

Bond Case Briefs

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SPECIAL ASSESSMENTS - WISCONSIN

First State Bank v. Town of Omro

Court of Appeals of Wisconsin - November 11, 2015 - Slip Copy - 2015 WL 6952945

The Barony subdivision, a seventy-four lot subdivision in the Town of Omro, received final plat approval in 2004. By 2009, only a few of the lots had been sold and First State Bank had acquired all sixty-five remaining lots in lieu of foreclosure. As of 2009, the roads in the subdivision had not been paved. In 2013, the Town authorized finishing the roads and specially assessed the lots within the Barony subdivision for the cost of completing the roads.

The Bank challenged the Town's authority to levy the special assessments as to all lots and specifically challenged the assessments as to lots four, five, and fifty-five, which do not abut any of the roads built by the Town.

The issue presented was whether a municipality may use its police powers to build roads and levy special assessments against the land benefitted after a developer defaults in its obligation to build the roads.

The Court of Appeal:

- Ratified the Town's special assessment against the lots that benefited from the road project; and
- Reversed that part of the trial court's decision that found that the three lots not abutting the improved roads received special benefits, as there was a genuine factual dispute over this issue, making it inappropriate for resolution at the summary judgment stage. The court found that a reasonable jury could find that these three lots received no greater benefit from the roads than any other owner of Town property located outside of the subdivision.