This opinion is nonprecedential except as provided by Minn. R. Civ. App. P. 136.01, subd. 1(c).

STATE OF MINNESOTA
IN COURT OF APPEALS
A24-0917

Becker Township,
Respondent,

vs.

Minnesota Association of Townships Insurance Trust,
Appellant.

Filed January 27, 2025
Affirmed
Johnson, Judge

Sherburne County District Court
File No. 71-CV-23-1521

Jordan T. Vassel, Anthony A. Remick, Smith, Jadin, Johnson, P.L.L.C., Bloomington, Minnesota (for respondent)

Jay T. Squires, Marcus B. Jardine, Squires, Waldspurger & Mace, P.A., Minneapolis, Minnesota (for appellant)

Considered and decided by Johnson, Presiding Judge; Bjorkman, Judge; and Halbrooks, Judge.[*]

NONPRECEDENTIAL OPINION

JOHNSON, Judge

Becker Township submitted a claim to the Minnesota Association of Townships Insurance and Bond Trust (hereinafter "MATIT" or "the trust"), stating that its town hall

[*] Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to Minn. Const. art. VI, § 10.

was damaged in a hailstorm. The trust denied the claim. The township requested an appraisal. The trust refused to participate in an appraisal process. The township commenced this action for a declaration that it is entitled to an appraisal. On cross-motions to dismiss and to compel an appraisal, the district court concluded that the township is entitled to an appraisal. We conclude that the township has a contractual right to an appraisal and, therefore, affirm.

FACTS

Becker Township is a political subdivision located in Sherburne County. The trust is a joint-powers entity established pursuant to statutes that authorize political subdivisions to act jointly or cooperatively to self-insure through the use of risk-spreading pools. *See* Minn. Stat. §§ 471.59, .98, .981, .982 (2024). The trust was established by the Minnesota Association of Townships (hereinafter "MAT" or "the association"), and membership in the trust is available to Minnesota townships that are members of the association. The township, as a member of the trust, was required to enter into a written agreement that resembles an insurance policy but is entitled "coverage document."

The township alleges in its complaint that, on May 9, 2022, wind and hail caused damage to property owned by the township. On May 13, 2022, the township submitted a claim to the trust, using a form provided by the trust. The township's claim describes the "type of loss" as follows: "Hail storm and strong winds. Damage to roof of township hall, gazebo, and back door of township [hall]."

The trust responded to the township's claim with a letter dated July 8, 2022. The letter states generally that the trust "will pay for direct physical loss or damage to covered property resulting from any cause of loss except as excluded or limited." The letter identifies one such exclusion by stating, "There is no coverage for . . . wear and tear." The letter concludes, "Since there is no coverage for this loss, I cannot compensate Becker Township for the property damage . . . due to wear and tear / cosmetic damages . . . ."

After the trust's denial of the township's claim, the township and the trust exchanged correspondence. In early October 2022, an attorney representing the township wrote to the trust's board to initiate an appeal of the denial of the claim and to request an appraisal. Two days later, the trust's manager responded by stating that the trust had "engaged a second adjuster to visit the site, review the damage and opine on the loss." The trust's manager also stated that the township's appeal to the trust's board "is on record and will be preserved." In December 2022, a different attorney representing the township wrote to the trust's board to withdraw the township's appeal and to request an appraisal. In January 2023, an attorney representing the trust responded by stating that the township must abide by an agreed-upon dispute-resolution process and, for that reason, is not entitled to an appraisal. The trust's attorney's letter concluded by stating that the trust "will not participate in an appraisal process." In February 2023, the township's attorney wrote back, specifically referred to the appraisal provision of the coverage document, and requested that the trust participate in an appraisal process. The trust's attorney replied, stating that the appraisal provision in the coverage document "does not apply to the dispute at hand" for two reasons: because the dispute is not about "the amount of the loss" but, rather, "whether the damage resulted from a covered cause of loss," and because the township is required to follow the dispute-resolution process described in the coverage document.

The township commenced this action in October 2023. The township alleged a breach-of-contract claim and requested a declaration that it has a "right to proceed with the appraisal process to determine the amount of loss." In lieu of answering the complaint, the trust moved to dismiss on the ground that the township had not exhausted its administrative remedies. In February 2024, the township moved to compel an appraisal. The township argued, among other things, that an appraisal is appropriate to determine the amount of its loss, including the cause of the loss. Both parties filed responsive and reply memoranda. In May 2024, the district court filed an order in which it granted the township's motion to compel an appraisal and denied the trust's motion to dismiss. The trust appeals.

DECISION

The parties raise numerous issues on appeal, but this court need resolve only some of those issues. The trust raises two main issues in its principal brief: first, whether the township may assert a statutory right to an appraisal based on a statute that, the trust asserts, applies to insurance companies but not to joint-powers entities, *see* Minn. Stat. § 65A.26 (2024), and, second, whether the township may assert a contractual right to an appraisal without having utilized the dispute-resolution process described in the coverage document. In its responsive brief, the township first argues that it has a contractual right to an appraisal, then argues that it also has a statutory right to an appraisal, and last argues that its right to an appraisal is not precluded by the dispute-resolution process described in the coverage document. Because the parties raise issues of the interpretation of contracts and a statute, we apply a *de novo* standard of review. *Glacier Park Iron Ore Props., LLC v.*

United States Steel Corp., 961 N.W.2d 766, 769 (Minn. 2021); *Linn v. BCBSM, Inc.*, 905 N.W.2d 497, 504 (Minn. 2018).

We conclude below that the township has a contractual right to an appraisal. *See infra* part A. We also conclude that the township may assert its contractual right to an appraisal without having utilized the dispute-resolution process described in the coverage document. *See infra* parts B-C. In light of those conclusions, we need not consider whether the township also has a statutory right to an appraisal.

A.

We first consider whether the coverage document confers on the township a contractual right to an appraisal.

Section C.M.b. of the coverage document provides:

> In the event of a disagreement on the value of the claim or the amount of loss, *either party may initiate an appraisal process by written demand on the other party*. Each party shall select an appraiser at its own expense. Those appraisers shall select an umpire or, failing agreement on an umpire, have an umpire judicially appointed. The cost of such umpire shall be borne equally by the parties. An agreement by any two of the appraisers or umpires shall be binding. (Emphasis added.)

The trust argues that this section of the coverage document does not give the township a right to an appraisal because "it is not an appraiser's job to interpret coverage language or the language of a contract." The trust contends that appraisers have authority to determine the amount of loss but do not have authority to determine the meaning of the terms and conditions of the coverage document. In response, the township agrees with the trust's general premise but argues that the dispute between the parties *is* a dispute about the amount of loss.

Both parties cite the supreme court's opinion in *Quade v. Secura Insurance*, 814 N.W.2d 703 (Minn. 2012), and urge the court to apply it to the facts of this case. In *Quade*, two farmers submitted a claim to their insurer after a windstorm caused extensive damage to their farm buildings. *Id.* at 704. The insurer denied the claim with respect to the roofs of three buildings on the ground that the damage to those buildings "resulted from 'continual deterioration over a period of time rather than a specific storm occurrence,'" thereby falling within a policy exclusion for inadequate maintenance. *Id.* The insureds and the insurer disagreed as to whether their dispute was subject to an appraisal. *Id.* at 704-05. The supreme court concluded that an appraisal was appropriate, reasoning as follows:

> The parties' disagreement concerning the scope of the appraisal process focuses on the meaning of the phrase "amount of loss." . . . . [I]n the insurance context, an appraiser's assessment of the "amount of loss" necessarily includes a determination of the cause of the loss, and the amount it would cost to repair that loss. With respect to insurance, "loss" is defined as "[t]he amount of financial detriment caused by . . . an insured property's damage, *for which the insurer becomes liable*." . . . . These definitions state that as a general matter the term "loss" refers to damages for which the insurer is responsible. Thus, the dictionary definitions of "loss" for purposes of insurance expressly contemplate an element of causation. By extension, an appraiser's duty to determine the "amount of loss" requires the appraiser to determine causation.

Id. at 706 (citations omitted). The supreme court noted that the parties' dispute encompassed "both a question of damages and a question of liability" because the insureds argued that "the damage to the roofs is a covered loss for wind damage" while the insurer argued that "the damage to the roofs is due to wear and tear and is excluded under the policy." *Id.* In light of that dispute, the supreme court reasoned, "a determination of the 'amount of loss' under the appraisal clause necessarily includes a determination of causation," and "the causation question involves separating loss due to a covered event from a property's preexisting condition." *Id.* at 706-07.

The dispute in *Quade* is very similar to the dispute in this case. The township and the trust disagree about *the cause* of the township's loss, which is "necessarily include[d]" within the concept of amount of loss. *See id.* The nature of the parties' dispute is illustrated by the trust's claim-denial letter, which essentially acknowledges the existence of a loss by stating that "there is no coverage for *this loss*." (Emphasis added.) The letter explained that the township's claim was denied because of an exclusion "for the following *causes* of loss . . . wear and tear." (Emphasis added.) The nature of the parties' dispute is confirmed by the trust's attorney's subsequent pre-suit letter to the township's attorney, which states that "[t]he disagreement between the parties is *whether the damage resulted from a covered cause of loss*" and further states that "MATIT has determined any damage to the Town Hall *resulted from a non-covered cause of loss* (Wear and Tear)." (Emphasis added.)

Because the parties dispute the cause of the township's loss—an issue that is encompassed by the issue of the amount of the township's loss—the dispute is governed by section C.M.b. of the coverage document, which plainly states, "In the event of a disagreement on the value of the claim or the amount of loss, either party may initiate an appraisal process by written demand on the other party." *See id.*; *see also Axis Surplus Ins.*

Co. v. Condor Corp., 19 F.4th 1062, 1063-64 (8th Cir. 2021) (concluding that, under Minnesota law, insured was entitled to appraisal because parties disputed whether loss was caused by storm occurring during policy period).

Thus, the township has a contractual right to an appraisal pursuant to section C.M.b. of the coverage document.

B.

We next consider whether the township's contractual right to an appraisal may be enforced in this action in light of the existence of a contractual dispute-resolution process.

Section C.H. of the coverage document provides:

> No legal action may be brought against us as a result of any dispute with respect to this coverage document or any of its terms and conditions. The MAT Board of Directors shall have the sole, exclusive and final authority to interpret coverage document terms and conditions.
>
> Any dispute can be brought by you by written petition to the MATIT Board of Trustees provided there has been full compliance by you with the terms of the coverage document and that the written petition is made within 2 years following the date of loss giving rise to the dispute. A decision of the MATIT Board of Trustees may be appealed in writing within 30 days to the MAT Board whose determination shall be final and binding.

A related provision in the trust's bylaws provides, "If a dispute should arise relative to the Trust or any Program . . . between one or more Participating Members and the Trust, . . . the Trustees shall decide the dispute in the first instance." In addition, the bylaws state:

> If a Participating Member who was party to the dispute is aggrieved by the determination of the Trustees, the Participating Member may appeal the Trustees' decision to the [MAT] Board of Directors by written notice of appeal . . . .

> The [MAT] Board of Directors shall consider the appeal *de novo* and shall give the Participating Member its decision in the matter in writing . . . .
>
> The [MAT] Board of Directors may specify any additional information or material that Board deems necessary or appropriate to its decision. The decision of the [MAT] Board of Directors is final, conclusive and binding on the Trustees and the Participating Member(s) involved in the appeal.

The trust argues that these provisions create a dispute-resolution process that is a condition precedent to the township's assertion of its contractual right to an appraisal. In other words, the trust argues that the township may not assert its contractual right to an appraisal unless and until it has petitioned the trust's board of trustees, the trust's board has made a decision, the township has appealed that decision to the association's board of directors, and the association's board has made a final decision. In response, the township argues that there is no conflict between the appraisal provision in section C.M.b. and the dispute-resolution provision in section C.H. because appraisers have authority to resolve disputes concerning amount of loss while the association's board has authority to resolve disputes concerning the terms and conditions of the coverage document.

The trust's argument for a condition precedent is not supported by contractual language specifically linking the appraisal provision in section C.M.b. to the dispute-resolution provision in section C.H. There is no language in either section expressly stating that the right to an appraisal does not apply unless or until the association's board has made a final decision or that the dispute-resolution process in section C.H. must be pursued to its conclusion before a party may request an appraisal. The two provisions, which are separated by four intervening provisions, appear to operate independently. As the township argues, the lack of an express connection between the two provisions makes sense in light of the fact that the appraisal provision refers to “a disagreement on the value of the claim or the amount of loss,” while the dispute-resolution provision refers to a “dispute with respect to this coverage document or any of its terms and conditions.”

Thus, the township’s invocation of the contractual dispute-resolution process is not a condition precedent of the township’s assertion of its contractual right to an appraisal.

C.

We last consider whether the township’s contractual right to an appraisal is subject to a requirement that the township exhaust administrative remedies.

The district court concluded that the exhaustion-of-administrative-remedies doctrine does not apply because the trust’s denial of the township’s claim is not a quasi-judicial decision of a governmental entity. The trust argues that the district court erred by rejecting its exhaustion-of-administrative-remedies argument. At oral argument, the trust’s attorney clarified that its exhaustion-of-administrative-remedies theory overlaps with its condition-precedent theory and that both theories are based on section C.H. of the coverage document. In response, the township argues that the dispute-resolution process described in section C.H. is not an administrative remedy that must be exhausted.

The trust asserts that the board of a joint-powers entity such as MATIT and the board of an association such as MAT “fall within the broad gamut of an administrative body or executive body.” The trust cites three opinions of this court in support of that assertion, but each of those opinions is concerned with a decision of a political subdivision of the state, not an association composed of political subdivisions or a joint-powers entity. *See Anderson v. County of Lyon*, 784 N.W.2d 77 (Minn. App. 2010); *Northwest Airlines, Inc. v. Metropolitan Airports Comm'n*, 672 N.W.2d 379 (Minn. App. 2003); *Zaluckyj v. Rice Creek Watershed Dist.*, 639 N.W.2d 70 (Minn. App. 2002), *rev. denied* (Minn. Apr. 16, 2002). Consequently, the trust has not cited any authority for the proposition that the exhaustion-of-administrative-remedies doctrine applies to a decision of the board of an association of political subdivisions or the board of a joint-powers entity.

The township cites one opinion that casts significant doubt on the trust's theory. In *Rasmussen v. Sauer*, 597 N.W.2d 328 (Minn. App. 1999), *rev. denied* (Minn. Sept. 14, 1999), a deputy sheriff sued a motorist for injuries suffered in an automobile collision and sought to add a claim against the county that employed him, which was a member of the Minnesota Counties Insurance Trust (MCIT), another joint-powers entity with a risk-sharing pool. *Id.* at 329. The district court denied the deputy's motion to amend the complaint after concluding that the deputy had not exhausted administrative remedies specified in the MCIT bylaws. *Id.* at 329-30. This court reversed the district court, reasoning, in part, that certiorari review of quasi-judicial administrative decisions is "limited to executive-branch decisions." *Id.* at 332. This court later cited *Rasmussen* in holding that MCIT "is not an executive body whose quasi-judicial decision is subject to certiorari review." *County of Martin v. Minnesota Counties Ins. Trust*, 658 N.W.2d 598, 603 (Minn. App. 2003). We reasoned in *County of Martin* that MCIT "resembles an insurance company" and is unlike the "administrative bodies," "executive bodies," and "quasi-judicial boards or agencies" whose decisions are subject to a deferential form of judicial review because of the separation-of-powers doctrine. *Id.* at 601-03; *see also Dietz v. Dodge County*, 487 N.W.2d 237, 239 (Minn. 1992) (reasoning that "certiorari is compatible with the maintenance of fundamental separation of power principles" because "it mandates nonintrusive and expedient judicial review"). The *Rasmussen* and *County of Martin* opinions make it sufficiently clear that, because MATIT and MAT are not political subdivisions of the state, the township's contractual right to an appraisal is not subject to a requirement that the township exhaust administrative remedies.

Thus, the township may assert its right to an appraisal without regard for any requirement to exhaust administrative remedies.

Because the township has a contractual right to an appraisal and may assert that right without having utilized the dispute-resolution process described in the coverage document, we need not consider whether the township also has a statutory right to an appraisal.

In sum, the district court did not err by granting the township's motion to compel an appraisal and by denying the trust's motion to dismiss.

Affirmed.