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Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A25-0482**

Damien Lepoutre, et al.,
Respondents,

vs.

City of North Oaks,
Appellant.

**Filed September 15, 2025
Reversed
Reyes, Judge**

Ramsey County District Court
File No. 62-CV-22-5473

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Considered and decided by Worke, Presiding Judge; Johnson, Judge; and Reyes,
Judge.

NONPRECEDENTIAL OPINION

REYES, Judge

Appellant argues that the district court erred by denying its motion for summary judgment and granting respondents' motion for partial summary judgment on an alternative writ of mandamus and setting the issue of damages for trial because respondents' claim was moot. We reverse.

FACTS

In May 2021, respondents Damien Lepoutre and the Lepoutre Family Revocable Trust (Lepoutre) purchased two undeveloped lots located in appellant City of North Oaks (the city) at 15 and 17 North Deep Lake Road (the properties). Lepoutre submitted a letter to the city on July 7, 2021, requesting that it “approve the connection of a pressure line for sanitary sewer from [his] proposed home at 17 North Deep Lake Road to the existing 2 [inch] diameter line at the North property line,” which would connect his property “to the existing sanitary sewer line stub versus installing an underground septic system.” The city did not respond to Lepoutre’s request. Around the same time, the city granted a similar request made by the North Oaks Golf Club.

Lepoutre applied for an amendment to the city’s comprehensive plan on April 22, 2022, requesting that the city approve his request to connect the properties to the city sewer system. After extending the 60-day review period for appellant’s application, the city denied Lepoutre’s application.

Lepoutre petitioned the district court for an alternative writ of mandamus and filed a complaint for declaratory judgment, arguing that, because the city did not respond to his July 2021 sewer request within 60 days, it resulted in automatic approval under Minn. Stat. § 15.99, subd. 2(a) (2024) (“Failure of an agency to deny a request within 60 days is approval of the request.”). Lepoutre also argued that the city’s denial of his April 2022 application was arbitrary and capricious. The district court issued an alternative writ of mandamus, and the city answered.

On February 9, 2023, the city approved a comprehensive plan amendment granting Lepoutre’s requested sewer connection for the properties. A few days later, the parties agreed to stay the proceedings pending our decision in *14 Cherrywood*, which both parties agreed would determine whether Lepoutre’s claim for mandamus damages was moot. *See 14 Cherrywood, LLC v. City of North Oaks*, 993 N.W.2d 287 (Minn. App. 2023), *rev. granted* (Minn. Sept. 19, 2023), *and ord. granting rev. vacated* (Minn. July 9, 2024). This court published its decision in *14 Cherrywood* on June 26, 2023, and held that “[a]n alternative writ is not a judgment and cannot form the basis for a mandamus damages award.” *Id.* at 294. The city subsequently filed a motion for summary judgment on August 13, 2024, arguing that Lepoutre’s claim was moot because the city granted Lepoutre’s requested relief when it approved the sewer connection request and there was no basis for damages under an alternative writ. *Id.* Lepoutre filed a motion for partial summary judgment on mandamus liability and damages, arguing that the supreme court’s 2024 decision in *Ly v. Harpstead*, 7 N.W.3d 560 (Minn. 2024), controlled and that there was still a live controversy between the parties because the question of damages remained at issue.

The district court heard oral argument on the parties’ motions and granted Lepoutre’s motion for partial summary judgment on mandamus liability, set a trial for damages, and denied the city’s motion for summary judgment because Lepoutre’s claim was not moot. The district court denied the city’s request for permission to file a motion for reconsideration.

This appeal follows.

DECISION

The district court erroneously denied the city’s motion for summary judgment because Lepoutre’s claim was moot.

The city argues that the district court erred when it denied its motion for summary judgment because the action was moot, either under the 60-day automatic-approval statute, Minn. Stat. § 15.99, as applied to Lepoutre’s July 2021 request or by the city’s February 2023 approval of a comprehensive plan amendment granting Lepoutre’s connection request. Lepoutre argues that a live controversy still existed between the parties because of his pending claim for mandamus damages, which he estimates to be approximately \$775,000. We agree with the city.

When reviewing a summary-judgment decision, which we review de novo, we analyze “whether the district court properly applied the law and whether there are genuine issues of material fact that preclude summary judgment.” *Riverview Muir Doran, LLC v. JADT Dev. Grp., LLC*, 790 N.W.2d 167, 170 (Minn. 2010). “[I]n doing so, we consider the evidence in the light most favorable to the party against whom the motion was granted.” *14 Cherrywood*, 993 N.W.2d at 292.

Appellate courts similarly review issues of justiciability de novo. *Snell v. Walz*, 985 N.W.2d 277, 283 (Minn. 2023). “It is an axiomatic legal principle that courts in Minnesota may only hear actual cases and controversies.” *Ly*, 7 N.W.3d at 568. “Generally, an issue may be dismissed as moot if an event occurs that resolves the issue or renders it impossible to grant effective relief.” *14 Cherrywood*, 993 N.W.2d at 292 (quotation omitted).

The district court, relying on *Ly*, determined that there was still a live controversy between the parties because mandamus damages were at issue. But *Ly* is readily distinguishable from this case. First, *Ly* is a civil-commitment case. 7 N.W.3d at 564. Second, the *Ly* supreme court never considered or discussed Minn. Stat. § 15.99, the automatic-approval statute. *Id.* at 562-63.

Third, *Ly* involved a *peremptory writ*, not an *alternative writ*, which is the type of writ at issue in the case at hand. *Id.* at 566. Lepoutre argues that the distinction between an alternative writ and a peremptory writ is one without a difference and that, accordingly, *Ly*'s holding that, under a peremptory writ, an issue is not moot if mandamus damages are outstanding after liability is determined should similarly apply here. *Id.* at 568-69. This argument fails. Minnesota law differentiates between alternative and peremptory writs, as the supreme court explained in *Ly*. *Ly*, N.W.3d at 564 n.2 (differentiating alternative writs from peremptory writs); *see also* Minn. Stat. § 586.03 (2024). *Ly* is not apposite to this case because it deals with a different kind of writ. As the *Ly* court noted, “[t]he district court’s peremptory writ determined the Commissioner’s liability but reserved the issue of damages for decision at a fact trial.” 7 N.W.3d at 568. In contrast, “[a]n alternative writ is not a judgment and cannot form the basis for a mandamus damages award.” 14 *Cherrywood*, 993 N.W.2d at 294. *Ly* and 14 *Cherrywood* are consistent with each other. In addition, the supreme court granted review of 14 *Cherrywood* while it considered *Ly* and then denied review of 14 *Cherrywood* on July 9, 2024, after it had issued its decision on June 12, 2024, in *Ly*.

Our decision in *14 Cherrywood* is binding precedent that is directly on point. In *14 Cherrywood*, we were presented with a nearly identical set of facts as here. There, appellant Cherrywood sought a conditional use permit from the respondent City of North Oaks, but the city did not reply to Cherrywood’s request within 60 days. *14 Cherrywood*, 993 N.W.2d at 288. Cherrywood argued that its request was automatically approved under section 15.99 and petitioned the district court for an alternative writ of mandamus to order the city to grant Cherrywood’s application and award mandamus damages. *Id.* The district court issued the alternative writ, the city answered, and the city approved Cherrywood’s application. *Id.* The district court then dismissed Cherrywood’s petition as moot because it received the relief it requested. *Id.* at 288-89. Cherrywood argued on appeal that the city’s approval of its application did not make its claim for mandamus damages moot. *Id.* at 289. We disagreed, noting that the finality required for mandamus damages under Minn. Stat. § 586.09 (2024) is not satisfied by an alternative writ because an alternative writ is not a final judgment and instead operates like a summons. *Id.* at 293 (“An alternative writ is not a judgment and cannot form the basis for a mandamus damages award.”). We affirmed the district court’s judgment. *Id.* at 292 (“We confidently conclude that the district court did not err because Cherrywood did not receive a judgment in its favor and the district court did not otherwise improperly preclude Cherrywood from seeking damages.”).

14 Cherrywood is both directly on point and binding precedent. See *State v. Chauvin*, 955 N.W.2d 684, 695 (Minn. App. 2021) (“[A] precedential opinion of this court has immediate precedential effect Although parties, attorneys, district court judges,

and the public may disagree with this court’s precedential decisions, district courts are bound to follow them.”). Here, Lepoutre made a written request to the city, like Cherrywood, that his property be connected to the existing sewer system at his own cost. The city did not respond to Lepoutre’s request within the statutorily required 60 days under section 15.99. Lepoutre again asked the city to consider his request, this time via an official city application, several months after his first request. The city denied Lepoutre’s request. Lepoutre, like Cherrywood, petitioned for an alternative writ of mandamus and, as in *14 Cherrywood*, the district court issued an alternative writ to the city. In *14 Cherrywood*, the city filed an answer and subsequently approved Lepoutre’s sewer request. As in *14 Cherrywood*, Lepoutre’s mandamus claim was moot before the district court ruled on the parties’ summary-judgment motions because Lepoutre received the relief he requested, namely, city approval to connect the properties to the city sewer system.¹ There is no additional relief which Lepoutre can obtain based on an alternative writ because, as this court explained in *14 Cherrywood*, he did not obtain a judgment under section 586.09. See *14 Cherrywood*, 993 N.W.2d at 293 (“The finality required for a judgment to be ‘given’ [under section 586.09] does not accompany an alternative writ.”). The district court therefore erroneously denied the city’s motion for summary judgment because there was

¹ We need not decide when Lepoutre’s mandamus claim became moot, either in September 2021, when the 60-day review period expired without word from the city, or in February 2023, when the city passed a resolution granting Lepoutre’s sewer request. Importantly, Lepoutre’s claim was moot when the district court granted summary judgment in January 2025.

no longer a justiciable controversy. *See Snell*, 985 N.W.2d at 283 (“A moot case is nonjusticiable.”).

Reversed.