

Bond Case Briefs

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SPECIAL ASSESSMENTS - NORTH DAKOTA

Senske Rentals, LLC v. City of Grand Forks

Supreme Court of North Dakota - March 31, 2023 - N.W.2d - 2023 WL 2718043 - 2023 ND 55

Property owner appealed after city council upheld decision of city special assessment commission to specially assess property for street improvements. The District Court upheld commission's decision. Property owner appealed.

The Supreme Court held that:

- Judicial notice would not be taken of city's published documents relating to special assessment amount;
- Record was inadequate for property owner to meet burden to demonstrate that city or commission acted arbitrarily, capriciously, or unreasonably in determining benefit of project; and
- Commission's assessment method did not violate statutory requirements.

Supreme Court would decline to take judicial notice of city's published documents relating to special assessment amount of street-improvement project when reviewing district court's order upholding decision of city special assessment commission; documents related to information gathered nearly two years after determination of special-assessment amount, and documents were not in the record given that they were not presented to district court, city council, which upheld commission's decision, or commission.

Record in property owner's appeal of special assessment was inadequate for property owner to meet burden to demonstrate that city or city special assessment commission acted arbitrarily, capriciously, or unreasonably in determining benefit of street-improvement project, where record did not reflect that property owner made a specific argument on method that commission used to determine benefit.

City special assessment commission's assessment method, under which commission calculated assessment amount for street-improvement project by taking cost of construction and dividing it by square footage of the property and assessing it according to lot frontage, did not violate requirements of statute governing determination of special assessments by commission, despite contention that complex nature of project was not comparable to other projects that had lent themselves to a simple form of calculation.

Supreme Court would decline to consider property owner's claim that constitutional taking occurred because special assessments imposed by city special assessment commission regarding street-improvement project were as much as improved value of the parcels when Court reviewed district court's affirmance of commission's decision, where property owner did not raise claim in district court.

