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Minn. Stat. § 480A.08, subd. 3 (2018).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A20-0226**

County of Wright,
Respondent,

vs.

Robin Ann Schiel,
Defendant,

Korie Allan Schiel,
Appellant.

**Filed July 27, 2020
Affirmed
Worke, Judge**

Wright County District Court
File No. 86-CV-19-2959

Thomas N. Kelly, Wright County Attorney, Greg T. Kryzer, Assistant County Attorney,
Buffalo, Minnesota (for respondent)

Korie Allan Schiel, South Haven, Minnesota (pro se appellant)

Considered and decided by Jesson, Presiding Judge; Worke, Judge; and Hooten,
Judge.

UNPUBLISHED OPINION

WORKE, Judge

Appellant challenges summary judgment in favor of respondent-county in an action
to enforce zoning ordinances. We affirm.

FACTS

Defendant Robin Ann Schiel owns four parcels of property in South Haven, Minnesota, along Lake Francis. Robin Schiel's son, pro se appellant Korie Allan Schiel, lived with her on the property. The property is zoned Urban/Rural Transitional/Shoreland. Zoning ordinances that govern the property are enforced by respondent County of Wright (the county).

In July 2018, the county sent a letter to Robin Schiel stating that it had been notified that she was living in a motor home on her property and advised that an ordinance prohibited a motor home's use as a dwelling. She was also notified that the location of the motor home violated setback requirements. The county ordered her to cease using the motor home as a dwelling and to relocate it.

In May 2019, after the Schiels failed to comply with the county's directives, the county sought a permanent injunction that would require the Schiels to take action in compliance with the county's ordinances and to abate nuisances on the property.

In June 2019, the county's department of public health sent Robin Schiel a notice to abate and remove public-health nuisances on her property. The notice stated that the property was a public-health nuisance due to exposed waste, the accumulation of waste and decaying substances that harbored disease-carrying insects, and the infestation and breeding grounds of insects. On July 12, 2019, Robin Schiel received a notice from the department of public health stating that an inspection had been completed on the property and it was determined that she had abated the public-health nuisances. The abatement of the public-health nuisances, however, did not resolve the zoning-ordinance violations.

In August 2019, the county moved for summary judgment on its request for a permanent injunction. On December 16, 2019, following a hearing at which the Schiels were represented by counsel, the district court filed an order granting the county's motion for summary judgment. The district court determined that the Schiels have been living in the motor home, which violated the ordinance that prohibits a motor home from being used as a dwelling. The district court also determined that the county provided ample evidence that the motor home's placement violated setback requirements. The district court concluded that the county was entitled to a permanent injunction because it had no legal remedy and the injunction was "necessary to prevent a great and irreparable harm" of preventing the county from exercising its authority to govern. The district court authorized the county to remove the motor home, but allowed the Schiels to reclaim their property within 14 days of removal. The district court also stayed the order for 30 days to allow the Schiels to take corrective action. This appeal followed.

D E C I S I O N

The district court granted the county's motion for summary judgment in its pursuit of a permanent injunction. A district court must grant summary judgment if the movant shows that there is no genuine issue of material fact and that it is entitled to judgment as a matter of law. *Fletcher Props., Inc. v. City of Minneapolis*, 931 N.W.2d 410, 417 (Minn. App. 2019); Minn. R. Civ. P. 56.01. This court reviews a district court's summary-judgment decision de novo, viewing the evidence in the light most favorable to the party against whom summary judgment was granted. *Riverview Muir Doran, LLC v. JADT Dev.*

Grp., LLC, 790 N.W.2d 167, 170 (Minn. 2010); *State Farm Fire & Cas. v. Aquila Inc.*, 718 N.W.2d 879, 883 (Minn. 2006).

This court reviews a district court’s decision granting permanent injunctive relief for an abuse of discretion. *Cherne Industr, Inc. v. Grounds & Assocs., Inc.*, 278 N.W.2d 81, 91 (Minn. 1979). “A district court’s findings regarding entitlement to injunctive relief will not be set aside unless clearly erroneous.” *Haley v. Forcelle*, 669 N.W.2d 48, 55 (Minn. App. 2003), *review denied* (Minn. Nov. 25, 2003).

Korie Schiel raises three primary arguments—he argues that the Schiels abated the nuisance, that it was illegal to grant the permanent injunction, and that all actions done under inherent equitable authority must be corrected.

Regarding his first argument, Schiel asserts that he has a letter of compliance to prove that the Schiels abated the nuisance. But Schiel relies on the July 12, 2019 compliance letter from the county’s department of public health regarding the abatement of the public-health nuisances. This was not a notice of compliance with the zoning ordinances at issue here.

Because the Schiels failed to present any evidence to create a genuine issue of material fact on the county’s summary-judgment motion, we cannot agree with Schiel on his remaining arguments. The evidence showed that there was no genuine issue of material fact as to whether the Schiels lived in the motor home and that the placement of the motor home on the property violated setback requirements.

Finally, Schiel raises complaints that arose after the district court’s order—he claims that the motor home was damaged and sold at auction. Although Schiel does not explain

why the Schiels did not take advantage of the district court staying the summary-judgment order for 30 days and become compliant with the ordinances, this issue is not properly before this court because it occurred after the district court's order. And a party may not raise an issue or argument for the first time on appeal. *Thiele v. Stich*, 425 N.W.2d 580, 582 (Minn. 1988).

In conclusion, the district court determined that the Schiels lived in a motor home, which violated an ordinance. The district court determined that the location of the motor home violated setback requirements, which violated an ordinance. Schiel does not assert any argument on appeal to challenge the accuracy of these determinations. Accordingly, the district court did not err in granting the county's motion for summary judgment.

The district court also determined that the county provided the Schiels an opportunity to abide by the ordinances and unsuccessfully attempted to pursue the issue criminally. Accordingly, the district court did not abuse its discretion by determining that the county did not have a remedy at law and that the injunction was the only way to enforce the ordinances.

Affirmed.