.
- The Fire Department's use of the disputed area began after West River granted permission decades prior.

The testimony at trial supported that the Fire Department took the actions alleged by Old Town, including directing where West River could park, and placing signs and cones to prevent West River from blocking the driveway on the disputed area, but that the actions were not adverse, but rather by permission and for safety reasons.

On the matter of the driveway, Nathaniel Scotten, the former President of the Fire Department, testified at trial that efforts to keep West River from blocking the driveway, including placing signs and cones, were agreed to for safety reasons "because we had fire equipment coming out the back of the station." Janet LaBella, West River's vice-president

and corporate representative, testified from West River’s business records that West River agreed the removal of the basketball hoop from the driveway was also due to a safety concern, namely “children playing interfered with the traffic going in and out of the Fire Department.”

On determining how long West River cooperated with the Fire Department, Mr. Scotten testified that he did not know of any formal agreement between the Fire Department and West River regarding use of the driveway, and that such an agreement had been forged by “old folks, before [his] time.” Ms. LaBella likewise testified that she knew of no formal agreement between West River and the Fire Department, but that “there was a prior well sharing arrangement” before the Fire Department drilled the current well in the 1980s. Raymond Hardesty, the Fire Department’s Vice-President at the time of trial, testified that West River and the Fire Department “worked together.” When asked, “Is it . . . fair to say you guys cooperated as best you could?” Mr. Hardesty replied, “Oh, yeah.”

The judge's findings regarding adverse possession are supported by the record and the judge did not err.

### **Conclusions of Law**

Under *Saunders*, Old Town was required to prove “actual, open, notorious, exclusive, hostile, under claim of title or ownership, and continuous or uninterrupted” use of the disputed area for a period of twenty years. 490 Md. at 421 (citing Md. Code, Cts. & Jud. Proc. § 5-103). Old Town failed to prove that its predecessor in interest, the Fire Department, acted adversely in an open and notorious manner on a continuous basis for twenty years.

The trial judge correctly stated and applied Maryland law to analyze two of the elements of adverse use, i.e., in an open and notorious manner and for the requisite period and concluded that West River and the Fire Department acted in a cooperative manner to provide the community with the best use of the property in dispute. As our Supreme Court said in *Banks*, “it is only when no appearance of permission permeates the record, that a presumption of adverse use will arise.” 393 Md. at 701. Thus, not only was there a failure of proof regarding adverse possession, but there was ample proof that West River was acting to provide resources to the Fire Department and support its mission in the community.

## **PRESCRIPTIVE EASEMENT**

### **The Law of Prescriptive Easements**

“An easement is a nonpossessory interest in the real property of another. An easement can be created expressly or by implication. One type of easement created by implication is an easement by prescription.” *Turner v. Bouchard*, 202 Md. App. 428, 441 (2011) (citing *Jurgensen v. New Phoenix Atl. Condo. Council*, 380 Md. 106, 122–23 (2004)); *see also Breeding*, 443 Md. at 36 (noting that the “marked[] similar[ity]” between adverse possession and prescriptive easements “has led this Court to rely on, as instructive, law concerning adverse possession in a case involving a prescriptive easement).

To establish a prescriptive easement, a claimant must demonstrate a continuous, exclusive, open, and notorious use of the disputed land without the owner’s permission for a period of twenty years. *Breeding*, 443 Md. at 19 (citing *Banks v. Pusey*, 393 Md. 688, 699 (2006)). Although a prescriptive easement does not require proof of use under claim

of title, the claimant must establish use as though it had a right to do so, rather than by permission. *Id.* at 28.

### **Findings of Fact**

On the subject of a prescriptive easement, the judge found:

- The Fire Department used the disputed area with West River’s permission.
- The Fire Department drilled and maintained a well on the disputed area that had benefitted the owners of both properties because the Fire Department could not drill on its own land and the well provided water to both properties.

As we have noted, the testimony supported the judge’s finding that the Fire Department’s use of the disputed area was the result of a longstanding cooperative relationship with West River that manifested itself not only in maximizing safety in the community but in providing benefits, such as water, to both owners. On the matter of the well, Mr. Scotten testified at trial that he told Mr. Bowen that the Fire Department drilled the well “on the Association property” because the Fire Department was unable to drill the well on its own property, although “[w]ho [the Fire Department] got the permission from [to drill the well], I couldn’t tell you.” Mr. Scotten stated that the well water went first to the Fire Department for treatment and then flowed back to West River’s property. Ms. LaBella testified from West River’s business records that, although the Fire Department drilled the well on the disputed area, it was “definitely a shared well” because it had provided water to both properties.

The record supports the judge’s findings, and the judge did not err in rendering them.

### **Conclusions of Law**

Under *Breeding*, Old Town was required to establish continuous, exclusive, open, and notorious use of the disputed land without the owner’s permission for a period of twenty years. 443 Md. at 19. Old Town failed to establish the elements necessary to establish a prescriptive easement. The judge found that the burden did not shift to West River to prove permissive use because Old Town failed to meet its burden to show adverse use.

The trial judge found that the Fire Department’s use of the disputed area was permissive and arose from a long-standing cooperative relationship with West River. The judge rejected Old Town’s argument that the use was “without explanation,” finding instead that the Fire Department began using the disputed area after permission was granted by West River, and that the Fire Department’s drilling and maintenance of the well benefitted both parties. As the court stated, “This argument ignores the cooperation between the West River Improvement Association and the firehouse that dates back . . . over a century.”

### **MOTION TO AMEND PLEADINGS**

Under our rules, a party may amend its pleadings during trial with leave of the court. Md. Rule 2-341(b). Such leave to amend “rests within the discretion of the trial court,” and “should be generously granted” unless “the amendment would result in prejudice to the opposing party or undue delay,” or a “new cause of action is stated invoking different legal principles[.]” *Asphalt & Concrete Servs., Inc. v. Perry*, 221 Md. App. 235, 269 (2015), *aff’d*, 447 Md. 31 (2016) (internal citations omitted). We review the Circuit

Court’s decision to grant or deny a motion to amend pleadings for abuse of discretion. *See Shabazz v. Dep’t of Pub. Safety*, 261 Md. App. 355, 379 (2024).

[A] ruling reviewed under an abuse of discretion standard will not be reversed simply because the appellate court would not have made the same ruling. The decision under consideration has to be well removed from any center mark imagined by the reviewing court and beyond the fringe of what that court deems minimally acceptable. That kind of distance can arise in a number of ways, among which are that the ruling either does not logically follow from the findings upon which it supposedly rests or has no reasonable relationship to its announced objective.

*North v. North*, 102 Md. App. 1, 14 (1994).

When determining whether the non-moving party would be prejudiced by an amendment, “a court can, of course, consider when the amendment is requested,” although a “very late” amendment is not in itself sufficient to show undue prejudice. *Mattvidi Assocs. Ltd. P’ship v. NationsBank of Virginia, N.A.*, 100 Md. App. 71, 83 (1994) (defining a “very late” amendment as “one filed within 15 days of trial”). A court acts within its discretion in denying a motion to amend to add a new cause of action when the amendment would prejudice the nonmoving party by depriving it of any opportunity for additional discovery. *See Matter of Jacobson*, 256 Md. App. 369, 409 (2022) (citing *Mattvidi Assocs. Ltd. P’ship*, 100 Md. App. at 84–85).

After Old Town rested its case, counsel for Old Town moved to amend its Complaint to add a new cause of action for an undefined implied easement, in addition to

the implied easement by prescription that was already in issue, based on what Old Town alleged was new evidence presented at trial.<sup>10</sup>

The Circuit Court denied the motion, finding that allowing a new claim at that stage of the proceedings would be “extremely prejudicial” to West River. The trial judge found that Old Town’s proposed amendment introduced a new theory of the case after Old Town had rested its case, and the alleged “new evidence” had been in Old Town’s hands since 2023, long before trial. The judge determined that permitting the amendment would have unduly prejudiced West River because West River would have had no meaningful opportunity to determine the bases of and defend against the newly asserted theory of the case in the midst of the trial. We agree. The judge did not err or abuse her discretion.

### CONCLUSION

For the foregoing reasons, we affirm the judgment of the Circuit Court.

**JUDGMENT OF THE CIRCUIT  
COURT FOR ANNE ARUNDEL  
COUNTY AFFIRMED. COSTS TO  
BE PAID BY APPELLANT.**

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<sup>10</sup> Old Town does not identify any recognized category of implied easement. Old Town moved to amend its pleadings to seek “an easement by implication” based on the alleged “purpose of [West River’s] 1957 grant” of a portion of its land to the Fire Department. On appeal, Old Town cites to *Michael v. Needham*, 30 Md. App. 271, 275 (1978), in which an implied easement by necessity was in issue, and *Boucher v. Boyer*, 301 Md. 679, 688 (1984), in which an implied easement by plat was in issue. *Needham* and *Boucher* are inapposite, as they analyze distinct and defined categories of implied easements, each with specific elements not alleged nor in evidence in the present case.