

Bond Case Briefs

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IMPROVEMENT DISTRICTS - NORTH DAKOTA

Nandan, LLP v. City of Fargo

Supreme Court of North Dakota - February 12, 2015 - N.W.2d - 2015 ND 37

Property owner brought action against city, challenging creation of improvement district. The District Court granted city's motion to dismiss. Property owner appealed.

The Supreme Court of North Dakota held that:

- Statute authorizing municipalities to enter into agreements with other government entities for certain improvements did not require city to adopt a resolution of necessity for drainage project, but
- Property owner stated claim under statute requiring a resolution of necessity except where the improvement constitutes a water or sewer improvement.

City that entered into agreement with water district was not required to adopt a resolution of necessity for drainage project, and property owner had no right of protest, under statute authorizing a municipality to enter into an agreement with another government entity for certain improvements, where city bid out the project itself and entered into construction contract.

Property owner seeking to challenge creation of municipal improvement district without a resolution of necessity stated valid claim against city under statute requiring a resolution of necessity except where the improvement constitutes a water or sewer improvement. Complaint alleged that improvement district included street repairs, utilities and other items not specifically included in the description of a water or sewer improvement, and it was unknown whether such other repairs were merely incidental to the water and sewer repairs.