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Cass County v. KNB Properties LLC

Supreme Court of North Dakota - December 19, 2024 - N.W.3d - 2024 WL 5165068 - 2024 ND 226

Home rule county brought action against owners of parcels in township, alleging that they had violated county's subdivision ordinance, which specified watercourse setbacks. Owners filed counterclaim, alleging selective enforcement of the subdivision ordinance and seeking a permanent injunction prohibiting county form enforcing ordinance against them.

The District Court entered summary judgment for county, granted county permanent injunctive relief, dismissed landowners' counterclaim with prejudice, and denied landowners' motion to alter or amend judgment. Owners appealed.

The Supreme Court held that:

- As a matter of apparent first impression, a county may impose setback requirements as conditions on its exercise of subdivision authority within an organized township;
- County's subdivision authority was not implicated until initial parcel was platted into two, the plats were recorded, and one of the two new parcels was conveyed; and
- Proper remedy for the two parcels at issue being in violation of the subdivision ordinance was to void the conveyance of one of them, thus restoring the two parcels to the original one.

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