



No. A10-1628

State of Minnesota
In Court of Appeals

City of East Bethel, a Minnesota municipal corporation, East Bethel Housing and
Redevelopment Authority, a public body, corporate and politic, and Jill Teetzel,
a resident and taxpayer of the City of East Bethel,

Plaintiffs-Respondents,

vs.

Anoka County Housing and Redevelopment Authority,
a public body, corporate and politic,

Defendant-Appellant

and

Larry Dalien, Division Manager, Anoka County Property Records & Taxation,

Defendant-Respondent

ON APPEAL FROM THE TENTH JUDICIAL DISTRICT COURT, JUDGE JAMES A. CUNNINGHAM, JR.

**ANOKA COUNTY HOUSING AND REDEVELOPMENT AUTHORITY'S
OPENING BRIEF AND ADDENDUM**

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STATEMENT OF THE ISSUE

Under the general statute regulating housing and redevelopment authorities (HRAs) in Minnesota, the Anoka County HRA has a mandatory, county-wide taxing district. This county-wide taxing power can be altered only by an express limitation in Anoka's special law. Anoka's special law does not mention taxing and does not expressly limit its area of operation to exclude cities that newly create their own HRAs. The issue on appeal is: Did East Bethel's creation of a city HRA after Anoka HRA was created remove East Bethel from Anoka's county-wide taxing district?

Anoka's position that East Bethel remains in its county-wide taxing district was preserved in its trial briefing, App. 14, 18-20, in evidence and argument at trial, App. 25-30, 33-37, and in Anoka's post-trial motions, App. 42-48, 50-53.

The district court held that East Bethel's creation of an HRA removed it from Anoka's taxing district. Add. 7.

Most apposite cases:

- *State ex. Rel. City of New Prague v. Scott County*, 195 Minn. 111, 261 N.W. 863 (1935)

Most apposite statutes:

- Minn. Stat. § 469.012, subd. 11
- Minn. Stat. § 469.033, subd. 6
- Minn. Stat. § 383E.17

RELEVANT STATUTORY TEXT

Minn. Stat. § 469.033, subd. 6 establishes the taxing authority of HRAs. It provides in relevant part:

All of the territory included within the area of operation of any authority shall constitute a taxing district for the purpose of levying and collecting special benefit taxes as provided in this subdivision. All of the taxable property, both real and personal, within that taxing district shall be deemed to be benefited by projects to the extent of the special taxes levied under this subdivision.

Minn. Stat. § 469.012 subd. 11, addresses limitations on HRAs' powers. It provides:

Except as expressly limited by the special law establishing the authority, an authority created pursuant to special law shall have the powers granted by any statute to any authority created pursuant to this chapter.

Minn. Stat. § 383E.17 is the special law creating the Anoka County HRA. It provides:

Subdivision 1. **Housing and redevelopment authority.** There is created in the county of Anoka a public body corporate and politic, to be known as the Anoka County Housing and Redevelopment Authority, having all of the powers and duties of a housing and redevelopment authority under the provisions of the Municipal Housing and Redevelopment Act, Minnesota Statutes 1986, sections 462.411 to 462.711. For the purposes of applying the provisions of the Municipal Housing and Redevelopment Act to Anoka County, the county has all of the powers and duties of a municipality, the county board has all of the powers and duties of a governing body, the chair of the county board has all of the powers and duties of a mayor,

and the area of operation includes the area within the territorial boundaries of the county.

Subdivision 2. **Municipal authorities.** This section shall not limit or restrict any existing housing and redevelopment authority or prevent a municipality from creating an authority. The county shall not exercise jurisdiction in any municipality where a municipal housing and redevelopment authority is established. If a municipal housing and redevelopment authority requests the Anoka County Housing and Redevelopment Authority to handle the housing duties of the municipal authority, the Anoka County Housing and Redevelopment Authority shall act and have exclusive jurisdiction for housing in the municipality. A transfer of duties relating to housing shall not transfer any duties relating to redevelopment.

Minn. Stat. § 383E.17.

STATEMENT OF THE CASE

In September 2009, East Bethel brought an action seeking a declaration that, because it had created a city HRA, Anoka could no longer include real property in East Bethel in its county-wide tax to support the county HRA.

East Bethel sought and obtained a temporary injunction, causing Anoka to lose its 2010 tax year as to property in East Bethel. The temporary injunction was secured by a cash deposit of \$201,339 by East Bethel, covering the revenue that Anoka irreparably lost. App. 12.

After a one-day bench trial, the trial court concluded that Anoka's special law bars Anoka from assessing taxes and operating housing or redevelopment projects within any city that creates an HRA. Add. 7. The court issued an injunction directing Anoka HRA not to "exercise jurisdiction in East Bethel." *Id.*

Anoka filed timely post-trial motions seeking amended findings or, in the alternative, a new trial. It also moved to stay the judgment. East Bethel filed a motion seeking the release of its security. East Bethel also argued that Anoka's post-trial motions were procedurally improper and that the court should decline to consider them. App. 38; Add. 10.

The trial court considered Anoka's post-trial motions. At the September 14, 2010 hearing on the post-trial motions, the court addressed the parties and declared on the record that it had taken "all of your arguments into account." Sept. 14, 2010 Tr. 42. Ruling from the bench, the court denied Anoka's post-trial motions, denied East Bethel's motion to release its security, but granted Anoka's motion for a stay and stayed the judgment pending appeal. *Id.* at 41-42. The court gave no explanations for its decisions. The next day, September 15, 2010, the district court issued a one-page written order embodying its rulings, without explaining them. Add. 10-11.

STATEMENT OF RELEVANT FACTS

The relevant background for this appeal is the history of HRA legislation in Minnesota.

In 1947, the legislature enacted the first general HRA statute, creating an HRA in nascent form in every municipality in the State. S. F. No. 1050, 1947 Minn. Laws 766-813, codified at Minn. Stat. § 462.411 to 462.711 and recodified, as amended, at Minn. Stat. § 469.001 to 469.047. This very first statute established the mandatory principle

that the taxing district for an HRA includes all of the territory within its “area of operation,” stating:

All of the territory included within the area of operation of any authority shall constitute a taxing district for the purpose of levying and collecting special benefit taxes as provided in this subdivision.

Minn. Stat. § 469.033, subd. 6; *see also* S. F. No. 1050, 1947 Minn. Laws 792-93

(emphasis added).

In 1971, the legislature added counties and multi-county entities to the general HRA statute, creating an HRA in nascent form in each of those governmental entities, and defining their powers by reference to the municipal HRAs that had existed for more than 20 years. H.F. No. 1413, 1971 Minn. Laws 1842-49, codified at Minn. Stat §462.426-.4291. Metro-area counties, however, including Anoka, were excluded from this general authorization. *Id.*

Because the metro-area counties were excluded from the general statute, they each sought—and obtained—special laws creating HRAs in their own counties. Anoka’s special law was enacted in 1978 and was later codified as Minn. Stat. §§ 383E.17, 383E.18. *See* 1978 S.F. No. 698, 1978 Minn. Laws 46-47. When the Senate bill that became Anoka’s special law was first introduced, it contained a provision expressly addressing Anoka’s taxing authority. Add. 15 (providing S.F. 682, subd. 2 § 2). The House, however, deleted the taxing provision. Add. 16 (Report of the House Committee on Local and Urban Affairs (Feb. 15, 1978) (reporting back the bill “with the following amendments: Page 2, delete section 2”)). Because of the deletion, the bill that was enacted did not expressly address Anoka’s taxing authority. It provided

only that Anoka's "*area of operation* includes the area within the territorial boundaries of the county," Minn. Stat. § 383E.17, subd. 1 (emphasis added), which under Minn. Stat. § 469.033, subd. 6 had the effect of making its taxing district embrace the entire county.

The overlay of special laws on the general HRA statute created a patchwork quilt of HRA regulations that, in 1982, the legislature sought to unify. In a provision added to the general HRA statute, the legislature declared that, "Except as expressly limited by the special law establishing the authority, an authority created pursuant to special law shall have the powers granted by any statute to any authority created pursuant to this chapter." Minn. Stat. § 469.012, subd. 11. Henceforth, all HRAs had the same powers, except as "expressly" limited in special laws.

Anoka activated its HRA on December 13, 1994. Add. 3. The Anoka County Board of Commissioners found that "1) there was a shortage of decent, safe and sanitary dwelling accommodations for persons of low income and their families; and 2) the substandard housing, slum or blighted conditions within the county could not be redeveloped without government assistance." *Id.* at 3-4. Since its inception, Anoka HRA has acted to address those needs by engaging in projects and programs with county-wide benefits. It has created and operates housing and redevelopment projects in cities across the county, *see, e.g.*, May 3, 2010 Tr. 58, 60, 64-65. It has conducted county-wide housing studies and market analyses. *Id.* at 57. It has funded an economic development

site selection website, *Id.* at 62, and maintained activities that increase the “livable community” score of the communities within the county, *Id.* at 62-64.

After Anoka HRA had been operating for a decade and a half, the City of East Bethel created its own HRA on May 22, 2009. Add. 4. East Bethel then filed suit against Anoka, arguing that its creation of a city HRA removed the real property in its city limits from Anoka’s county-wide taxing district.

STANDARD OF REVIEW

The question of law regarding the scope of Anoka’s taxing district is reviewed *de novo*. *In re Claim for Benefits by Sloan*, 729 N.W.2d 626, 629 (Minn. App. 2007) (“Statutory construction is a question of law reviewed *de novo*.”). For issues of fact, the district court’s findings are reviewed for clear error. *Rubey v. Vannett*, 714 N.W.2d 417, 423 (Minn. 2006).

ARGUMENT

I. Anoka County HRA Continues To Have The Authority To Assess Special Benefit Taxes County Wide, Even After East Bethel Created A City HRA.

The district court interpreted Minn. Stat. § 383E.17 to provide that, when a city within Anoka County creates a new housing and redevelopment authority (“HRA”), that action removes the city from Anoka’s tax base. The district court’s interpretation was incorrect, and this Court should reverse it. Minnesota’s general HRA statute establishes a mandatory, county-wide taxing district for Anoka County HRA (hereinafter, “Anoka”) and provides that Anoka’s powers can be altered only by an

express limitation in its special law. Anoka's special law does not expressly limit its taxing authority; indeed, it does not expressly mention taxing at all. Anoka thus retains its power to levy its county-wide tax on property in East Bethel, regardless of whether East Bethel created a city HRA.

A. The general HRA legislation establishes a county-wide taxing district for Anoka and requires uniform taxation across the district.

The starting point to determine Anoka's taxing district is the unambiguous legislative command that “[a]ll of the territory included within the *area of operation* of any authority *shall* constitute a taxing district for the purpose of levying and collecting special benefit taxes as provided in this subdivision.” Minn. Stat. § 469.033, subd. 6 (emphasis added). The word “shall,” which “is mandatory,” Minn. Stat. § 645.44, subd. 16, requires an HRA's taxing district to span its entire “area of operation.” This same rule has existed in the general HRA legislation since its inception in 1947. *See* S. F. No. 1050, 1947 Minn. Laws 792-93, codified at Minn. Stat. § 462.545, subd. 6 and recodified, as amended, at Minn. Stat. § 469.033, subd. 6.

Applying the general rule to Anoka produces the unambiguous conclusion that Anoka has a mandatory, county-wide taxing district. Anoka's special law expressly defines its “area of operation” to include “the area within the territorial boundaries of the county.” Minn. Stat. § 383E.17, subd. 1. Because Anoka's area of operation is county wide, so must be its taxing district under Minn. Stat. § 469.033, subd. 6.

Within Anoka's county-wide taxing district, it must levy special-benefit taxes uniformly. The governing provision of the HRA statute declares, “The tax shall be

extended, spread, and included with and as a part of the general taxes for state, county, and municipal purposes by the county auditor” Minn. Stat. § 469.033, subd. 6.

By requiring the special benefit tax to be spread with the general tax, the statute invokes the well-established Minnesota constitutional principle that taxes must be assessed uniformly across a taxing district.¹ *See, e.g., State ex. Rel. City of New Prague v. Scott County*, 195 Minn. 111, 261 N.W. 863 (1935). Further emphasizing the point that special-benefit taxes must be assessed against all property in the district, the statute deems all property to benefit from every project, stating, “All of the taxable property, both real and personal, within that taxing district shall be deemed to be benefited by projects to the extent of the special taxes levied under this subdivision.” Minn. Stat. § 469.033, subd. 6. Because all property benefits from every project, all property must be taxed equally, including property in East Bethel.

B. Anoka’s county-wide tax district can be altered only by an express limitation in its special law.

Anoka starts with a county-wide taxing district under the general HRA statute, and that district can be altered only by an express limitation in Anoka’s special law.

In 1982, the legislature created a rule of parity for HRAs, stating that only “express” limitations in a special law can alter an HRA’s power. 1982 Minn. Laws 470 (emphasis added). When the legislature recodified the general HRA law in 1987, it maintained the rule of parity absent express limitation, declaring that “an authority

¹ Anoka County HRA acknowledges that it has not levied the special benefit tax uniformly across its taxing district in the past. Through study of the statutes in connection with this litigation, it now recognizes that it must assess the tax uniformly across the county going forward.

created pursuant to special law,” such as Anoka, “shall have the powers granted by any statute to any authority created pursuant to this chapter” “[e]xcept as *expressly limited* by the special law establishing the authority.” Minn. Stat. § 469.012, subd. 11 (emphasis added). Because of this express legislative command, the taxing power given to Anoka by the general HRA statute can be altered only by an express limitation.

C. Anoka’s special law does not expressly limit its HRA taxing power because it does not mention taxing, either expressly or implicitly.

Anoka’s special law does not expressly limit its taxing power because it does not mention taxing, either expressly or implicitly.

1. Anoka’s special law does not expressly limit its taxing power.

This Court can resolve this case on the narrow ground that nothing in Anoka’s special law “expressly limit[s]” its county-wide taxing power because, as the district court recognized, the section does not mention taxing at all. Add. 4.

The absence of an express limitation on Anoka’s taxing power in its special law reflects a deliberate choice by the legislature. When the Senate bill that became Anoka’s special law was first introduced, it contained a provision expressly addressing Anoka’s taxing authority. Add. 15 (providing S.F. 682, subd. 2 § 2). When the bill went to the House, however, the House insisted that the taxing limitation be deleted. *Compare* Add. 14 (providing S.F. No. 682, § 2 (addressing Anoka’s taxing authority) *with* Add. 15 (providing Report of the House Committee on Local and Urban Affairs (Feb. 15, 1978) (reporting back the bill “with the following amendments: Page 2,

delete section 2”)). The Senate acquiesced to the deletion, and both houses passed the amended bill. The final enacted law thus contains no provision expressly addressing Anoka’s taxing authority. *See* Minn. Stat. § 383E.17. It is impossible, in light of this history, to hold that Anoka’s special law expressly limits its taxing power.

Had the legislature intended to expressly limit Anoka’s taxing power, it would have defined Anoka’s “area of operation” to reflect the limitation. “Area of operation” is the term that the legislature uses to define the general scope of an HRA’s taxing authority, stating, “All of the territory included within the *area of operation* of any authority shall constitute a taxing district” Minn. Stat. § 469.033, subd. 6 (emphasis added). When the legislature expressly limited the taxing power of other county and multicounty HRAs, it did so by declaring that their areas of operation did not include the “area of operation” of city HRAs created before June 8, 1971. Minn. Stat. § 469.008. Anoka’s special law, in contrast, defines it “area of operation” to include all of “the area within the territorial boundaries of the county.” Minn. Stat. § 383E.17, subd. 1. So not only did the legislature decide not to include a provision limiting Anoka’s taxing authority in Anoka’s special law, it used the term “area of operation” to expressly provide that Anoka’s taxing authority shall be county wide. This Court should respect that legislative choice. It should reject East Bethel’s invitation to read into Anoka’s special law a limitation the legislature did not include.

Because Anoka's special law does not expressly limit its taxing authority, this Court should reverse the judgment below and hold that real property within East Bethel's city limits remains within Anoka's county-wide taxing district.

2. The district court erroneously interpreted a limitation on Anoka's project authority to implicitly limit its taxing power.

The district court interpreted the second sentence in the following passage in Anoka's special law to limit its taxing authority in East Bethel:

This section shall not limit or restrict any existing housing and redevelopment authority or prevent a municipality from creating an authority. The county shall not exercise *jurisdiction* in any municipality where a municipal housing and redevelopment authority is established. If a municipal housing and redevelopment authority requests the Anoka County Housing and Redevelopment Authority to handle the housing duties of the municipal authority, the Anoka County Housing and Redevelopment Authority shall act and have *exclusive jurisdiction for housing* in the municipality. *A transfer of duties relating to housing shall not transfer any duties relating to redevelopment.*

Minn. Stat. § 383E.17, subd. 2 (emphasis added). The district court's interpretation is incorrect. Because this section does not *expressly* limit Anoka's taxing district, it cannot affect Anoka's taxing power under the clear-statement rule established by Minn. Stat. §469.012, subd. 11. That should be the end of the analysis.

Even if unexpressed limitations could affect Anoka's taxing power, however, the second sentence does not do so because it refers only to "jurisdiction," and the term "jurisdiction" defines an HRA's project authority, not its taxing power. Immediately after the sentence limiting Anoka's jurisdiction, the statute refers to "jurisdiction *for housing*" and states that a transfer of "duties relating to housing shall not transfer any duties relating to *redevelopment.*" Minn. Stat. § 383E.17, subd. 2

(emphases added). These statements link “jurisdiction” to housing and redevelopment project authority, not to taxation. The other section of Anoka’s special law likewise uses “jurisdiction” to identify project authority, requiring “the local governing body with *jurisdiction* over all or any part of the area in which [a] proposed *project* is located” to approve the project before it commences. Minn. Stat. § 383E.18

(emphases added). The reference to “jurisdiction” thus does not expressly limit Anoka’s taxing district. Under the clear direction of the general HRA statute, Anoka’s taxing district is defined by its “area of operation,” Minn. Stat. § 469.033, subd. 6, which its special law provides is county wide. Minn. Stat. § 383E.17, subd. 1.

Interpreting Anoka’s special law to refer to a limitation on project authority, not taxation, is also consistent with the general HRA legislation. The general legislation contemplates that an HRA may exercise some of its powers but not others, saying “[a]n authority may exercise all or any part or combination of the powers granted by sections 469.001 to 469.047 within its area of operation.” Minn. Stat. § 469.012, subd. 3(a). This allows Anoka’s project authority to be limited, while keeping its taxing authority intact and exercised uniformly across the taxing district, as required by Minn. Stat. § 469.033, subd. 6.

In addition, the general HRA legislation distinguishes between the exercise of project authority, which requires notice to and consent by affected municipalities, *see, e.g.*, Minn. Stat. §§ 469.004, subd. 1a (Ramsey County); 469.005, subd. 1 and 469.007, subd. 2 (county and multicounty authorities generally), and taxing authority,

which does not require consent, *see* Minn. Stat. § 469.033, subd. 6. This distinction is consistent with political realities. The choice of where to locate a subsidized housing project or redevelopment project is more immediate, and more likely to provoke opposition premised on local concerns, than the decision to add a special tax limited to 0.0185 percent of taxable market value to the general tax that benefits all property within the taxing district.

East Bethel argued in the trial court that the term “jurisdiction” necessarily includes taxing power, but that is incorrect. Interpretation must “take[] into account the structure of the statute and the language of the specific statutory provision in the context of the statute as a whole.” *Middle River-Snake River v. Drewes, Inc.*, 692 N.W.2d 87, 89 (Minn. App. 2005). The structure and context of both Anoka’s special law and the general HRA statute show that that legislature used the term “area of operation” to define taxing power and the term “jurisdiction” to define housing and redevelopment project authority. Because Anoka’s area of operation is county-wide, so is its taxing district.

3. Public policy and the practice of other metro-county HRAs support Anoka’s continued ability to tax county wide.

Sound public policy supports the legislature’s decision to allow—indeed, to require—Anoka to tax county wide, because Anoka’s projects and programs produce county-wide benefits. Karen Skepper, the assistant director of Anoka, May 3, 2010

Tr. 57,² testified that Anoka conducts county-wide housing studies and market analyses, *id.* at 61-62, that it funds activities such as Metro MSP, which is an economic development site selection website, *id.* at 62, and that its ability to tax county-wide affects Anoka's "livable community" score, which helps cities qualify for grants by the Metropolitan Council, *id.* at 62-64. All of these county-wide programs, plus other contemplated programs like a broadband internet project, *id.* at 62, are at risk if Anoka cannot tax county-wide.

The district court's decision would place Anoka in the untenable position of being at risk of losing the ability to raise money to pay for housing projects it has already built and programs it has already commenced, depending only on whether cities create their own HRAs. Its decision is also contrary to the legislature's provision that "[a]ll of the taxable property" in a taxing district "shall be deemed to be benefited by projects to the extent of the special taxes levied under this subdivision,"

² This Court may consider evidence demonstrating the county-wide benefits of Anoka's programs, even though the trial court did not make findings on those points, because the trial testimony and exhibits are properly part of the appellate record. *See* Minn. R. Civ. App. P. 110.01; *see also* *Cressy v. Grassmann*, 536 N.W.2d 39, 43 (Minn. App. 1995), *rev'd on other grounds by* 642 N.W.2d 1, 26 (2002). The taxing procedures of other counties are both in the trial record and are a matter of public record, enabling this Court to notice them. *See* *Martin ex rel. Hoff v. City of Rochester*, 615 N.W.2d 867, 870 (Minn. App. 2000). Even if a clear error standard applied, Anoka meets that standard because the evidence it cites was uncontroverted at trial, making it a clear error for the trial court to fail to make findings on the issue. *See* *Ilstrup v. Ilstrup*, No A08-0150, 2008 WL 5137103, at *3 (Minn. App. Dec. 9, 2008) (citing *Putz v. Putz*, 645 N.W.2d 343, 347 (Minn. 2002)); *Blanchard v. Rasmussen*, No. A05-474, 2005 WL 2495991, at *7 (Minn. App. Oct. 11, 2005) (stating that finding contrary to "the uncontroverted facts in the record" was "clearly erroneous"). Anoka preserved its position on these factual findings in its post-trial motion and proposed amended findings.

regardless of where the project is located. Minn. Stat. § 469.033, subd. 6. If all of the property in Anoka County benefits from every project, no matter where the project is located, then all of the property should be taxed alike.

Finally, holding that Anoka's taxing authority is county-wide would be consistent with the practices of other metro-area county HRAs. Mark Ulfers, the executive director of the Dakota County Community Development Agency, formerly the Dakota County HRA, May 3, 2010 Tr. 98-99, testified that Dakota County taxed county-wide under a special law with the exact same language as Anoka's from 1989 to 1999, when its law was amended to delete the restriction on its jurisdiction. *Id.* at 103, 105-107, 111-114.

Anoka's special law does not expressly limit its taxing district, and allowing it to tax county-wide, even in municipalities that have formed city HRAs, is fully consistent with the general HRA regulatory scheme in Minnesota.

D. In the alternative, Anoka's authority is not affected in any way by city HRAs that, like East Bethel's, are created after Anoka was established.

A second, broader reason why Anoka continues to have taxing authority over real property in East Bethel is that new city HRAs created after Anoka was established do not affect its authority in any way. Hence, Anoka retains all of its authority—both project authority and taxing authority—in East Bethel, regardless of East Bethel's recent creation of its city HRA.

As demonstrated above, Anoka holds all “the powers granted by any statute to any authority created” by the general HRA legislation “[e]xcept as *expressly limited* by

the special law establishing the authority.” Minn. Stat. § 469.012, subd. 11 (emphasis added).

The only express limit placed on Anoka by its special law is a limit on exercising jurisdiction in cities where an HRA already existed. The first sentence of Minn. Stat. § 383E.17, subd. 2 prescribes the effect of Anoka’s creation on city HRAs. Separately addressing “existing” HRAs and those that will be “creat[ed],” it provides that Anoka’s creation “shall not limit or restrict any *existing* housing and redevelopment authority *or* prevent a municipality from *creating* an authority.” Hence, it addresses both city HRAs that already exist and those that may be created in the future.

The second sentence does the converse and prescribes the effect of city HRAs on Anoka. In sharp contrast with the first sentence, it addresses only “established” HRAs, providing that “[t]he county shall not exercise jurisdiction in any municipality where a municipal housing and redevelopment authority is *established*.” Had the legislature intended *both* existing *and* later created city HRAs to limit Anoka’s jurisdiction, it would have replicated the dual structure of the first sentence. By choosing to refer only to “established” city HRAs, it limited the pool of HRAs that affect Anoka’s jurisdiction. East Bethel cannot successfully argue that the legislature “expressly” limited Anoka’s jurisdiction to exclude the area of operation of future city HRAs in the face of the clear, contrary structure of Anoka’s special law.

The district court relied on the canon of construction that “words used in the past or present tense include the future” to support its conclusion. Minn. Stat. § 645.08; *see* Add. 6. This canon, however, does not apply when it “would involve a construction inconsistent with the manifest intent of the legislature, or repugnant to the context of the statute.” Minn. Stat. § 645.08. Here, the context *is* repugnant to construing the present tense to include the future, for the reasons just described. The legislature chose to allow only “established” city HRAs to affect Anoka’s jurisdiction, rather than extending that effect to HRAs that might be created later.

Finally, there is no need to interpret Minn. Stat. § 383E.17 to preclude Anoka from exercising jurisdiction in cities that create future HRAs in order to protect the cities’ independent role. As the trial court noted, county authorities must get consent to undertake a project within a city. Add. 6; *see also* Minn. Stat. §§ 469.004, subd. 1a (Ramsey County); 469.005, subd. 1 and 469.007, subd. 2 (county and multicounty authorities generally); Minn. Stat. § 383E.18 (Anoka specifically). So even though Anoka can continue to exercise jurisdiction, the cities retain control over which projects, if any, will be built within their boundaries.

CONCLUSION

This Court should reverse the judgment of the district court and hold that real property in East Bethel remains in Anoka’s county-wide taxing district under Minn. Stat. § 469.033, subd. 6.

Dated this 20th day of October, 2010

Respectfully submitted,



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**STATE OF MINNESOTA
IN COURT OF APPEALS**

City of East Bethel, a Minnesota
municipal corporation, East Bethel
Housing and Redevelopment Authority, a
public body, corporate and politic, and Jill
Teetzel, a resident and taxpayer of the City
of East Bethel,

Plaintiffs-Respondents,

vs.

Anoka County Housing and
Redevelopment Authority, a public body,
corporate and politic,

Defendant-Appellant

and

Larry Dalien, Division Manager, Anoka
County Property Records & Taxation,
Defendant-Respondent

Appellate Court Case No. **A10-1628**

CERTIFICATION OF BRIEF LENGTH

I hereby certify that this brief conforms to the requirements of Minn. R. Civ. App. P. 132.01, subs. 1 and 3, for a brief produced with a proportional font. The length of this brief is 4,753 words. This brief was prepared using Microsoft® Office Word 2007 software.

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