

Bond Case Briefs

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DRAINAGE ASSESSMENT - MICHIGAN

Charter Tp. of Lansing v. Ingham County Drain Com'r

Court of Appeals of Michigan - December 2, 2014 - Not Reported in N.W.2d - 2014 WL 6778948

The Charter Township of Lansing appealed two separate orders denying it relief regarding a very expensive drain project for which the Township was assessed a substantial portion of responsibility.

In the first order, the trial court dismissed for a want of subject-matter jurisdiction the Township's claim that the apportionment constituted a deprivation of property without due process. In the second order, the trial court denied the Township's petition for certiorari review of the Drainage Board of Review's final determination upholding the apportionment.

The Court of Appeals affirmed, finding that the Township had not shown that the trial court clearly erred in finding the Board of Review's conclusion to have been based on competent, material, and substantial evidence on the whole record and to have not been a product of an incorrect application of the law.

"The Township has simply not shown that the trial court clearly erred in finding that the Board of Review's decision was either arbitrary or not based on competent, substantial, and material evidence on the whole record. The fact that there is no precise formula specifying the apportionment is not fatal; a certain amount of subjective 'judgment call' is inherent in the operation of a drain commissioner and a board of review. The Township provides no evidence tending to show that it would not be benefitted by the Drain; indeed, it concedes the opposite. Rather, the Township's arguments largely amount to an assertion that the apportionment is disproportionate either because the absolute dollar value is extremely high or because the drain will not directly benefit each individual parcel of property within the Township, neither of which is a valid reason for overturning an apportionment. Courts generally will not reverse drain proceedings 'except for very substantial faults.' The Township has not articulated a legally cognizable substantial fault in the apportionment at issue here, so we cannot disturb it, even if the financial burden will be, as seems likely, quite significant.