

# **Bond Case Briefs**

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## **SPECIAL ASSESSMENTS - MINNESOTA**

### **McCullough and Sons, Inc. v. City of Vadnais Heights**

**Court of Appeals of Minnesota - December 11, 2017 - N.W.2d - 2017 WL 6273131**

Landowner appealed city's imposition of a special assessment on its real property.

The District Court denied city's motion for summary judgment. City appealed. The Court of Appeals reversed. Landowner's petition for review was granted. The Supreme Court vacated the Court of Appeals' opinion and remanded to the district court. The District Court vacated its earlier decision and granted summary judgment to city. Landowner appealed.

The Court of Appeals held that:

- Unambiguous statutory language provided that a property owner who, without reasonable cause, fails to sign a written objection to an assessment was precluded from appealing the assessment to the district court, and
- District court acted within its discretion in denying landowner leave to amend its appeal to assert reasonable cause for its failure to object in writing to the special assessment.

When statute allowing aggrieved persons to appeal city's special assessments, if they are not precluded by failure to object prior to or at assessment hearing, is read in conjunction with statute providing no appeal may be taken unless a written objection signed by affected property owner is filed with municipal clerk, the unambiguous statutory language provides that a property owner who, without reasonable cause, failed to sign a written objection to an assessment and to either (1) file the objection with the municipal clerk prior to the assessment hearing or (2) present the objection to the presiding officer at the assessment hearing, is precluded from appealing the assessment to the district court.

District court acted within its discretion, on landowner's appeal from city's special assessments, in denying landowner leave to amend its appeal to assert reasonable cause for its failure to object to the assessment in writing prior to assessment hearing; landowner did not raise the issue of reasonable cause until after the Supreme Court had remanded case back to the district court, landowner could have raised argument two years earlier at hearing on city's motion for summary judgment, when city made argument that a written objection was required, and an evidentiary hearing would be necessary to determine whether there was reasonable cause.