Trial begins today in floodplain takings case against Prince George's County

Martin Berman's Section 1983 claim alleges a 1989 County floodplain determination kept three Brandywine lots from being developed for more than 30 years.

UPPER MARLBORO, MD, UNITED STATES, September 30, 2026 /EINPresswire.com/ -- UPPER MARLBORO, MD — Trial begins today in the Circuit Court for Prince George's County, Maryland, in Martin Berman v. Prince George's County, Maryland. In the lawsuit, landowner Martin Berman alleges that a 1989 County floodplain determination took his property without just compensation, in violation of the Fifth Amendment. Berman brings the claim under 42 U.S.C. § 1983, the federal civil rights statute that permits individuals to sue state and local governments for violations of constitutional rights.

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>
> *Attorney Jordan D. Howlette*

The trial follows an order in which the court denied the County's motion for summary judgment in its entirety. A motion for summary judgment asks a court to decide a case without a trial on the ground that the material facts are not in dispute.

According to the complaint, Berman purchased three residential lots in the Gwynn Park Subdivision in Brandywine, Maryland, on September 11, 1989, intending to build single-family homes. Court filings state that the FEMA Flood Insurance Rate Map then in effect designated the property as Zone C, an area of minimal flood risk outside both the 100-year and 500-year floodplains. The filings also state that the Washington Suburban Sanitary Commission had approved a water and sewer mainline extension for construction in December 1988.

The complaint alleges that in or around October 1989, a County official informed Berman that the lots lay within a 100-year floodplain, assigned the property a flood elevation of 232 feet, and advised that the lots could not be developed for residential purposes. Berman's filings state that the official declined to accept an independent floodplain study. They further state that upon receiving the floodplain determination from the County, Washington Suburban Sanitary Commission suspended work on the approved water and sewer extensions to Berman's lots.

Shortly after purchasing the three lots, Berman's filings allege that he entered into a contract to

sell one lot for $150,000. But Berman claims that he had to terminate the contract because of the County's floodplain determination.

Berman's opposition to summary judgment, filed August 10, 2026, cites the County's written discovery responses served April 21, 2026. According to that filing, the County responded that after reasonable inquiry it had not located the following: documentation describing the methodology or criteria used for the determination; records establishing what hydrologic or hydraulic analysis or engineering study was relied upon; records of communications with FEMA regarding any discrepancy with the federal flood map; or records establishing whether the designation was formally rescinded, modified, or superseded. The opposition further states that, when asked to identify each economically viable use available to Berman notwithstanding the designation, the County identified none.

The opposition also cites records of the Maryland-National Capital Park and Planning Commission stating that the three lots are not currently designated, and have never been designated, as lying within a 100-year floodplain or any other flood-related overlay zone. It further cites Maryland Department of Assessments and Taxation records assessing each lot at a total value of $400.

The complaint alleges that Berman first had reason to question the 1989 determination in or around January 2023, after he observed development in the surrounding area and began investigating the permitting history of neighboring lots. He filed the action on April 2, 2025.

In its motion for summary judgment, the County argued that Berman's claim accrued in October 1989 and expired under Maryland's three-year limitations period. It argued in the alternative that the record establishes no final governmental decision. It also argued that Berman cannot satisfy the categorical takings standard announced by the Supreme Court in Lucas v. South Carolina Coastal Council, and that he cannot establish the investment-backed expectations addressed in Penn Central Transportation Co. v. City of New York. Berman's opposition argued that those questions, including when he knew or reasonably should have known of his claim and what use of the property remained, are for the trier of fact.

"Martin Berman bought these lots to build homes, and for more than three decades he has not been able to due to an erroneous floodplain determination made by Prince George's County," said Jordan D. Howlette, Managing Attorney of Justly Prudent, which represents Berman. "Today he has the opportunity to present that record in court."

The case is Martin Berman v. Prince George's County, Maryland (Case No. C-16-CV-25-001783), filed in the Circuit Court for Prince George's County, Maryland.

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