

SUPREME COURT OF IOWA

Clarke County Reservoir Commission v. Linda Sue Abbott, et al.

No. 14-0774 (Iowa Apr. 10, 2015), amended June 22, 2015 · No. No. 14-0774 · Decided April 10, 2015

SUMMARY

The Iowa Supreme Court considered whether a joint public-private commission formed under Iowa Code chapter 28E could exercise eminent domain and seek a public-use declaration under Iowa Code section 6A.24(2). The court held that a 28E commission containing private members without eminent-domain authority could not itself exercise that power or act as the acquiring agency. The court further held that the private members’ postjudgment withdrawal did not moot the appeal, and it reversed and remanded.

CASE DETAILS

COURT	Supreme Court of Iowa
WRITING FOR THE COURT	Waterman, Justice; all participating justices
JURISDICTION	Iowa
DECIDED	April 10, 2015
DOCKET	No. 14-0774
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Landowners appealed a declaratory judgment entered by the Iowa District Court for Clarke County under Iowa Code section 6A.24(2), declaring that the Commission's proposed reservoir project constituted a public use for purposes of eminent domain. During the appeal, the Commission's private members withdrew, and the Commission moved to dismiss the appeal as moot.
STANDARD OF REVIEW	Correction of errors at law. Statutory interpretation is reviewed for correction of errors at law, constitutional questions are reviewed de novo, and review of a declaratory judgment depends on how the case was tried below.
PRECEDENTIAL VALUE	Published Iowa Supreme Court opinion; precedential
PARTIES	Edwin D. & Deloris A. Robins Revocable Trust, Sheila A. Harned, Lanny Robins, Douglas E. Robins, Kyle Robins v. Clarke County Reservoir Commission

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QUESTIONS PRESENTED

1. Whether a chapter 28E commission containing private members that lack eminent-domain authority may itself exercise eminent domain or qualify as an acquiring agency authorized to seek a public-use declaration under Iowa Code section 6A.24(2).
2. Whether the withdrawal of the Commission's private members after entry of the district-court judgment rendered the landowners' appeal moot.
3. Whether the district court's declaratory judgment should be reversed because the Commission was an improper acquiring agency when it filed the action and obtained judgment.

HOLDINGS

1. The appeal was not moot because the Commission's authority was defective when it filed the declaratory action and when the district court entered judgment, and reversal could still have a practical legal effect because the reservoir had not been built and the property had not been acquired through eminent domain.
2. A chapter 28E entity containing private members that lack eminent-domain authority cannot itself exercise eminent domain and cannot serve as an acquiring agency seeking a declaratory judgment under Iowa Code section 6A.24(2). A chapter 28E agreement confers no new eminent-domain power; it permits only the joint exercise of powers already possessed by the participating agencies.
3. The district court erred by allowing the declaratory action to proceed to judgment with a plaintiff that was not a proper acquiring agency, requiring reversal of the declaratory judgment.

KEY QUOTATIONS

“We hold a 28E commission with members lacking the power of eminent domain cannot itself exercise the power of eminent domain or serve as an acquiring agency seeking a declaratory judgment under section 6A.24(2).” (at 3)

“We hold that a 28E entity with private members lacks the power of eminent domain.” (at 19)

“The district court erred by allowing the declaratory action to proceed to judgment with a plaintiff that was not a proper acquiring agency.” (at 20)

FACTUAL BACKGROUND

The Clarke County Reservoir Commission was created under an Iowa Code chapter 28E agreement by public agencies and later added the Clarke County Development Corporation, a private entity lacking eminent-domain

authority. The Commission planned to build a reservoir to address projected regional water needs and adopted a resolution contemplating condemnation of agricultural land. It then sought a declaratory judgment under Iowa Code section 6A.24(2) that the project was a public use. After the district court ruled for the Commission, the private members withdrew during the appeal, leaving only public entities as members.

PROCEDURAL HISTORY

The Commission filed a declaratory judgment action seeking a determination that its proposed reservoir was a public use that would permit condemnation of private property. The district court denied the landowners' summary-judgment motion challenging the Commission's authority, conducted a bench trial on public use, and entered judgment for the Commission. The landowners appealed solely on the Commission's authority to exercise eminent domain. The Iowa Supreme Court retained the appeal, rejected the mootness argument, reversed the declaratory judgment, and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remand for further proceedings consistent with the opinion. The declaratory judgment that the Commission, as then constituted, was a proper acquiring agency is reversed; the opinion does not reach the merits of whether the reservoir was a public use.

CASES CITED

- Star Equip., Ltd. v. State, 843 N.W.2d 446, 451 (Iowa 2014)
- City of Riverdale v. Diercks, 806 N.W.2d 643, 651 (Iowa 2011)
- Hardy v. Grant Twp. Trs., 357 N.W.2d 623, 625-26 (Iowa 1984)
- Hawkeye Land Co. v. Iowa Utils. Bd., 847 N.W.2d 199, 208, 218-19 (Iowa 2014)
- Perkins v. Bd. of Supervisors, 636 N.W.2d 58, 69-70 (Iowa 2001)
- Armstrong v. United States, 364 U.S. 40, 49 (1960)
- Kelo v. City of New London, 545 U.S. 469, 496, 504-05 (2005)
- Bourjaily v. Johnson County, 167 N.W.2d 630, 633-34 (Iowa 1969)
- In re Condemnation of Land for Valley View Park Aquatic/Roadway, 687 N.W.2d 103, 105-06 (Iowa 2004)
- In re Guardianship of Kennedy, 845 N.W.2d 707, 710-11 (Iowa 2014)
- In re M.T., 625 N.W.2d 702, 704 (Iowa 2001)
- Rush v. Ray, 332 N.W.2d 325, 326 (Iowa 1983)
- Lewis Investments, Inc. v. City of Iowa City, 703 N.W.2d 180, 183-84 (Iowa 2005)
- Welton v. Iowa State Highway Comm'n, 227 N.W. 332, 333 (Iowa 1929)
- In re Trust No. T-1 of Trimble, 826 N.W.2d 474, 482 (Iowa 2013)
- Goreham v. Des Moines Metro. Area Solid Waste Agency, 179 N.W.2d 449, 453, 455 (Iowa 1970)

- Barnes v. Department of Housing and Urban Development, 341 N.W.2d 766, 767-68 (Iowa 1983)
- Weiss v. City of Denison, 491 N.W.2d 805, 807-08 (Iowa Ct. App. 1992)
- Department of Transportation v. Association of American Railroads, 135 S. Ct. 1225, 1234, 1239-40 (2015)
- Soultz Farms, Inc. v. Schafer, 797 N.W.2d 92, 103-04 (Iowa 2011)
- Fennelly v. A-1 Mach. & Tool Co., 728 N.W.2d 181, 186 (Iowa 2007)
- Cawthorn v. Catholic Health Initiatives, 806 N.W.2d 282, 286 (Iowa 2011)
- Wolfe v. Graether, 389 N.W.2d 643, 651 (Iowa 1986)
- In re Clement Trust, 679 N.W.2d 31, 38-39 (Iowa 2004)
- Wilson v. City of Iowa City, 165 N.W.2d 813, 824-25 (Iowa 1969)
- Nutting v. Zieser, 482 N.W.2d 424, 425-26 (Iowa 1992)

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