

# **Bond Case Briefs**

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## **SPECIAL ASSESSMENTS - MINNESOTA**

### **City of Paynesville v. Rutten**

**Court of Appeals of Minnesota - October 20, 2014 - Not Reported in N.W.2d - 2014 WL 5314622**

In June 2013, City commenced action against individual members of LLC formed to hold/develop subdivision lots for unpaid interest on deferred special assessments.

Members answered, admitting the nonpayment but denying any individual obligation to pay deferred special assessments or interest on the special assessments. The city subsequently moved for summary judgment arguing that under the plain, unambiguous language of the contracts, appellants are liable for the unpaid assessments and interest. The District Court granted summary judgment to City and the Members appealed.

The Court of Appeals reversed, holding that the in rem nature of special assessments precluded personal liability for special assessments against the property and that the district court misconstrued the relevant agreements to unambiguously state that appellants agreed to be personally liable for special assessments and annual assessment interest against the property.

“Because there is no language in the agreements stating that appellants agreed to be personally liable for the assessments and interest, the agreements do not unambiguously confer liability to appellants, and the district court’s conclusion to the contrary is erroneous. The city, which drafted the transfer agreement, is essentially a party to the project as it provided the infrastructure knowing the risks of an ever-changing economy and that this is a long-term project with many lots to sell. The city-drafted transfer agreement does not create individual liability against appellants as there is no separate writing or specific language in the agreement which evidences any intent to impose personal liability. Had the city desired to hold Rutten and Rodenwald individually liable for assessments and interest, the city could have incorporated specific language to that effect, or had the individuals execute a personal guaranty separate from the transfer agreement. And the attorney for the city, who drafted the transfer agreement, acknowledged at oral argument that the agreements could have been drafted better. Therefore, we conclude that the district court erred by granting summary judgment in favor of the city on the basis that the agreements unambiguously confer personal liability to appellants for the assessments and interest.”