

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF RAMSEY

SECOND JUDICIAL DISTRICT

Case Type: Assessment Appeal

Thomas Novak and Rhonda Novak  
Plaintiffs,

v.

City of Saint Paul,  
Defendant.

Court File No. 62-CV-23-6020

Judge Laura Nelson

V

ORDER GRANTING MOTION OF THE  
PLEADINGS AND MEMORANDUM OF  
LAW

This matter came on for a remote hearing by Zoom before the undersigned Judge on April 4, 2024, at 1:30 PM. The hearing was held over Defendant's Motion for Judgment on the Pleadings. Plaintiffs appeared pro se. Sara Lathrop appeared on behalf of Defendant. Based upon all the files, memoranda, proceedings herein and the arguments, **IT IS HEREBY ORDERED:**

1. Defendant's Motion for Judgment on the Pleadings is GRANTED.

2. This matter shall be, and hereby is, DISMISSED.

LET JUDGMENT BE ENTERED ACCORDINGLY.

BY THE COURT:



Nelson, Laura (Judge)

Apr 5 2024 4:32 PM

THE HONORABLE LAURA NELSON  
JUDGE OF DISTRICT COURT

Dated: April 5, 2024

Filed in District Court  
State of MinnesotaGooch, Mindy  
Apr 9 2024 12:00 PMI certify the above order constitutes the Judgment of the  
Court  
Court Administrator

By

Gooch, Mindy  
Apr 9 2024 12:00 PM

## **MEMORANDUM**

### **Factual and Procedural History**

Plaintiffs Thomas and Rhonda Novak own a property at 586 Burgess Street in Saint Paul. Plaintiffs' house was damaged by a fire in March 2020. Plaintiffs filed an insurance claim, were provided funds, and hired a contractor. Plaintiffs have not been able to complete the work. Plaintiffs have not been able to move back into their home. The City has a vacant building registration program designed to recoup some costs associated with monitoring and regulating vacant buildings. *See* St. Paul Code of Ordinances § 43.03. Plaintiffs have been part of the City's vacant building registration for three years.

The City sent Plaintiffs a Notice of a Public Hearing that the City planned to collect the annual Vacant Building Registration Fee totaling \$5,075. The City notified Plaintiffs that they had the opportunity to appear at a Legislative Hearing to contest the fee, on September 5, 2023. Plaintiffs did not appear at the Legislative Hearing. The City notified Plaintiffs that they could appear at a Public Hearing at the City Council Chambers on October 11, 2023, to object to the fee, or in writing via U.S. Mail, email, or voicemail. Plaintiffs did not appear at the Public Hearing or otherwise submit an objection. Plaintiffs acknowledge receiving some notices from the city but don't believe they received all of the notices.

The City Council adopted Plaintiffs' assessment for the Vacant Building Registration on October 11, 2023. The City notified Plaintiffs that the assessment could be appealed to the Ramsey County District Court within 30 days of the adoption of the assessment. Plaintiffs filed this appeal on November 13, 2023. The City filed an answer and then this motion for judgment on the pleadings. Plaintiffs did not respond to the motion, however they did appear at the hearing and were allowed to argue against it.

### **Legal Standard**

In reviewing a motion for judgment on the pleadings the court determines "whether the complaint sets forth a legally sufficient claim for relief." *Matter of Trusts by Hormel*, 543 N.W.2d 668, 671 (Minn. Ct. App. 1996) (citation omitted). A claim is legally sufficient "if it is possible on any

evidence which might be produced, consistent with the pleader's theory, to grant the relief demanded.” *Walsh v. U.S. Bank*, N.A., 851 N.W.2d 598, 603 (Minn. 2014). “The reviewing court must consider only the facts alleged in the complaint, accepting those facts as true and must construe all reasonable inferences in favor of the nonmoving party.” *Bodah v. Lakeville Motor Express, Inc.*, 663 N.W.2d 550, 553 (Minn. 2003). “If questions of fact exist, the court should not order judgment on the pleadings.” *Matter of Trusts by Hormel* at 671.

### **Analysis**

The City argues that Plaintiffs appeal is untimely. Pursuant to Section 429.101, the appeal procedures set forth in Section 428.081 apply to an appeal of an assessment for a vacant building registration fee. Section 429.081 sets forth a 30-day deadline or statute of limitation for appealing such an assessment to the district court.

The assessment at issue was adopted by the City Council on October 11, 2023. The City notified Plaintiffs that the assessment could be appealed by filing a notice stating the grounds for the appeal within 30 days of the adoption of the assessment. The thirtieth day after October 11, 2023, was November 10, 2023. The face of Plaintiffs’ Notice of Appeal/Complaint they filed with this Court shows that Plaintiffs filed it with the City Clerk on November 13, 2023. Plaintiffs concede that they did not file within 30 calendar days. Plaintiffs indicate they assumed they had 30 business days to file their appeal.

Plaintiffs’ assessment appeal was not commenced within 30 days of the City Council adopting the assessment, as required by state statute. The alleged cause of action is therefore barred by the statute of limitations. The Supreme Court has held that because appeals of assessments are “wholly statutory,” the conditions imposed by the statute must be strictly complied with. *Wessen v. Village of Deephaven*, 284 Minn. 296, 298 (1969).<sup>1</sup>

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<sup>1</sup> The City raised a number of other issues that the Court does not reach here as the statute of limitation defect is dispositive.

### **Conclusion**

For the reasons discussed above, Defendant's motion for judgment on the pleadings shall be GRANTED and the Plaintiffs' claim shall be DISMISSED.

**LEN**



MINNESOTA  
JUDICIAL  
BRANCH