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EMINENT DOMAIN - NORTH DAKOTA

Hoff v. City of Burlington

Supreme Court of North Dakota - March 28, 2025 - N.W.3d - 2025 WL 942057 - 2025 ND 62

Owner of property located in floodplain brought negligence and inverse condemnation action against city seeking writ of mandamus, declaratory judgment, and injunction arising from city's imposition, pursuant to floodplain ordinance, of additional construction requirements after city granted owner a building permit for an addition to owner's single-family home.

The District Court held bench trial on all claims except for negligence claim, entered judgment in favor of city on those claims, and granted summary judgment to city on negligence claim. Owner appealed.

The Supreme Court, held that:

- Any error in trial court's exclusion of certain exhibits from bench trial was not reversible error;
- Evidence was sufficient to support finding that owner's home remodel was a "substantial improvement" triggering additional construction requirements of floodplain ordinance;
- City's refusal to issue certificate of occupancy for addition was not a "total regulatory taking" that would trigger requirement of just compensation; and
- Any reliance by owner on city's approval of building permit was not justifiable, precluding existence of a special relationship that could support negligence claim arising from city's performance of its public duty of approving the building permit.

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