

Bond Case Briefs

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MARKETABLE TITLE ACT - MINNESOTA

Lundstrom v. Township of Florence

Court of Appeals of Minnesota - September 6, 2022 - N.W.2d - 2022 WL 4074769

Landowners brought declaratory-judgment action against township, claiming that township's interest in unopened streets abutting their property was extinguished by Marketable Title Act (MTA).

The District Court denied landowners' summary judgment motion and granted township's summary judgment motion in which they sought a declaration that the disputed streets were platted, public, unopened roads. Landowners appealed.

The Court of Appeals held that:

- Landowners established a "source of title" for purposes of their claim under MTA, and
- Township neither timely recorded notice of its easement interest nor identified evidence that satisfied possession exception notice requirement of MTA.

Landowners established a "source of title" for purposes of their claim under Marketable Title Act (MTA) in declaratory-judgment action against township regarding their respective interests in portions of two platted, unopened streets that abutted landowners' lots; fee simple title to real estate was "source of title" for MTA purposes, landowners owned fee simple interests in their lots, lots abutted streets dedicated by plat, neither street had been vacated, and landowners had fee simple interest to center of street.

Township neither timely recorded notice of its easement interest in unopened streets abutting landowners' property nor identified evidence that satisfied possession exception notice requirement of Marketable Title Act (MTA), and thus township was conclusively presumed to have abandoned its interest in unopened streets to which landowners had asserted interest, although township had purported interest through execution and recording of land by plat dedication in 1857 and claimed that public used street to access river abutting landowners' property; recording of plat did not satisfy township's duty to file notice of claim under MTA, township did not show that public used streets to access riverfront, and abandonment of platted public street did not require affirmative act.