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**STATE OF MINNESOTA  
IN COURT OF APPEALS  
A19-0334**

LaPlant Properties, Inc.,  
Appellant,

vs.

State of Minnesota,  
Respondent,

City of Buffalo, et al.,  
Respondents.

**Filed July 29, 2019  
Affirmed  
Cleary, Chief Judge**

Wright County District Court  
File No. 86-CV-18-3192

Steven J. Quam, Fredrikson & Byron, P.A., Minneapolis, Minnesota (for appellant)

Keith Ellison, Attorney General, William Young, Assistant Attorney General, St. Paul, Minnesota (for respondent State of Minnesota)

James J. Thomson, Elizabeth C. Brodeen-Kuo, Kennedy & Graven, Chartered, Minneapolis, Minnesota (for respondents City of Buffalo and E&R Investments, LLC)

Considered and decided by Reyes, Presiding Judge; Cleary, Chief Judge; and  
Bjorkman, Judge.

## UNPUBLISHED OPINION

**CLEARY**, Chief Judge

On appeal from the entry of final judgment, appellant LaPlant Properties Inc. challenges the district court's grant of summary judgment in favor of respondents State of Minnesota, City of Buffalo, and E&R Investments LLC. LaPlant argues that respondents, through a series of conveyances, violated the statutory process created by Minn. Stat. § 161.16 (2018) and Minn. Stat. § 161.44 (2018), and have circumvented the protections afforded to former landowners after the state has taken land through condemnation proceedings. Because we disagree with LaPlant's reading of the statutes, we affirm.

### FACTS

As part of a project converting a two-lane highway into a four-lane highway, the state, through the commissioner of transportation, initiated condemnation proceedings to acquire land from LaPlant in 2003. The state alleged that it was necessary for the state to obtain the land in fee simple absolute, "for trunk highway purposes."<sup>1</sup> LaPlant did not object to the taking, and the district court granted the petition. Proceeding with its project, the state expanded the highway and built a new city street on LaPlant's former parcel. The state also built a driveway on the land in order to prevent a separate parcel from becoming landlocked.

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<sup>1</sup> While the commissioner is authorized to take land in fee simple absolute, Minn. Stat. § 161.20, subd. 2(1) (2018), it is not clear from the record before us why it was necessary to take a fee simple absolute rather than a lesser interest.

In 2008, after completion of the project, the state conveyed part of LaPlant's former parcel to the city "for highway purposes," pursuant to Minn. Stat. § 161.16, subd. 4. The city received the land underlying the city street, as well as some vacant land. Soon after, the city discussed selling the vacant land to a car dealership, but the deal fell through. In 2015, the city invited developers to submit proposals to develop the vacant land. E&R submitted a proposal, which the city accepted. The city conveyed the land to E&R in 2016, and E&R began developing it for commercial use. In 2017, a NAPA Auto Parts store opened on LaPlant's former parcel.

LaPlant initiated this action in 2018, alleging that the statutory scheme and the language of the deed to the city did not allow the city to use the land for non-highway purposes, and that the conveyance to E&R for commercial purposes was therefore non-binding and violated LaPlant's statutory right to repurchase the land under Minn. Stat. § 161.44. The parties agreed to conduct discovery in two phases, and after the first phase, all parties moved for summary judgment. The state argued that its conveyance to the city satisfied the statutes, and any claims by LaPlant against the state were barred by the statute of limitations. The city and E&R argued that the conveyance from the city to E&R was lawful, LaPlant's claims were barred by the statute of limitations and laches, LaPlant lacks standing, Minn. Stat. § 161.44 does not apply and does not create a private cause of action for damages, and finally, a taking did not occur. LaPlant requested a declaration that it has a valid interest in the land, the city's conveyance to E&R was void, and LaPlant has a private cause of action based on a violation of Minn. Stat. §§ 161.16, .44. In the alternative,

LaPlant requested an order requiring the city to commence condemnation proceedings to acquire LaPlant's interest in the land.

The district court granted respondents' motions for summary judgment and dismissed the complaint. It reasoned that the state's conveyance to the city occurred more than six years before LaPlant filed suit and therefore LaPlant's challenge to that conveyance was barred by the statute of limitations. In the alternative, the district court reasoned that the conveyance satisfied the requirements of Minn. Stat. § 161.16, subd. 4. The district court also found that the city's conveyance to E&R was lawful because Minn. Stat. § 161.16 is silent on future conveyances and does not restrict a city's ability to sell land. The district court did not address any of the remaining arguments. LaPlant now appeals.

## DECISION

We review a district court's decision granting summary judgment de novo. *Riverview Muir Doran, LLC v. JADT Dev. Grp., LLC*, 790 N.W.2d 167, 170 (Minn. 2010). "In doing so, we determine whether the district court properly applied the law and whether there are genuine issues of material fact that preclude summary judgment." *Id.* If there are no genuine issues of material fact, this court may affirm if the district court's decision is correct on other grounds. *Winkler v. Magnuson*, 539 N.W.2d 821, 827 (Minn. App. 1995).

We begin our analysis with respondents' argument that LaPlant lacks standing. "Standing is a legal requirement that a party have a sufficient stake in a justiciable controversy to seek relief from a court." *Lorix v. Crompton Corp.*, 736 N.W.2d 619, 624 (Minn. 2007). It "has been called one of 'the most amorphous [concepts] in the entire

domain of public law,” and it is “filled with ‘complexities and uncertainties.’” *Sundberg v. Abbott*, 423 N.W.2d 686, 688 (Minn. App. 1988) (alteration in original) (quoting *Flast v. Cohen*, 392 U.S. 83, 99, 88 S. Ct. 1942, 1952 (1968)), *review denied* (Minn. June 29, 1988). We are guided by the underlying principle of standing, which is to “ensure that the factual and legal issues before the courts will be vigorously and adequately presented.” *Lorix*, 736 N.W.2d at 624. Standing can be acquired in two ways: either LaPlant has suffered an injury-in-fact or it is the beneficiary of a legislative enactment granting standing. *Id.*

LaPlant does not argue that it is the beneficiary of a legislative enactment granting standing, so in order to have standing, it must have suffered an injury-in-fact. “An injury-in-fact is a concrete and particularized invasion of a legally protected interest.” *Id.* Accordingly, LaPlant “must articulate a legally cognizable interest that it has suffered because of the [respondents’] action[s] and that differs from injury to the interests of other citizens generally.” *Webb Golden Valley, LLC v. State*, 865 N.W.2d 689, 693 (Minn. 2015) (quotation omitted). “Standing is a jurisdictional issue, which we review de novo.” *Id.*

LaPlant argues that, as a former landowner, it has the right to repurchase the land and the loss of that opportunity alleges an injury-in-fact sufficient to confer standing. We agree. LaPlant’s argument is not merely that the city’s conveyance to E&R was inappropriate. Under LaPlant’s interpretation of the statutes, it has retained the right to repurchase the land if it is no longer needed for highway purposes. LaPlant believes that respondents’ actions have violated that right. If those actions are not challenged, LaPlant will effectively lose its right to repurchase the land. This alleged interest is distinguishable

from the general public's interest in ensuring that the state and city follow the statutory scheme. We do not doubt that LaPlant has "vigorously and adequately" presented its argument that it has retained that right and its right has been violated. *Lorix*, 736 N.W.2d at 624.

Turning to the substance of the case, we must consider whether respondents' actions have violated the statutory scheme and LaPlant's rights. This issue involves a question of statutory interpretation, which we review de novo. *Sumner v. Jim Lupient Infiniti*, 865 N.W.2d 706, 708 (Minn. 2015). "The object of all interpretation and construction of laws is to ascertain and effectuate the intention of the legislature." Minn. Stat. § 645.16 (2018). "The first step in statutory interpretation is to determine whether the statute's language, on its face, is ambiguous." *Christianson v. Henke*, 831 N.W.2d 532, 536 (Minn. 2013) (quotations omitted). "If a statute is unambiguous, then we must apply the statute's plain meaning." *Sumner*, 865 N.W.2d at 708.

Here, respondents' actions did not violate the statutory scheme. As LaPlant concedes, the state's conveyance to the city was proper under Minn. Stat. § 161.16, subd. 4(b). The city then conveyed the land to E&R pursuant to Minn. Stat. § 412.211 (2018). This statute gives a statutory city broad authority to sell any real property it owns "as its interests require." Minn. Stat. § 412.211. There is no language in Minn. Stat. § 412.211 that would prevent the city from conveying the property to E&R. Because respondents' actions were lawful, the district court properly granted their motion for summary judgment.

LaPlant argues that, although the city has broad discretion to dispose of its land, it cannot convey a greater interest than it received from the state. It appears that LaPlant

believes that, under the state’s conveyance to the city and the statutory scheme, the state granted the city the right to use the land for highway purposes, while the state retained an interest in the land and LaPlant retained the statutory right to repurchase the land before either the state or city could convey the land to another private party. LaPlant argues further that because the city conveyed the land to a private party for commercial purposes, it granted a greater interest than it received and violated LaPlant’s statutory right. We, however, cannot discern a basis for concluding that LaPlant retained that statutory right or that the city has conveyed a greater interest in the land than it received. We start with LaPlant’s argument that it retained the right to repurchase the land pursuant to Minn. Stat. § 161.44, subd. 2.

Minn. Stat. § 161.44 is unambiguous, in that it would require the city or the state to offer the land to LaPlant if the conveyance was being made pursuant to that statute. This section gives the “commissioner” the power to “convey and quitclaim any lands . . . owned in fee by the state for trunk highway purposes but no longer needed therefor.” Minn. Stat. § 161.44, subd. 1. When land is conveyed under this statute, the commissioner must first offer to reconvey the land to the previous owner. Minn. Stat. § 161.44, subd. 2. If the commissioner tried to convey the land to E&R pursuant to Minn. Stat. § 161.44, the commissioner would first have to offer it for reconveyance to LaPlant.<sup>2</sup>

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<sup>2</sup> This statute applies to lands that “were part of a larger tract and the remainder of the tract is still owned by the person . . . from whom the lands were acquired,” or “lands [that] constituted an entire tract.” Minn. Stat. § 161.44, subd. 2. LaPlant argues that the land at issue qualifies as an entire tract, and respondents do not challenge that assertion.

In this case, however, the commissioner did not convey the land to E&R pursuant to Minn. Stat. § 161.44; the commissioner conveyed the land to the city under Minn. Stat. § 161.16, subd. 4. This section independently gives the commissioner the authority to convey “all or part of the right-of-way” of an existing road to a city. Minn. Stat. § 161.16, subd. 4(b). The section makes no reference to Minn. Stat. § 161.44 and explicitly states that the commissioner may make such a conveyance “[n]otwithstanding the other provisions of [chapter 161] or other applicable laws and rules.” Minn. Stat. § 161.16, subd. 4(b). Because the land was conveyed to the city pursuant to Minn. Stat. § 161.16, subd. 4(b), the commissioner was not required to offer the land to LaPlant.

The city was also not required to offer the property for reconveyance to LaPlant because Minn. Stat. § 161.44 does not apply to actions taken by the city. “Commissioner” is defined as “the commissioner of transportation.” Minn. Stat. §§ 160.02, subd. 8, 161.01 (2018). Here, the city was conveying the land, not the commissioner of transportation. In addition, Minn. Stat. § 161.44, subd. 1, specifically refers to “lands . . . owned in fee by the state for trunk highway purposes,” and the land at issue here was owned by the city, not the state.

LaPlant invites this court to conclude that Minn. Stat. § 161.44 grants it a right to repurchase that runs with the land, but we cannot find support for that interpretation in the statute. To put it simply, Minn. Stat. § 161.44, subd. 2, only requires the state to offer land for reconveyance to a former owner if the state conveyed the land pursuant to Minn. Stat. § 161.44. Because neither the conveyance from the state to the city nor the conveyance



from the city to E&R implicated Minn. Stat. § 161.44, the conveyances did not violate the procedure required by Minn. Stat. § 161.44.

Turning to LaPlant's next argument, we conclude that the city did not pass a greater interest than it received. LaPlant argues that the deed and Minn. Stat. § 161.16, subd. 4(b) should be interpreted to mean that the state granted the city the right to use the land for highway purposes, but not for commercial purposes. The district court disagreed, concluding that the city did not receive a limited interest because Minn. Stat. § 161.16 is silent on future conveyances. Implicit in the district court's decision is that the deed did not convey a limited interest to the city. We first consider what interest passed from the state to the city.

When determining what interest passed through a deed, we “look to the deed to ascertain and give effect to the intention of the parties to the instrument.” *State v. Hess*, 684 N.W.2d 414, 423 (Minn. 2004). The deed must be construed as a whole and not upon disjointed parts. *Id.* If the language of the deed is ambiguous, the court may consider the surrounding circumstances and the parties' situation to determine their intent. *Id.* The deed from the state to the city provided:

Upon said determination and pursuant to Minnesota Statutes, Section 161.16, Subdivision 4, . . . the State of Minnesota, Grantor . . . hereby conveys and quitclaims to the City of Buffalo, Grantee, for highway purposes, all its interest including any conditions, restrictions, covenants and easements that run with the land; except that access to Trunk Highway No. 69 renumbered 55 from the lands herein described shall be restricted as hereinafter set forth in the reservation clause.

This language is not ambiguous and does not create a restriction on the city's use of the land. The state held the land in fee simple absolute. By the plain language of the deed, it passed all of that interest, except that access to the trunk highway was restricted. Although the deed states that the conveyance was for highway purposes, a "mere statement of the purpose for which the property is to be used is not sufficient to create" a restriction on the interest received. *Piche v. Indep. Sch. Dist. No. 621*, 634 N.W.2d 193, 199 (Minn. App. 2001) (concluding that the words "for the purpose of acquiring a school site" in a final condemnation decree were not sufficient to create a defeasible fee), *review denied* (Minn. Nov. 13, 2001); *see also Hous. & Redevelopment Auth. of City of S. St. Paul v. United Stockyards Corp.*, 244 N.W.2d 275, 276 (Minn. 1976) (concluding that, given the form of the deeds and the surrounding circumstances, the "words 'for municipal purposes' and 'for a public park' were merely precatory"). Additionally, the state created an explicit restriction in the deed that only restricted access to the highway. If it had intended to create any additional restrictions on the land, it would have included such language in the reservation clause.

LaPlant also argues that because the conveyance was made pursuant to Minn. Stat. § 161.16, subd. 4, the city received a limited interest. Minn. Stat. § 161.16, subd. 4(b) provides, in part:

Notwithstanding the other provisions of this chapter or other applicable laws and rules, the commissioner may convey and quitclaim to a county, city, or other political subdivision all or part of the right-of-way of the existing road that is no longer a part of the trunk highway by reason of the commissioner's order or orders. The conveyance shall be for highway purposes, and the future cost of maintenance, improvement, or

reconstruction of the highway and the contribution of that highway to the public highway system is reasonable and proper consideration for the conveyance.

Specifically, LaPlant argues that the language “[t]he conveyance shall be for highway purposes” limited the interest that the city received from the state. This argument also involves a question of statutory interpretation, which we review de novo. *Sumner*, 865 N.W.2d at 708.

This language does not restrict the interest that the state is allowed to convey to a city. The statute only refers to the purpose of the conveyance. Conveyance is not defined in the statute, but Black’s Law Dictionary defines it as “[t]he voluntary transfer of a right or of property.” *Black’s Law Dictionary* 407 (10th ed. 2014). The statute, accordingly, only creates a restriction on the purpose or motivation of the transfer from the state to the city. If the legislature had intended to create a restriction on the interest that the state was authorized to convey, it would have done so explicitly.<sup>3</sup>

LaPlant argues that if Minn. Stat. § 161.16, subd. 4(b) does not create a restriction on the city’s ability to use the land, then the state could use this statute to avoid the requirements of Minn. Stat. § 161.44, subd. 2. LaPlant appears to envision a scenario

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<sup>3</sup> Minn. Stat. § 161.16, subd. 4(b), authorizes the commissioner to convey “the right-of-way of the existing road,” while Minn. Stat. § 161.44, subd. 1, authorizes the commissioner to convey “any lands . . . owned in fee.” This may mean that the commissioner is limited to conveying a “right-of-way” easement under Minn. Stat. § 161.16, subd. 4(b). *See Nelson v. Schlener*, 859 N.W.2d 288, 294 (Minn. 2015) (“When the Legislature uses different words [in a statute], we normally presume that those words have different meanings.”); *Hess*, 684 N.W.2d at 424-25 (discussing the ambiguity of the phrase “right of way” and that use of such language in the context of a deed may indicate that the conveyance is only for an easement). This theory was not discussed by the parties at either the district court or this court, and we do not address it.

where the state and the city collude to sell land to a commercial third party. The state “simply pretend[s] to convey the property to a city pursuant to section 161.16,” and then the city sells the land to the third party for commercial purposes. But in this scenario, it appears that the state would violate the statute when it transferred the land to the city because such a transfer would not be “for highway purposes.”

We share LaPlant’s frustration at the events that have occurred. The state took the land, stating that it needed the land for highway purposes. Now, as a result of respondents’ actions, E&R is using the land for commercial purposes, while LaPlant is denied the opportunity to buy back the land. But this court cannot add to a statute “what the legislature purposely omits or inadvertently overlooks.” *Scott v. Forest Lake Chrysler-Plymouth Dodge*, 637 N.W.2d 587, 597 (Minn. App. 2002) (quoting *Flaherty v. Indep. Sch. Dist. No. 2144*, 577 N.W.2d 229, 235 (Minn. App. 1998), *review denied* (Minn. June 17, 1998)). Adding protections to prevent this sort of action is properly a legislative function.<sup>4</sup>

**Affirmed.**

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<sup>4</sup> In 2006, the legislature granted additional rights to former landowners affected by eminent domain laws. See 2006 Minn. Laws ch. 214, at 195-206. These amendments do not apply to condemnation actions commenced before the 2006 effective date. 2006 Minn. Laws ch. 214, § 22, at 205. The issue is not before us, and so we do not consider whether these amendments would have granted LaPlant greater protections in these circumstances. We do note that Minn. Stat. § 117.226 (2018), which grants former owners the right of first refusal when land is no longer needed for public use, does not apply when the state conveys land pursuant to Minn. Stat. § 161.16. Minn. Stat. § 117.226(a).