

Bond Case Briefs

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LAND USE ORDINANCE - MINNESOTA

Helga Tp. v. Crosby

Court of Appeals of Minnesota - December 15, 2014 - Not Reported in N.W.2d - 2014 WL 7011268

Douglas Crosby contracted with Reiersen Construction to excavate and haul more than 1,000 cubic yards of rock and top soil from his property in order to prepare his land for livestock grazing. Helga Township informed Crosby that the township land-use ordinance required him to obtain an interim use permit (IUP) for these activities. When Crosby refused to comply, the township brought this enforcement action against him in District Court. The Township sought a declaratory judgment that excavation and removal of mineral materials without an IUP violates the township's land-use ordinance, and also sought to permanently enjoin Crosby and Reiersen from excavating and removing mineral materials and top soil without an IUP.

The District Court granted the Township's motion for summary judgment. Crosby appealed, arguing that his activities are properly characterized as an accessory use to his agricultural pursuits, and should therefore be considered a permitted use under the ordinance.

The Court of Appeals affirmed, noting that a landowner must still comply with any applicable performance standards even when the landowner's activities fall under a permitted use of the ordinance. In other words, the performance standards are read into the permitted uses when the landowner's activity is covered by a performance standard, regardless of the landowner's purpose for engaging in the activity. Crosby engaged in excavation and removal of mineral material and top soil from his land, and regardless of his ultimate purpose for doing so, the ordinance required that he obtain an IUP.