

Bond Case Briefs

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WATER LAW - NORTH DAKOTA

Becker v. Burleigh County

Supreme Court of North Dakota - March 13, 2019 - N.W.2d - 2019 WL 1146803 2019 ND 68

Landowners whose property abutted subdivision's streets brought action against county, its water resource district, and township, seeking to halt flood protection project in township subdivision.

The District Court granted summary judgment in favor of defendants, denied landowners' request for preliminary injunction, and ordered landowners to pay county and township \$18,756.75 in costs and disbursements. Landowners appealed.

The Supreme Court of North Dakota held that:

- Landowners were not required to exhaust their administrative remedies prior to bringing action for preliminary injunction to halt flood protection project;
- Raising streets for flood protection was consistent with purpose of original dedication of streets;
- Original dedication of streets was statutory dedication in nature of grant;
- Dedication extinguished landowners' rights in property to middle of streets;
- Landowners failed to establish substantial likelihood of success on merits of their claims; and
- Landowners' inverse condemnation claim was premature.