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CASE NO. A08-999

State of Minnesota
In Court of Appeals

CITY OF JORDAN,

Petitioner/Respondent,

vs.

THE CHURCH OF ST. JOHN THE BAPTIST OF JORDAN,
a Minnesota Religious Corporation,

Appellant,

PREMIER BANK, MORTGAGEE,
Lower Court Respondent.

BRIEF AND APPENDIX OF RESPONDENT CITY OF JORDAN

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The appendix to this brief is not available for online viewing as specified in the *Minnesota Rules of Public Access to the Records of the Judicial Branch*, Rule 8, Subd. 2(e)(2).

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STATEMENT OF LEGAL ISSUE

Does Minn. Stat. § 315.42 prohibit a city from exercising eminent domain to condemn an easement on church property without the church's consent in order to shift an existing sidewalk and to place updated traffic-control lights on the easement?

Trial Court Ruling: The district court held that "there is absolutely no showing that a road or street, which would be prohibited under Minn. Stat. § 315.42, is to be laid through the property of the Church in this instance."

Apposite Cases:

- *State ex. Rel. City of St. Paul v. Dist. Court of Ramsey County*, 114 Minn. 287, 131 N.W. 327 (1911).
- *Hewitt v. City of Montrose*, 488 N.W.2d 5 (Minn. App. 1992).

Apposite Statutes:

- Minn. Stat. § 315.42 (2007).
- Minn. Stat. § 412.221, subd. 6 (2007).

STATEMENT OF FACTS

The facts in this case are fairly straight-forward, having been stipulated to by the parties for the purpose of determining the validity of Respondent, the City of Jordan's Petition for eminent domain. (See App. Br. at A10-A17). Here, the City merely attempts to clarify the extent of the Easement Area.

The City's finished public improvement project ("the Project") and the area of the Appellant's property the City desires as easement is shown in Exhibit H of the Parties' Stipulation of Facts. (App. Br. at A33, Resp. Br. at RA11.) The green line of Exhibit H shows the boundary between the public property owned by the Minnesota Department of Transportation ("MnDOT") and Appellant's property. (Stip. ¶ 22, App. Br. at A14-A15.) The yellow lines show the intersection after completion of the project. (*Id.*) No property on Appellant's south side is needed for the Project because MnDOT owns the necessary right-of-way. (Stip. ¶ 23, App. Br. at A15.) The only property needed from Appellant's church site is the triangle outlined in green at the very perimeter southwestern corner of the church property. MnDOT sidewalk will abut the church's sidewalk. The Easement Area in front of the church building is a triangle with two ten-foot sides resulting in a total area of 50 square feet. (Stip. Ex. D, App. Br. at A27.)

The northwest Easement Area to be acquired from the old school site is a triangle with two eight-foot sides resulting in a total area of 32 square feet. (Stip. Ex. D, App. Br. at A27.) The old school property on the northwest corner is used solely for parking and recess. (*See* Stip. ¶ 4, App. Br. at A11.)

Exhibits F and G are pictures showing the current location of the sidewalk, signal light, and the distance of motor vehicles traveling the abutting Trunk Highways 282 and 21 from the church building. (Stip. ¶ 21, App. Br. at A14, A30-A32, Resp. App. at RA8-RA10.) The second picture of Exhibit G also shows cars parked in Appellant's parking lot on the north side of the church building. The pink flagged stakes shown in the second picture of Exhibit G show the approximate location of the western line of the triangle easement the City seeks. 36.3 feet will remain between Trunk Highway 282 and the church building's southern foundation. (*See* Stip. ¶ 16.b, App. Br. at A13.)

The condemnation petition sought by the City is limited to the taking of easements for traffic signal light and equipment and sidewalk purposes. (Stip. ¶¶ 10, 19, App. Br. at A12, A14.) The finished Project will result in a softened curb, the shifting of the existing sidewalk and placement of updated traffic signals onto the Easement Area. (See Stip. Ex. E1-E2, App. Br. at A28-A29.)

STANDARD OF REVIEW

This case hinges on the applicability of Minn. Stat. § 315.42 to the facts stipulated to by the City of Jordan and Appellant. The application of a statute to the undisputed facts of a case involves a question of law, which is reviewed de novo. *O'Malley v. Ulland Bros.*, 549 N.W.2d 889, 892 (Minn. 1996).

ARGUMENT

MINN. STAT. § 315.42 DOES NOT PROHIBIT THE CITY OF JORDAN FROM EXERCISING EMINENT DOMAIN TO CONDEMN AN EASEMENT ON THE CORNER OF THE APPELLANT'S PROPERTY AT AN EXISTING INTERSECTION IN ORDER TO SHIFT THE SIDEWALK AND INSTALL A NEW TRAFFIC-CONTROL SIGNAL.

Pursuant to Minn. Stat. § 315.42, "[n]o roads or streets shall be laid through the property [of a religious corporation] without the consent of the corporation's governing board." Appellant attempts to play this statute to trump the City of Jordan's right to condemn an easement in order to improve an existing intersection. But the facts of this case are simply inapplicable to this statute—the City of Jordan is not laying a road or street through Appellant's property.

Section 315.42 does not define "road," "street," or "laid through," and no case has yet interpreted or applied this statute. When interpreting a statute, the Court first examines whether the statute's language, on its face, is clear or ambiguous. *Am. Family Ins. Group v. Schroedl*, 616 N.W.2d 273, 277 (Minn. 2000). A statute is only ambiguous when its language is subject to more than one reasonable interpretation. *Id.*

If the statute's language is "'clear and free from all ambiguity,' further construction is neither necessary nor permitted." *In re Fence Viewing Petition of Bailey*, 626 N.W.2d 190, 197 (Minn. App. 2001). Words and phrases must be construed according to their plain meaning, and "a reviewing court may not read ambiguity into an otherwise clear statute under the guise of statutory interpretation." *Id.*; Minn. Stat. § 645.08 (1). "When the words of a statute are not explicit, the intention of the

legislature controls." *Hewitt v. the City of Montrose*, 488 N.W.2d 5, 7 (Minn. App. 1992).

Here, this Court must answer two questions: (1) Do the terms "road" or "street" in Minn. Stat. § 315.42 include a sidewalk, apart from the street actually travelled on by motorized vehicles? (2) Does "laid through" include shifting an existing sidewalk placed on a corner of Appellant's property?

At first glance, Minn. Stat. § 315.42 does not appear ambiguous. The obvious interpretation would be that a government authority cannot put down a new road or street to facilitate vehicular traffic through a religious corporation's property without consent. A "street" is understood by the common person as a public way or thoroughfare that handles vehicular traffic. "Laid through" would commonly conjure the understanding that something new was being put down on one end of the property to the opposite end of the property. Here, the City is not putting down a new road or street. And shifting the sidewalk onto a small corner of Appellant's property is not laying a road or street through that property.

However, the legal profession derives its bread and butter from finding and exploring the nuances of ambiguity found in our statutes and language. Appellant's argument rests on the assertion that a sidewalk is included in the definition of a street, and therefore, Minn. Stat. § 315.42 prohibits shifting the sidewalk onto a small corner of Appellant's property. Even the *American Heritage Dictionary*'s definition of "street" indicates that sometimes the sidewalks are included in the definition of street and

sometimes the term "street" specifically excludes the sidewalks.[1] Regardless, Appellant's argument that the sidewalk in this case is a "street" for purposes of Minn. Stat. § 315.42 must fail.

As will be discussed below, throughout the Minnesota Statutes the legislature has both included sidewalks in the definition of street and distinguished sidewalks from streets. *See e.g.* Minn. Stat. §§ 412.221, subd. 6; 466.03, subd. 4 (distinguishing streets from sidewalks); Minn. Stat. §§ 169.01, subds. 33 (defining sidewalk as part of a street).[2] Should this Court determine that the words of Minn. Stat. § 315.42 are not explicit, then it must determine the legislative intent for the statute. *See Hewitt*, 488 N.W.2d at 7. "Legislative intent can be garnered by considering other aspects of the statute, including its intention with other statutory provisions relating to the same subject." *Id.*

A. The Legislature did not intend for Minn. Stat. § 315.42 to prohibit the shifting of an existing sidewalk and the replacement of outdated traffic lights with a new traffic control signal at an important intersection on church property.

Minn. Stat. § 315.42[3] is written with nearly identical language to the prohibitive language contained in Minn. Stat. §§ 306.14 and 307.09, which govern public and private

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[1] Street. 1a. "A public way or thoroughfare in a city or town, usually with a sidewalk or sidewalks. b. Such a public way considered apart from the sidewalks." *Am. Heritage Dict.*, 1777 (3d ed. 1992).

[2] The City is not arguing that a sidewalk is never considered part of a street or that a highway right-of-way only includes the actual roadway and doesn't include utilities. (See App. Br. at 20-23). Rather, what is at issue here is the legislature's intent for Minn. Stat. § 315.42. Statutes and case law regarding prescriptive easements for public highways and for rights-of-way for utilities along highways are not instructive here.

[3] Section 315.42's predecessor statute was adopted in 1881 and provided: "That no streets or roads shall be opened through the lands of such corporation or society, except by and with the consent of the Board of Directors or Trustees of the same." Gen Laws. of Minn.

cemeteries respectively[4] and provide that "no road or street shall be laid through" the land owned by the cemetery. The interpretation of this language by the Minnesota Supreme Court is helpful to understand the purpose behind these similar statutes.

The purpose for prohibiting the laying of roads or streets through cemeteries was illuminated by the Minnesota Supreme Court in *City of St. Paul v. District Court of Ramsey County*, 114 Minn. 287, 131 N.W. 327 (1911). The purpose of protecting cemeteries from having "roads or streets cut through their lands is not to aid the associations or their trustees, but is to preserve cemeteries for the particular uses to which they have been appropriated, and to guard against the disturbance of the resting places of the dead." *Id.* at 290-91, 131 N.W. at 328.

Similarly, the purpose of Minn. Stat. § 315.42 is to protect places of worship from the disturbance associated with bringing the noise of a road or a street <u>through</u> the property of a church or synagogue.[5] Minn. Stat. § 315.42 does not protect a religious corporation from the disturbance caused by roads or streets already in existence. Indeed, a road or street must abut a church's property to provide access to the property. Trunk

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ch. 138, §§ 1, 10 (1881). (See Resp. App. at RA1-RA3.) An examination of the remainder of the 1881 General Laws of Minnesota revealed no definitions of road or street within the 1881 statutes.

[4] "No road or street shall be laid through the cemetery, or any part of the lands of the association without the consent of the trustees." Minn. Stat. §306.14 subd. 1. "[a]nd no road or street should be laid through the same without the consent of the owners." Minn. Stat. §307.09 subd. 1.

[5] Such a purpose is also supported by Sec. 8 of Gen. Laws. of Minn. ch. 138 (1881) giving the Board of Directors or Trustees the power to establish rules promoting peace and dignity on the premises of the religious society or corporation: " for prohibiting noisy, rude or indecent behavior, or trespassing on unforbidden grounds, or hitching horses to trees, fences or buildings . . ."

Highways 21 and 282 both abut Appellant's properties and provide necessary access. Minn. Stat. § 315.42 does not allow a religious corporation to prevent improvements to a road or street already in existence.

Here, shifting the sidewalk and installing updated traffic-control signals will not add to the disturbances experienced by this place of worship. Vehicular noise is not brought any closer to Appellant's church building or school—the sidewalk to be built on the Easement Area will handle only pedestrian traffic. (See Stip. at ¶ 19, App. Br. at A14.) In fact, most of the pedestrian traffic will be attending the church itself. The sidewalk and signal lights will assist the church. The church uses its old school site for parking purposes and for recess for the school children. (See Stip. at ¶ 4, App. Br. at A11.) A safe landing upon which to stand and wait for the signal to cross Trunk Highway 21 will improve the intersection's safety for these school children and for other pedestrians. *Id.* The recessed location of the traffic lights will enhance drivers' view of pedestrians waiting to cross, also increasing the pedestrians' safety. (See Stip. Ex. E-2, App. Br. at A29.) The new signal lights are programmable for a longer pedestrian crossing, enabling slower-moving people to safely cross Highways 21 or 282. (See Stip. ¶ 25, App. Br. at A15.) The new signal lights also have an audio signal, alerting the sight impaired when it is safe to cross the Trunk Highways. (See Stip. ¶ 24, App. Br. at A15.)

The City's project will not cut new roads through Appellant's property. In fact, the easement protects Appellant—prohibiting the City from using the Easement Area for anything but the sidewalk landing and signal light. (Stip. ¶ 10, App. Br. at A12.) The

City could not tear up the Easement Area at a later date to install utilities or to expand the roadway. An easement allowing such specific and limited upgrades to occur at this intersection does not violate the purposes of Minn. Stat. § 315.42, and allowing Appellant to prohibit such important upgrades to the existing intersection and sidewalk certainly does not further the legislative purpose of Minn. Stat. § 315.42.

B. The proposed use for the Easement Area is neither a road nor street.

In light of the purpose of Minn. Stat. § 315.42, it is clear that neither shifting the existing sidewalk nor installing updated traffic-control signals constitutes a road or a street. Cities, counties, and the state have authority to lay out and build new roads. Often this must be accomplished by eminent domain. Therefore, the statutes relating to eminent domain are instructive here.

The City is granted the authority of eminent domain by Minn. Stat. § 412.211, which distinguishes between "streets" and "sidewalks."

> **Streets; sewer; sidewalks; public grounds**. The council shall have power to lay out, open, change, widen, or extend streets, alleys, parks, squares, and other public ways and grounds and to grade, pave, repair, control, and maintain the same; [and] * * * to lay, repair, or otherwise improve or discontinue sidewalks, paths, and crosswalks. * * * .

Minn. Stat. § 412.221 subd. 6 (emphasis added). Chapter 412 does not define "street" or "sidewalks," and therefore relies on the common use of those terms. *See* Minn. Stat. § 645.08 subd. 1 (noting that "words and phrases are construed according to rules of grammar and according to their common and approved usage"). Neither "street" nor "sidewalk" are technical words, and when the legislature has required special definitions, it has provided them. *See* Minn. Stat. §169.01 subds. 29, 33 (defining street and sidewalk

for the purposes of traffic regulations).[6] When construing statutes, courts must presume that "the legislature does not intend a result that is absurd, impossible of execution, or unreasonable: and that the legislature intended all statutory provisions to have meaning." *State v. Moen*, A07-2365, 2008 Minn. App. LEXIS 316 at *5-6 (Minn. App. July 8, 2008). Courts should avoid interpretations that would render portions of the statute superfluous. *See id.* at *7-8. Here, the power to lay out streets is distinguished from the power to lay sidewalks. If sidewalks are "streets," the provision providing the power to lay sidewalks would be superfluous and meaningless.[7]

The power to lay streets and the actual laying of streets addressed in Sections 412.221 and 315.42 are similar and the distinction between the two terms should be maintained in this court's interpretation of Section 315.42. Shifting a sidewalk onto a small corner of Appellant's property is not laying a street through it under Section 315.42.

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[6] "Street" and "Sidewalk" have been defined by chapter 169 at least since its enactment in 1937. Minn. Session Laws (1937) ch. 464, art. 1, §1 p. 735 (See Resp. App. at RA4-RA5). When enacting and revising section 315.42 (revised in 1985) and section 412.221(enacted in 1949 and revising predecessor statute), the legislature had the opportunity to incorporate these definitions but chose not to.

[7] In fact, the predecessor statute of section 412.221 enacted in 1895 clearly distinguished between streets and sidewalks: village councils were given power to "cause any street or any part of any street to be graded, paved, macadamized or otherwise improved, or any sidewalk or gutter to be built . . . .or order any sidewalk or gutter on one (1) side of a street to be built." Gen. Laws Minn. ch. 72, § 30 (1895) (Resp. App. at RA6-RA7). This distinction remains today and demonstrates that a sidewalk is not and has not *always* been considered "a part of a street."

Appellant attempts to rely on the definitions of "streets" and "sidewalk" in chapter 169 and on case law regarding the tort liability of a city for the condition of its streets and sidewalks. Such attempts should remain unpersuasive.

Chapter 169 applies to the regulations governing traffic—the operation of vehicles on roads and the rules governing parking, pedestrian traffic and the like. It does not apply to eminent domain proceedings or to a City or County's authority to create and expand streets or sidewalks.

Similarly, the cases relied on by Appellant regarding a municipality's duty to repair and maintain streets do not demonstrate that Section 315.42 refers also to sidewalks. These cases do not deal with a city's authority to lay or build streets or sidewalks. Rather, they deal with a city's tort liability for failing its obligation to repair and maintain its streets. In fact, the case law is not as "clear" as Appellant would lead this Court to believe.

For example, in *Lockway v. Proulx*, the City of St. Paul argued that it could not be held liable for injuries that a plaintiff sustained when he slipped and fell on an icy sidewalk. 283 Minn. 30, 32, 166 N.W.2d 79, 80 (1969). The city argued that the Municipal Tort Liability Act (Ch. 466) precluded the liability of the city. The statute exempted a municipality from liability for "any claim based on snow or ice conditions on any highway or other public place." Minn. Stat. § 466.03, subd. 4 (1969). The city argued that the term "highway" included sidewalks because in a municipality a highway is a public street and a sidewalk is considered a part of a street. *Lockway*, 283 Minn. at 32, 166 N.W.2d at 80. The Minnesota Supreme Court rejected this argument, concluding

that in tort actions the terms highway, streets, boulevards, and sidewalks are considered separately. *Id.* at 32-33, 166 N.W.2d at 81. The Court concluded that if the legislature wanted to do away with the "long-established common-law liability of the municipality for accidents arising from sidewalk conditions" it would have clearly expressed that intention. *Id.*[8] Contrary to Appellant's assertions, neither Minnesota courts nor the Minnesota legislature have consistently determined that "street" always includes "sidewalk."

Here, even if this Court determines that the definitions in chapter 169 are applicable to Minn. Stat. § 315.42, these definitions do not include "the sidewalk" to be built on the Easement Area. According to chapter 169: "'Sidewalk' means that portion of a street <u>between</u> the curb lines, or the lateral lines of a roadway, <u>and the adjacent property lines</u> intended for the use of pedestrians." Minn. Stat. §169.01 subd. 33 (emphasis added). And "street" is defined as follows: "the entire width between boundary lines of any way or place when any part thereof is open to the use of the public, as a matter of right, for the purposes of vehicular traffic." Minn. Stat. §169.01 subd. 29. It is clear that in writing chapter 169, the Legislature intended that a sidewalk be within property owned by the governmental entity and that a sidewalk ends when the adjacent property line begins.

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[8] The legislature later amended section 466.03, subd. 4 to expressly exclude public sidewalks, exempting a municipality from "(a) Any claim based on snow or ice conditions on any highway or public sidewalk that does not abut a publicly owned building or publicly owned parking lot, except when the condition is affirmatively caused by the negligent acts of the municipality." Minn. Stat. § 466.03, subd. 4 (2007).

In the present case, the street—Trunk Highway 282—includes all that property that lies within the property lines of the Minnesota Department of Transportation ("MnDOT"). (See Ex. H, App. Br. at A33, Resp. App. at RA11. The boundary lines are marked by the green lines). Here, because the City is seeking only easements over the Easement Area, Appellant retains the fee simple interest of the Easement Area.[9] See *Id.* Because Appellant retains the fee simple interest, the locations of the proposed signal lights do not lie within the boundary lines of MnDOT and do not lie within a street or highway. (See App. Br. at A-14-15, Stip. ¶¶ 22-23.) The sidewalk on the Easement Area does not fall within the definition of Minn. Stat. § 169.01, subd. 33, and is not a street under subd. 29.

Chapter 169's definition of "roadway" is also inapplicable to sidewalks. Roadway means: "that portion of a highway improved, designed, or ordinarily used for vehicular travel, exclusive of the sidewalk or shoulder. . . ." Minn. Stat. §169.01 subd. 31. The proposed use for the Easement Area is not a road under this definition.

Because the Easement Area's sidewalk is neither a road nor a street, Minn. Stat. § 315.42 is inapplicable to this case and does not prohibit the City's public improvement project.

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[9] The fact that the property interests the City seeks are solely sidewalk and traffic signal easements is significant because the restrictions prohibit the City from using the easements for vehicular traffic. At the Church's request, the easements limit the City's use of the triangles solely as an area for pedestrians and a traffic signal base.

C. <u>The sidewalk does not travel "through" the Church's property.</u>

Even if this Court determines that the sidewalk constitutes a road or street for purposes of Minn. Stat. § 315.42, this statute does not prohibit the easement sought here. Section 315.42 prohibits the laying of a street or road "*through*" the property owned by a religious corporation without the consent of the corporation's trustees. The word "through" is not defined in Minn. Stat. ch. 315 and must therefore be given its common usage. *See* Minn. Stat. § 645.08(1). The *American Heritage Dictionary* defines "through," in part, as follows:

> 1. In one side and out the opposite or another side of. 2. Among or between; in the midst of. 3. By way of.

Here, the Easement Area is on the outer-most boundaries of the properties that abut MnDOT's right-of-way for Trunk Highways 282 and 21. (See Ex. H, App. Br. at A33, Resp. App. at R11. The green lines demonstrate the extent of the Easement Area). The sidewalk does not go "through" Appellant's property because the Appellant's property does not abut both sides of the sidewalk. The Easement Area does not travel from one end of Appellant's property to the other.

In drafting Minn. Stat. § 315.42, the Legislature chose the word "through" to describe the prohibited path of a road or street in connection with property owned by a religious corporation. The Legislature did not use "on," "upon," or "over." Had the Legislature used any of these three terms, then <u>placing</u> a road or street <u>on</u> any part of property owned by a religious corporation would require consent of the trustees. Instead, the Legislature chose the word "through," which is consistent with the public policy behind these statutes expressed by the Minnesota Supreme Court in *City of St. Paul v.*

District Court of Ramsey County—to protect such properties from having "roads or streets cut through their lands"; to preserve the properties for the particular uses to which they have been appropriated; and to guard against disturbance. *See* 114 Minn. at 290-91, 131 N.W. at 328 (applying similar prohibition to cemetery lands).

In the *City of St. Paul*, the city sought to condemn a strip of land forty-four feet wide and extending east and west through two abutting five-acre tracts of land belonging to a cemetery association to extend Cook Street. *Id.* at 289, 131 N.W. at 327. The Minnesota Supreme Court affirmed the trial court's ruling that the city lacked jurisdiction to extend the proposed street through the cemetery association's lands. *Id.* at 292, 131 N.W. at 329.

The public improvement project and use of the Easement Area here is drastically different from the proposed road in *City of St. Paul*. Shifting the existing sidewalk to a small corner of Appellant's property does not "cut through" Appellant's land; it is not extending the street across Appellant's lands; and it does not interfere with worship. Shifting the existing sidewalk to the Easement Area is simply not laying a road or street "through" the Appellant's property, and Minn. Stat. § 315.42 is inapplicable to this case regardless of whether the sidewalk here falls within the definition of street.

D. The Traffic Signal System is Not a Part of the "Street" or "Road" for Purposes of Minn. Stat. § 315.42.

Appellant also asserts that placing a traffic signal base on a slab of cement outside of the boundaries of the street makes the slab of cement and the traffic signals themselves part of the street. A traffic signal light does not make a pedestrian area lying outside the

MnDOT property lines part of a street anymore than positioning a police officer or crossing guard with a flag on the same piece of cement makes the sidewalk area part of the road.

Appellant bases its argument on the instructions in Minn. Stat. § 169.06 that the commissioner of transportation "place and maintain" such traffic-control devices as defined by the chapter "upon all state trunk highways as the commissioner shall deem necessary to indicate and to carry out the provisions of this chapter or to regulate, warn, or guide traffic."[10] Minn. Stat. § 169.06, subd. 2; see (App. Brief at 17). First, as argued above the definitions in chapter 169 are not necessarily useful in ascertaining the meaning of "street" or "road" in Section 315.42. Second, contrary to Appellant's assertions, the word "upon" as used in Minn. Stat. § 169.06 does not mean that the legislature considers a traffic signal as a necessary part of a street or highway. Under Appellant's theory, placing a street light or stop sign on privately-owned property would grant fee simple property rights to the state. Minn. Stat. § 169.06 simply defines the authority of the Commissioner of Transportation and does not grant any property rights to the state.

The word "upon" is commonly used interchangeably with the word "on" to indicate spatial relations. *See Am. Heritage Dict.* (3d ed.) at 1962, 1263. The definition of "on" includes the following: "1(a) Used to indicate position above and supported by or

[10] Reading Minn. Stat. § 169.06 as a whole, which we must, it is clear that the statute merely describes the role of the Commissioner. The Commissioner is required to create and place a signal system on trunk highways. No one else has the authority to do so. The Commissioner has the authority and discretion to put traffic-control signals wherever he deems appropriate.

in contact with. . . . (b) Used to indicate contact with or extent over (a surface) regardless of position. . . . (c) Used to indicate location at or along: . . . a *house on the highway*. (d) Used to indicate proximity." *Id.* at 1263. The traffic commissioner is authorized to place a traffic signal on or *along* a highway, and such placement does not necessarily incorporate the traffic signal into the definition of highway or street.

Appellant would like the Court to use terms in the trunk highway statutes to modify the very plain and straight forward language of Minn. Stat. § 315.42. Presumably Section 315.42 was written by the Legislature to apply to any kind of "street or road" regardless of whether it was a trunk highway, therefore any terms that are applicable to specific types of streets governed by other Chapters of Minnesota Statutes should not be considered in interpreting and construing Section 315.42.

CONCLUSION

This is not a case where the City seeks to bring a new road and new traffic through church property, thus disturbing the parishioners' ability to worship in peace. Rather, Appellant's church sits at the corner of the busy intersection of two Trunk Highways. Shifting the sidewalk onto a small corner of Appellant's property and constructing an updated traffic-control signal is necessary to improve the safety of this intersection and does not constitute laying a road or street through Appellant's property for the purposes of Minn. Stat. § 315.42. Respondent City of Jordan respectfully requests that this Court affirm the district court's ruling that the easement sought by the City of Jordan does not violate Minn. Stat. § 315.42.

Dated August 12, 2008.

RESPECTFULLY SUBMITTED,

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