

Bond Case Briefs

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SPECIAL ASSESSMENTS - MINNESOTA

Pavek v. City of Prior Lake

Court of Appeals of Minnesota - December 14, 2015 - Not Reported in N.W.2d - 2015 WL 8548972

In May 2013, Prior Lake adopted special assessments against property owners to help fund the Welcome Avenue project to improve Welcome Avenue by widening and paving the road, providing municipal water and sewer services to properties in the area, and alleviating flooding in Markley Lake by building a pond to collect run-off from surrounding properties.

Property owner Archie J. Pavek received assessments for street improvements and the stormwater pond that totaled \$76,479. Pavek appealed Prior Lake's assessment. During a bench trial, the district court heard testimony from two appraisers, Cal Haasken and Paul Gleason.

Haasken completed an appraisal for Pavek and concluded that "general industrial" is the highest and best use of Pavek's property. Haasken also stated that it is not economically viable to subdivide Pavek's property. Haasken utilized an income approach, a market-data approach, and a replacement-cost approach to determine the market value of Pavek's property. Haasken considered both the land and the improvements on Pavek's property. Haasken concluded that the Welcome Avenue project did not increase the value of Pavek's property.

Gleason completed an appraisal for Prior Lake and concluded that "light industrial" is the highest and best use of Pavek's property. Gleason concluded that the Welcome Avenue project did not affect the value of the improvements on Pavek's property. He stated that only Pavek's land benefited from the Welcome Avenue project. Gleason used a direct-sales-comparison approach to estimate the value of Pavek's land before and after the Welcome Avenue project. Gleason concluded that the Welcome Avenue project increased the market value of Pavek's property by \$103,000.

At the conclusion of the bench trial, the district court ordered the assessment against Pavek's property to be set aside. The district court found Haasken's appraisal persuasive because he determined the market value of the land and buildings, not the land only. The district court, however, determined that 1.5 acres on the eastern border of Pavek's property could benefit from the Welcome Avenue project if developed. The district court ordered Prior Lake to reassess Pavek's property in an amount not to exceed \$24,829. Prior Lake appealed.

The Court of Appeal affirmed. "Haasken's opinion conflicted with Gleason's opinion, and the district court found Haasken's appraisal more persuasive. The weight and credibility given to each appraiser's opinion, however, was an issue for the district court to determine. Further, whether the market value of Pavek's property increased is a question of fact that will not be set aside unless it is clearly erroneous. Thus, the district court did not err by finding Haasken's appraisal more persuasive."