

Bond Case Briefs

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Surat v. America Township, Brule County Board of Supervisors

Supreme Court of South Dakota - November 8, 2017 - N.W.2d - 2017 WL 5186760 - 2017 S.D. 69

Property owner sought judicial review of decision of township board of supervisors downgrading stretch of road from full maintenance to minimum maintenance.

The Circuit Court reversed. Township appealed.

The Supreme Court of South Dakota held that:

- Property owner was aggrieved party with standing to appeal board's decision;
- Sovereign immunity did not bar property owner's action seeking judicial review of decision of township board of supervisors;
- Decision to downgrade stretch of road from full maintenance to minimum maintenance was one of policy, rather than a quasi-judicial decision; and
- Decision to downgrade stretch of road from full maintenance to minimum maintenance was arbitrary.

Property owner was aggrieved by decision of township board of supervisors downgrading stretch of road from full maintenance to minimum maintenance, and therefore property owner had standing to appeal decision, where portion of the road provided property owner with year-round access from his farm to a state highway, property owner contended that alternative routes were inconvenient and dangerous for operation of farming equipment, road was used by vendors, mechanics, and for garbage disposal to access farm, and property owner used road daily to get to work and take his children to school.

Sovereign immunity did not bar property owner's action seeking judicial review of decision of township board of supervisors downgrading stretch of road from full maintenance to minimum maintenance, where statute expressly authorized appeals from all decisions of town boards of supervisor by any aggrieved person.

Decision by township board of supervisors to downgrade stretch of road from full maintenance to minimum maintenance was one of policy, rather than a quasi-judicial decision, and therefore judicial review of decision was for arbitrariness, rather than de novo; decision was analogous to the decision to vacate a public highway, which a township was statutorily permitted to do provided certain criteria were met.