

Bond Case Briefs

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SPECIAL ASSESSMENTS - NORTH DAKOTA

Paving District 476 Group v. City of Minot

Supreme Court of North Dakota - July 12, 2017 - N.W.2d - 2017 WL 2962825 - 2017 ND 176

Landowners brought action against city, seeking judgment declaring that assessments to their properties for proposed street improvements were invalid due to improper notice.

The District Court dismissed. Landowners appealed.

The Supreme Court of North Dakota held that:

- Limitations period of 30 days set forth in statute of repose for actions based upon defects and irregularities in the creation of improvement districts began to run when city council adopted resolution awarding sale of warrants to finance the improvements;
- City's alleged failure to give to landowners required statutory notice of the full extent of proposed street improvements did not violate the landowners' due process rights; and
- Public purpose requirement for due process was satisfied, and thus, city's proposed street improvements did not violate state constitution's gift clause.

Limitations period of 30 days set forth in statute of repose for actions based upon defects and irregularities in the creation of improvement districts began to run on landowners' cause of action, seeking to invalidate assessments to their properties for proposed street improvements based on improper statutory notice by the city, when city council adopted resolution awarding sale of warrants to finance the improvements.

City's alleged failure to give required statutory notice of the full extent of proposed street improvements to landowners, whose properties were liable to be specially assessed for the improvements, did not violate the landowners' due process rights. City's decision to create assessment district and make improvements did not deprive landowners of property rights, any violation of statutory notice requirements was purely statutory violation, and landowners did not argue that they did not receive notice and opportunity to be heard before assessments became final.

Due process requirement that public funds derived from taxation be for public purpose was satisfied, and thus, city's proposed street improvements for which landowners' properties were specially assessed did not violate state constitution's gift clause, where city created paving district for the improvement of streets open to public use.