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NO. A11-0067

State of Minnesota
In Court of Appeals

County of Washington,

Respondent,

vs.

City of Oak Park Heights,

Appellant.

APPELLANT'S BRIEF AND APPENDIX

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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 ISSUES

I. WHETHER THE DISTRICT COURT ERRED WHEN IT FAILED TO DISMISS THE COMPLAINT FOR LACK OF SUBJECT MATTER JURISDICTION.

The district court held that it had subject matter jurisdiction to consider a quasi-judicial decision of the City of Oak Park Heights, although there is no statute providing for district court review.

Apposite Authority:

Tischer v. Hous. & Redevelopment Auth., 693 N.W.2d 426 (Minn. 2005)

Handicraft Block P'Ship v. City of Minneapolis, 611 N.W.2d 16 (Minn. 2000)

Youngstown Mines Corp. v. Prout, 266 Minn. 450, 124 N.W.2d 328 (1963)

STATEMENT OF CASE AND FACTS

The City of Oak Park Heights ("City") provides water and sewer services to the Washington County ("County") Law Enforcement Center and charges the County for the services used as determined by meter readings. A.3-.7; A.27-32. In 2009, the County submitted an appeal to the City, appealing sewer and water charges invoiced to the County from 2004 through 2008. A.18. The County claimed that it had been erroneously overcharged by the City and was entitled to a refund of approximately \$114,700.00. A.18.

City policy provided that persons wishing to challenge their water and sewer bill could do so by appealing the bill first to the City's Finance Director. A.54. In this case, the County submitted an appeal and supporting evidence to the City Finance Director, who after considering the appeal and supporting evidence, denied the same. A.54. The County then further appealed to the City Council pursuant to the City's appeal process. A.11-13.

The City Council heard the matter on September 8, 2009 and received evidence relative to the County's appeal. *A.14-15*. The matter was continued for further review and submissions. *A.15-17*. Consideration of the appeal at a public meeting was reconvened on October 13, 2009. *A.17*. Following consideration of the County's appeal, the City Council adopted a resolution, denying the appeal and setting forth numerous findings and conclusions supporting its denial based upon the evidence before it. *A.18-26*. Pursuant to City policy, the City Council's October 13, 2009 decision was final and conclusive on the matter. *A.54*.

On or about December 28, 2009, the County commenced suit in Washington County District Court challenging the City's October 13, 2009 decision. *A.41-53*. Cross-Motions for summary judgment were filed and considered. *A.7*. Among other defenses, the City argued that it was entitled to dismissal of the Complaint because its October 13, 2009 decision was a quasi-judicial decision, reviewable only by writ of certiorari to the Minnesota Court of Appeals pursuant to Minn. Stat. § 606.01 and the district court, therefore, lacked subject matter jurisdiction. *A.6*.

By Order dated November 4, 2010, District Court Judge John Hoffman denied both motions for summary judgment. *A.3-7*. The County's motion was denied based upon an issue of fact. *Id.* The City's motion was denied based upon a determination of law as the district court concluded that it had jurisdiction over the County's claim. *Id.* The City now brings this appeal from that portion of the district court's order denying summary judgment dismissal of the Complaint on the issue of subject matter jurisdiction. *A.1-2*. The County has not sought review of any of the issues raised below.

ARGUMENT

I. THE DISTRICT COURT ERRED WHEN IT FAILED TO DISMISS THE COMPLAINT FOR LACK OF SUBJECT MATTER JURISDICTION.

District courts do not have subject matter jurisdiction to preside over matters that are to be heard via writ of certiorari. *Tischer v. Hous. & Redev. Auth.*, 693 N.W.2d 426, 428 (Minn. 2005). Whether a matter should be heard via writ of certiorari presents a question of law reviewed de novo. *Id.*

Exception to general jurisdiction of district courts for quasi-judicial decisions

Although district courts are courts of general jurisdiction, an exception exists when a claim implicates a quasi-judicial decision of a governmental entity. *Tischer*, 693 N.W.2d at 429. This exception is founded on the separation-of-powers doctrine, which precludes district court review of a governmental entity's quasi-judicial decision. *Id.*; *Dietz v. Dodge County*, 487 N.W.2d 237, 239 (Minn. 1992).

City's October 13, 2009 decision was quasi-judicial in nature

The action of a city may be either quasi-legislative or quasi-judicial in nature. *Petition of N. States Power Co.*, 416 N.W.2d 719, 723 (Minn. 1987); *City of Moorhead v. Minn. Pub. Utils. Comm'n*, 343 N.W.2d 843, 846 (Minn. 1984). Quasi-legislative acts of a city affect the rights of the public generally. *Honn v. City of Coon Rapids*, 313 N.W.2d 409, 416 (Minn. 1981). Quasi-judicial decisions, on the other hand, are specific, discretionary acts that affect the rights of an individual analogous to the discretionary decisions of a court proceeding. *Tischer*, 693 N.W.2d at 429. Determination of whether

a city's decision is a quasi-judicial decision is a question of law. *Handicraft Block P'Ship v. City of Minneapolis*, 611 N.W.2d 16, 20 (Minn. 2000).

Although the County's lawsuit is framed as an unjust enrichment claim, at the center of this case is the October 13, 2009 decision of the City in which the City determined that the County was correctly charged for sewer and water services and not entitled to a refund. The question in this case, thus, becomes whether the City's October 13, 2009 decision was a quasi-judicial decision, which could be reviewed by writ of certiorari alone. See *Tischer*, 693 N.W.2d at 423 (while claims against governmental entities may be cloaked in various legal theories, where the suit is centered on a municipal decision, the proper question is whether the municipal decision was quasi-judicial subject to certiorari review).

The test for determining whether a decision is quasi-judicial was most recently set forth by the Minnesota Supreme Court in *Handicraft*.

The three indicia of quasi-judicial actions can be summarized as follows:
(1) investigation into a disputed claim and weighing of evidentiary facts;
(2) application of those facts to a prescribed standard; and (3) a binding decision regarding the disputed claim.

Id., 611 N.W.2d at 20 (*quotation and citation omitted*). Applying the *Handicraft* test here, it is clear that the City's October 13, 2009 decision was quasi-judicial.

Investigation into disputed claim and weighing of evidentiary facts

"Quasi-judicial proceedings involve determining facts for the purpose of reaching a legal conclusion in resolution of adversarial claims." *Handicraft*, 611 N.W.2d at 20 (*quotations and citations omitted*). There is no dispute in this case that there was a

dispute between the City and the County regarding the amount of sewer and water fees invoiced to the County.

In reaching its October 13, 2009 decision on the dispute, the City took in facts and evidence on the issue. By letter dated August 26, 2009 to the City Council, the County “submit[ed] [an] appeal of the administrative determination to deny its request for a refund of overcharges for water and sewer use at the Washington County Law Enforcement Center (LEC) and is making a claim for the overcharges.” *A.11*. In support of its appeal, the County stated, “[i]n addition to the complete detailed documentation previously provided to the city staff, the county offers the following exhibits to summarize the justification for the refund claim.” *Id.* The County then went on in its letter, making argument with citation to evidence and law as to why the County should be refunded for amounts it claims to have been overcharged. *A. 11-13*.

The City Council, much like an administrative law judge, took in the evidence from both the City and the County, entertained a presentation by the County, and entertained a presentation by City staff on the issue of whether there had been overcharges. *A.14-15*. At the heart of the issue, were specific property issues—for example, whether the water meters serving the LEC were properly functioning, whether the amount of water used by the County was properly calculated, whether there were errors in reporting, whether the County actually used the services provided to it, and whether the County timely made their refund claim. *A.18-.26*.

The County’s appeal was taken under advisement in order to allow for further consideration, during which time the County submitted further argument in favor of its

position. *A. 16.* A second meeting was held, the City Council heard the evidence, and issued a Resolution denying the County's appeal. *A.17-26.* The Resolution issued by the City in this matter strongly resembles an order issued by an Administrative Law Judge following a contested case hearing - it summarizes the evidence presented to it, makes findings of fact, weighs the evidence, assigns credibility, and reaches conclusions based upon review and consideration of the weight of the credible evidence. Therefore, under these circumstances, the October 13, 2009 decision of the City clearly reflected an investigation into a disputed claim and the weighing of evidentiary facts. *See Handicraft*, 611 N.W.2d at 20 (finding a quasi-judicial decision where the challenged decision related to a specific piece of property and criteria unique to the property); *Dokmo v. Independent School District No. 11*, 459 N.W.2d 671, 676 (Minn. 1990)(finding quasi-judicial where, although there was no formal hearing, evidence was considered and a record was prepared regarding a particular employee's employment). Accordingly, this factor weighs in favor of holding that the City's October 13, 2009 decision was a quasi-judicial decision.

Application of those facts to a prescribed standard

The City had a clear, specific, and definite standard that it applied in this case. By ordinance, persons who receive sewer and water services from the City are obligated to pay for those services. *A.27.* The question before the City on October 13, 2009 was whether the evidence, when all things were taken into consideration, indicated that the County had used sewer and water services such that the County was properly charged approximately \$114,000.00. Because the terms of the City's ordinance established

specific criteria for the usage and payment of sewer and water services, and that criteria was applied to specific facts related to a specific piece of property, this factor weighs in favor of finding a quasi-judicial decision. *See Handicraft*, 611 N.W.2d at 22-23 (holding that decision was quasi-judicial where the city relied upon specific guidelines in determining the land use status of a particular property).

Binding decision regarding the disputed claim

A decision is final where it vests both rights and responsibilities in the challenging party. *Handicraft*, 611 N.W.2d at 22-23. By City policy, the City's October 13, 2009 decision with regard to the County's appeal was final and binding. *A.54*. Absent judicial challenge of the City's October 13, 2009 decision, the County is obligated to pay the City for sewer and water services used between 2004 and 2008 and it is not entitled to a refund. *A.27-40*. Evidence of the finality of the decision is further confirmed by the fact that after the County's appeal was denied, the County filed suit, seeking a refund. Accordingly, this factor weighs in favor of finding the City's decision to be quasi-judicial in nature.

All of the factors weigh in favor of finding quasi-judicial decision

Taking all of the foregoing factors into consideration, it is clear that the City's October 13, 2009 decision was quasi-judicial in nature. There is no statutory authority specifically providing for district court review of a city's decision with regard to water and sewer charges and requests for refunds. Absent specific statutory authority providing for district court review and remedy, judicial review of the City's October 13, 2009 quasi-judicial decision must be invoked by writ of certiorari. *Handicraft*, 611 N.W.2d at

624. Therefore, the district court erred when it concluded that it had jurisdiction to hear this matter.

District court erred by adding a proprietary factor to the quasi-judicial decision test

In reaching its conclusion in this matter, the district court held that it had jurisdiction to hear the matter because

[t]he City is acting in the capacity of a private corporation, not a governmental entity. Its actions are not quasi-judicial, and therefore jurisdiction of this matter lies properly with the Court.

A.7.¹

It is improper to consider the proprietary nature of the underlying conduct because the *Handicraft* test does not include consideration of whether a municipal entity was engaging in a proprietary capacity at the time of its decision. *Id.*, 611 N.W.2d at 620-624. Moreover, the district court was not at leisure to alter the *Handicraft* test, nor to create exceptions to the test. *Wolner v. Mahaska Industries, Inc.*, 325 N.W.2d 39, 42 (Minn. 1982)(lower courts are bound by the existing law as set forth in Minnesota Supreme Court decisions). Furthermore, there is no support in the law for the addition of a proprietary factor to the quasi-judicial decision test. In fact, there is law directly to the

¹ In footnote 7 of the district order, the district court also suggests that review by writ of certiorari is further improper because it would be unnecessarily costly to claimants to proceed as such. Questions of cost do not determine jurisdiction in this case; rather it is the supremacy clause. *Tischer*, 693 N.W.2d at 429. To the extent that cost bears any consideration, the Minnesota Court of Appeals has recognized that proceeding by way of writ of certiorari is a more expeditious and economical manner of proceeding. *Township of Honner v. Redwood County*, 518 N.W.2d 639, 641 (Minn. App. 1994).

contrary. See *Youngstown Mines Corp. v. Prout*, 266 Minn. 450, 124 N.W.2d 328 (1963).

In reaching its decision in this matter, the district court in its order at paragraph 11 cited to two Minnesota Supreme Court cases, *City of Crookston v. Crookston Water Works, P. & L. Co.*, 150 Minn. 347, 185 N.W. 380 (1921) and *Keever v. City of Mankato*, 113 Minn. 55, 29 N.W. 158 (1910). Neither case, however, addresses whether a decision to refund claimed water and sewer overcharges is a quasi-judicial decision.

The court in *Crookston* addressed the enforcement of a settlement agreement; not whether the City was acting in a quasi-judicial manner. *Crookston*, 150 Minn. at 351. The court in *Keever* considered a negligence claim and the availability of immunity defenses to said claim; not whether the City was acting in quasi-judicial manner. *Keever*, 113 Minn. at 65. Because the courts in *Keever* and *Crookston* did not address issues of jurisdiction and whether a challenged municipal decision was a quasi-judicial decision, they are not instructive, nor precedential, in this case. *Neitzel v. County of Redwood*, 521 N.W.2d 73 (Minn. App. 1994), *review denied* (Minn. October 27, 1994)(case law that does not address the issue at hand has no instructive or precedential value). Accordingly, the district court erroneously relied upon those cases in reaching its decision here.

Furthermore, the district court's creation of proprietary exception to the quasi-judicial test is in direct conflict with the Supreme Court's decision in *Youngstown Mines Corp. v. Prout*. *Id.*, 266 Minn. at 482-483. In *Youngstown*, the plaintiff entered into a lease with the State which allowed the plaintiff to extract minerals from land in exchange for the payment of royalties to the State. *Id.*, 266 Minn. at 454. The plaintiff claimed

that it was entitled to a refund of certain royalties paid to the State. *Id.* The matter was heard, and denied, by the State of Minnesota Commissioner of Conservation. *Id.* The Plaintiff then filed a writ of certiorari. *Id.*

The State challenged whether the matter should be heard via writ of certiorari. The court, in specific response to that argument, ruled that the Commissioner acted in a quasi-judicial manner when it decided the claim for a refund; and, therefore, the appropriate method of review was by writ of certiorari. *Youngstown*, 266 Minn. at 482-483. Because the court in *Youngstown* specifically ruled upon the question of jurisdiction over a quasi-judicial decision, it is instructive and precedential here.

Crucial to the analysis in this case is that in *Youngstown* the court found that the underlying conduct (leasing property to a private entity) was a proprietary action by the State. Nevertheless, the appeal of the refund claim to the Commissioner and the decision denying the appeal was quasi-judicial conduct.

Applying *Youngstown* to this case, the facts merit the same result. While providing sewer and water services may be a proprietary act, the County's appeal seeking a refund and the City's decision denying the appeal was, under *Youngstown*, quasi-judicial conduct. Accordingly, it is clear that the district court erred.

The law of *Handicraft* and *Youngstown* establishes that absent statutory authority for district court review, quasi-judicial decisions of a City are subject to review by writ of certiorari alone. *Handicraft*, 611 N.W.2d at 20; *Youngstown*, 266 Minn. at 482-483. Further, the determination of whether a decision is quasi-judicial is determined by the three indicia set forth in *Handicraft* without regard to the issue of whether the City was

engaging in a proprietary function. *Handicraft*, 611 N.W.2d at 20; *Youngstown*, 266 Minn. at 482-483. Accordingly, under *Handicraft* and *Youngstown*, the October 13, 2009 decision rendered by the City in this case was a quasi-judicial decision which was subject to review only by writ of certiorari.

CONCLUSION

The City of Oak Park Heights is entitled to reversal of the district court order dated November 4, 2010 and dismissal of the Complaint. Washington County's lawsuit challenges a quasi-judicial decision of the City rendered on October 13, 2009. There is no statute providing for district court review; and, therefore, review is permitted only by writ of certiorari. Accordingly, the district court does not have jurisdiction over the Complaint filed by Washington County and dismissal with prejudice is proper.

DATED: February 8, 2011

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CERTIFICATION OF BRIEF LENGTH

I hereby certify that this Brief conforms to the requirements of Minn. R. Civ. App. P. 132.01, subds. 1 and 3, for a Brief produced with a proportional font. The length of the Brief is 2,876 words. This Brief was prepared using Microsoft Word 2003.

DATED: February 8, 2011

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