This opinion is nonprecedential except as provided by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
A20-1519

City of Hutchinson,
Respondent,

vs.

Mohammed Shahidullah, AKA Sam Ulland,
Appellant,

RE: The Hazardous Building located at
430 Waters St. N.W., Hutchinson, MN 55350.

Filed September 27, 2021
Affirmed
Gaïtas, Judge

McLeod County District Court
File No. 43-CV-16-646

Marc A. Sebora, Hutchinson City Attorney, Hutchinson, Minnesota; and

Kenneth H. Bayliss, Quinlivan & Hughes, P.A., St. Cloud, Minnesota (for respondent)

Mohammed Shahidullah, Winsted, Minnesota (self-represented appellant)

Considered and decided by Reilly, Presiding Judge; Ross, Judge; and Gaïtas, Judge.

NONPRECEDENTIAL OPINION

GAÏTAS, Judge

Respondent City of Hutchinson removed a hazardous building on property owned by appellant Mohammed Shahidullah, also known as Sam Ulland,[1] using the procedures provided by the Minnesota hazardous or substandard buildings act (MHSBA). *See* Minn. Stat. §§ 463.15-.261 (2020). Three years after the building was razed, the city moved the district court to award the expenses, including attorney fees, incurred by the city in removing the building. The district court granted the city's request, certifying a deficiency judgment in the amount of $42,124.98 against Ulland pursuant to the MHSBA. Ulland, who is self-represented on appeal, argues that (1) the city's application for expenses was untimely under the Minnesota Rules of Civil Procedure; (2) the application lacked sufficient detail; and (3) in a separate but related matter, he should have been served with the city's application for expenses and allowed to participate in the proceedings. We affirm.

FACTS

Ulland owns property located at 430 Water St. N.W., in Hutchinson. The property previously contained a single-family home that Ulland used for rental income. In 2011, after a prospective tenant reported safety concerns about the property to the city, the city's building inspector examined the home and declared it uninhabitable. Over the next few

[1] Appellant indicated that he prefers to go by Ulland and the district court record refers to him as such, so we use that name here.

years, the home was not repaired and the city discovered individuals living there on several occasions.

In 2013, a city building official conducted a thorough inspection of the property and documented a multitude of hazards and code violations. Among the most serious, the home's siding had been improperly installed, leading to extensive mold, mildew, and rot; the home's roof had many holes; a shower house connected to the home was in disrepair and full of garbage; the home's electrical system was wholly inadequate, with several components creating fire hazards; and the home's furnace was improperly installed and missing a key component, creating a risk of carbon-monoxide buildup. Following the inspection, the city instructed Ulland to prepare a comprehensive plan to repair the property and advised him that the home and appurtenant structures would otherwise be condemned and razed.

Ulland failed to present a plan or remedy the hazards and code violations. On March 22, 2016, the city council passed a resolution determining that the property was hazardous under state law and should be razed. The city issued a corresponding abatement order that instructed Ulland to raze and remove the home and other structures on the property within 20 days.

Ulland filed an answer contesting the abatement order in district court, initiating this action.[2] The district court held a bench trial in March 2017.[3] On March 16, 2017, the district court issued an order and entered judgment in favor of the city.[4] The order instructed Ulland to raze the property within 20 days and, if he did not comply, authorized the city to summarily enforce the abatement by removing all structures from the property. It also specified that Ulland would be responsible for abatement and removal costs, along with "the payment of all costs that the [c]ity has incurred or shall incur in the summary enforcement of [the abatement order], including reasonable attorney's fees, filing fees, and expenses as allowed by Minn. Stat. § 463.22." Ulland filed posttrial motions for reconsideration, and the district court denied the motions.

The city removed the structures on Ulland's property in July 2017. In August 2020, the city filed an application for allowance of expenses under sections 463.21 and 463.22, seeking a judgment in the amount of $42,124.98 against Ulland to recover the costs it incurred enforcing the abatement order. The costs included $26,285.10 in attorney fees. A city administrator submitted an affidavit with the application, which itemized the

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[2] Under the MHSBA, when a property owner files an answer specifically denying the facts in a municipality's abatement order, the matter proceeds to district court for a ruling on the abatement order. *See* Minn. Stat. §§ 463.18, .20.

[3] The trial was initially scheduled for June 2016, but the district court summarily granted judgment in favor of the city as a sanction against Ulland for failing to attend his deposition and for violating the scheduling order. The district court later granted Ulland's motion for reconsideration and reset the matter for trial.

[4] The district court noted that the evidence presented at trial revealed that the case "was not a close call," and that "[t]he [p]roperty overwhelmingly [met] the statutory definition of 'hazardous'" and needed to be razed "as soon as possible."

expenses and attached 80 pages of documentation, including invoices, contractor estimates, and breakdowns of the attorney fees.

At a hearing on the city's expense application, Ulland argued that the application was untimely because, under Minnesota Rule of Civil Procedure 54.04(b), the city should have moved for expenses within 45 days of the district court's March 16, 2017 judgment. The district court questioned whether rule 54.04(b) applied, noting that the MHSBA should control. The city asserted in response that the 45-day rule Ulland referenced was "totally inapplicable" because the MHSBA itself contemplates automatic costs and disbursements.

On September 29, 2020, the district court entered judgment and an order approving the city's report and application for allowance of expenses and certified judgment in the amount of $42,124.98 against Ulland. The order states that the requested expenses are statutorily permitted and that Ulland provided no legal basis to support his objections. Furthermore, the order authorizes the municipal clerk to specially assess the judgment as a lien against the property if the expenses are not paid.

Ulland appeals.

DECISION

The proceedings in this matter occurred under the MHSBA, Minnesota Statutes sections 463.15 through 463.261. Under the MHSBA, municipalities can "order the owner of any hazardous building or property within the municipality to correct or remove the hazardous condition of the building or property or to raze or remove the building." Minn. Stat. § 463.16. The municipality's abatement order must cite the grounds for the municipality's decision, specify any necessary repairs, provide a reasonable time for

compliance, and state that, unless the property owner takes corrective action, the municipality will move the district court for summary enforcement of its order. Minn. Stat. § 463.17, subd. 1. If the property owner serves and files an answer specifically denying the facts in the abatement order, the action proceeds in district court under the rules of civil procedure subject to an exception not applicable here. Minn. Stat. §§ 463.18, .20.

The district court may sustain, modify, or annul and set aside the abatement order following a trial. *See* Minn. Stat. § 463.20; *City of Litchfield v. Schwanke*, 530 N.W.2d 580, 582 (Minn. App. 1995). If the district court sustains the abatement order, "the court shall enter judgment and shall fix a time after which the building must be destroyed or repaired or the hazardous condition removed or corrected." Minn. Stat. § 463.20. If the property owner does not comply with the judgment in the time prescribed, the municipality "may cause the building to be repaired, razed, or removed or the hazardous condition to be removed or corrected as set forth in the judgment." Minn. Stat. § 463.21.

The MHSBA also allows the municipality to file an application with the district court for allowance of the expenses it incurs in carrying out an abatement order. Minn. Stat. § 463.22. After the municipality provides its account of expenses to the district court, the court must consider, correct if appropriate, and grant the application. *Id.*

Ulland challenges the district court's allowance of expenses that the city incurred in enforcing the abatement order against his property. He primarily argues that the city's application for expenses was untimely under Minnesota Rule of Civil Procedure 54.04(b). Ulland's brief to this court also asserts that the city's application for expenses lacked sufficient detail and that, in a separate, related matter, he ought to have been served with

the city's application for expenses and allowed to participate in the proceedings.[5] We address each argument in turn.

I. The city's application for expenses was not untimely.

Ulland first argues that the city was required to comply with the Minnesota Rules of Civil Procedure in moving for expenses because the MHSBA specifically provides that contested proceedings are governed by these rules. He contends that the city's application for expenses—filed approximately three years after the district court's March 16, 2017 judgment sustaining the abatement order—was untimely under rule 54.04(b), which requires a litigant to move for costs and disbursements within 45 days of a judgment. Ulland accordingly asks us to reverse the district court's allowance of expenses.

To address this argument, we must interpret the MHSBA and rule 54.04(b). "The interpretation of a statute is a question of law that [appellate courts] review de novo." *Cocchiarella v. Driggs*, 884 N.W.2d 621, 624 (Minn. 2016); *see also Swenson v. Nickaboine*, 793 N.W.2d 738, 741 (Minn. 2011). Likewise, "[t]he interpretation of the Minnesota Rules of Civil Procedure is a question of law that [appellate courts] review de novo." *Gams v. Houghton*, 884 N.W.2d 611, 616 (Minn. 2016).

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[5] Ulland lists a fourth issue in his brief that he does not analyze or otherwise explain. He merely states that an issue exists as to whether he "is entitled to file Notice of Appeal to [the] [C]ourt of [A]ppeals against the trial court's [judgment] and order on the ground that it is now convenient for him to do so," even though he "failed to file Notice of Appeal . . . within 60 days after the judgment." We are unsure what he means, but he may be suggesting that he could still challenge the district court's March 16, 2017 order sustaining the city's abatement order. We do not reach that issue, though, because Ulland did not provide any analysis to support his contention and because inadequately briefed issues are not properly before an appellate court. *Melina v. Chaplin*, 327 N.W.2d 19, 20 (Minn. 1982).

As noted, the MHSBA expressly allows a municipality to enforce a judgment sustaining an abatement order by razing a building or by taking other action to remove the hazard. Minn. Stat. § 463.21. The MHSBA also provides a specific procedure that a municipality must follow to recover resulting expenses, which include "expenses incurred in carrying out the order" and "all other expenses theretofore incurred in connection with its enforcement," including attorney fees, court costs, witness fees, and travel expenses. Minn. Stat. § 463.22. This procedure requires a municipality to "keep an accurate account of the expenses incurred in carrying out the order." *Id.* Then, the municipality "shall report its action under the order, with a statement of moneys received and expenses incurred to the court for approval and allowance." *Id.* The MHSBA also outlines the obligations of the court upon receipt of a municipality's application for allowance of expenses. The court

> shall examine, correct, if necessary, and allow the expense account, and, if the amount received from the sale of the salvage, or of the building or structure, does not equal or exceed the amount of expenses as allowed, the court shall by its judgment certify the deficiency in the amount so allowed to the municipal clerk for collection.

Id. The MHSBA addresses the duty of the owner or other party in interest once a municipal clerk initiates collection. An owner or other party in interest "shall pay the same, without penalty added thereon." *Id.* And the MHSBA provides a timeline for payment of expenses. If the owner or other party in interest is "in default of payment by October 1," the municipal clerk "shall certify the amount of the expense to the county auditor for entry on the tax lists of the county as a special charge against the real estate on which the building or hazardous condition is or was situated." *Id.*

Rule 54.04 provides the procedures that parties must follow to recover costs and disbursements that are allowed "as provided by law" in civil actions. Minn. R. Civ. P. 54.04(a). Under rule 54.04(b), "[a] party seeking to recover costs and disbursements must serve and file a detailed application for taxation of costs and disbursements with the court administrator." The application "must be served and filed not later than 45 days after entry of a final judgment as to the party seeking costs and disbursements." *Id.* A "judgment," within the meaning of rule 54, is "the final determination of the rights of the parties in an action or proceeding." Minn. R. Civ. P. 54.01.

Ulland asserts that the city's application for expenses was barred by rule 54.04(b) because it was filed years after the district court sustained the city's abatement order and entered judgment. According to Ulland, the city was required under rule 54.04(b) to file its application within 45 days of the district court's March 16, 2017 order—which would have been April 30, 2017.

The city responds that rule 54.04(b) does not apply because its request for expenses was not made as a motion following a final judgment, but instead was made as part of the proceedings under the MHSBA. *See* Minn. Stat. §§ 463.21-.22. Noting that the MHSBA provides no deadlines for the demolition or repair of a hazardous structure, and that a municipality cannot apply for expenses before they are incurred, the city argues that it makes no practical sense to apply rule 54.04(b) to expenses under the MHSBA. Moreover, the city argues, the expenses that it sought "were not ordinary costs and disbursements as

allowed in an ordinary civil action, but instead the specific expenses related to removing or remedying the hazardous building."[6]

We begin our analysis with some general principles of statutory interpretation. The object of all interpretation and construction of laws is to ascertain and effectuate the intention of the legislature. Minn. Stat. § 645.16 (2020). If the legislature's intent is clear from the unambiguous statutory language, a court applies the statute's plain meaning. *Staab v. Diocese of St. Cloud*, 853 N.W.2d 713, 716-17 (Minn. 2014). On the other hand, if a statute is susceptible to more than just one reasonable interpretation, it is ambiguous. *Id.* at 717. When a statute is ambiguous, a court may consider other factors to ascertain the legislature's intent. *Id.*

Neither Ulland nor the city address whether the plain language of the MHSBA requires a municipality to comply with rule 54.04 in applying for expenses. Based on our review of the MHSBA, we note that it does not explicitly impose such a requirement. Thus, arguably, the plain language of the MHSBA does not support the interpretation that Ulland proposes.

As Ulland points out, however, the MHSBA does provide that the rules of civil procedure apply in contested cases. *See* Minn. Stat. §§ 463.18, .20. This provision reasonably could be interpreted to require a party to comply with rule 54.04 in seeking costs following a judgment. Thus, we conclude that the MHSBA is ambiguous as to

[6] The city also argues, in the alternative, that even if rule 54.04(b) does apply to these proceedings, the 45-day time limit was not triggered by the March 16, 2017 order because that order was not a "final judgment." Minn. R. Civ. P. 54.04(b). We do not reach that argument, though, as we conclude that the rule 54.04(b) time limit does not apply here.

whether the timing requirements in rule 54.04 apply to a municipality's request for expenses in a contested case under the MHSBA.

"When a statutory provision is ambiguous, it is appropriate to turn to the canons of statutory construction to ascertain a statute's meaning." *State v. Leathers*, 799 N.W.2d 606, 611 (Minn. 2011). Additionally, in ascertaining legislative intent, a court may consider legislative history, the subject matter as a whole, and the purpose of the legislation. *Staab*, 853 N.W.2d at 718 (quotation omitted); *see also* Minn. Stat. § 645.17 (2020).

Applying these concepts, we conclude that rule 54.04 does not apply to a municipality's application for allowance of expenses when a district court sustains an abatement order in a contested case brought under the MHSBA. Several factors support this conclusion.

First, construing the MHSBA so as to give effect to all of its provisions—as we are required to do, *see Am. Family Ins. Grp. v. Schroedl*, 616 N.W.2d 273, 277 (Minn. 2000)—we note that the "expenses" contemplated by the MHSBA go well beyond the litigation costs and disbursements addressed in rule 54.04. Although the MHSBA allows a municipality to recover litigation expenses, it also covers other expenses associated with enforcing an abatement order. Those costs include a municipality's costs for repairing, demolishing, or selling a building. Minn. Stat. § 463.22. Moreover, abatement-order enforcement expenses are calculated from the time that a municipality issues an abatement order—before any litigation occurs on the abatement order. *Id.* Indeed, a municipality that issues an abatement order incurs expenses even in an *uncontested* matter. *Cf.* Minn. Stat.

§ 463.20 (stating that the civil-procedure rules apply in contested cases). And the MHSBA does not differentiate between expenses sought after uncontested matters and those sought after contested matters. Thus, to ensure that "the entire statute [is] effective and certain," Minn. Stat. § 645.17(2), we interpret the MHSBA to provide municipalities with a procedure wholly separate from rule 54.04 for recovering expenses in all abatement-order cases.

Second, the procedure provided by the MHSBA for recovering abatement-order enforcement expenses conflicts with the process set forth by rule 54.04. Without differentiating between contested or default cases, the MHSBA requires the district court to "examine, correct, if necessary, and allow the expense account" submitted by a municipality. Minn. Stat. § 463.22. But rule 54.04(b) allows either the court administrator or a district court judge to tax costs. Minn. R. Civ. P. 54.04(d). Under rule 54.04, there is a specific process for the losing party to challenge the taxed costs and disbursements. *See* Minn. R. Civ. P. 54.04(c)-(e). The MHSBA provides no such process. *See* Minn. Stat. § 463.22. Once ordered by the district court, the property owner is required to pay expenses by October 1 to avoid a special charge against the real estate. *Id.* Moreover, the prevailing party requesting costs under the MHSBA is always the municipality. *See id.* The canons of statutory interpretation require us to presume that the legislature "does not intend a result that is absurd, impossible of execution, or unreasonable." Minn. Stat. § 645.17(1). And specific statutory provisions control general provisions when the two are in conflict. Minn. Stat. § 645.26, subd. 1. Because the legislature provided a distinct procedure for a municipality to recover expenses under the MHSBA, we assume that the legislature

intended for this procedure—and not a conflicting procedure found elsewhere—to apply to all matters brought under the MHSBA, whether contested or uncontested.

Finally, the timing requirement of rule 54.04 is inconsistent with the procedures set forth by the MHSBA, which are flexible and contain no express timing constraints. The MHSBA contemplates that before a municipality corrects the condition caused by a hazardous building, the property owner or party in interest will be afforded some time to personally arrange for the repair or removal of the structure. *See* Minn. Stat. § 463.20 (requiring district court to "fix a time after which the building must be destroyed or repaired or the hazardous condition removed or corrected"). Here, for example, the district court fixed that time at 20 days from the issuance of its order. If the property owner or party in interest does not repair or raze the structure, a municipality has authority to do so. Minn. Stat. § 463.21 ("If a judgment is not complied with in the time prescribed, the governing body may cause the building to be repaired, razed, or removed . . . ."). As noted, however, the MHSBA does not provide any deadline for the city's action. *See* Minn. Stat. §§ 463.20-.22. And for good reason. The scope of the corrective action required will depend on the nature of the problem, which, in turn, will affect the timing of the corrective action. Tearing down a high rise, for example, is a very different project than fixing a roof and some siding. But if the 45-day time limit provided by rule 54.04(b) applied, a city would be required to act swiftly in every case, regardless of the circumstances, or forfeit the opportunity to recover expenses. Again, we must presume that the legislature "does not intend a result that is absurd, impossible of execution, or unreasonable," Minn. Stat. § 645.17(1). Applying this canon of construction, we conclude that the legislature did not intend the

timeline provided by rule 54.04 to govern a municipality's application for allowance of expenses under the MHSBA.

In sum, we conclude that the legislature intended the expense provisions of the MHSBA and not rule 54.04 to govern a municipality's application for allowance of expenses under the MHSBA. The city's application for allowance of expenses, which was brought to recover expenses for enforcing an abatement order under the MHSBA, was accordingly not subject to the 45-day time limitation in rule 54.04(b). Thus, the district court did not err in rejecting Ulland's argument that the city's application was untimely and allowing the city's requested expenses.

II. Ulland has not demonstrated that the district court abused its discretion in allowing the city's requested expenses.

Ulland also asserts that the district court's order allowing the expenses should be reversed because "[the city] did not provide detailed account, [but] instead summarized it." Ulland does not provide additional argument on this point.

Appellate courts "generally review a district court's award of costs and disbursements for an abuse of discretion." *Dukowitz v. Hannon Sec. Servs.*, 841 N.W.2d 147, 155 (Minn. 2014). Although we have concluded that a municipality requesting expenses under the MHBSA is not required to follow the civil procedure rule governing costs and disbursements, we elect to apply the same abuse-of-discretion standard of review to consider the district court's allowance of expenses. The reasonableness of an award of attorney fees is also reviewed for an abuse of discretion. *State by Comm'r of Transp. v. Krause*, 925 N.W.2d 30, 32-33 (Minn. 2019).

The city attached an affidavit by a city administrator to its expense application, and the city administrator stated that he had carefully examined the city's costs and expenses for enforcing the abatement order. He categorized the expenses, which included filing fees, service fees, attorney fees, witness fees, and abatement expenses, and attached 80 pages of supporting documentation. The documentation included invoices, contractor estimates, and itemization of attorney time spent on the matter.

The district court determined that the city had "submitted sufficient documentation" under the MHSBA, and that the submitted costs were a "reasonable, necessary, and accurate accounting of the expenses incurred by the [c]ity" in carrying out the abatement order. Its order noted that "[w]hile the attorneys' fees are significant, they are consistent with the amount of work necessary in this matter, in part due to [Ulland's] repeated and baseless arguments."

Ulland has not shown that the district court abused its discretion by granting the city's application for expenses. He did not object to any of the specific items or amounts in the affidavit in district court, and he cites no authority to support his proposition on appeal that the city's application lacked sufficient detail. While he asks us to "review the totality of his case," appellate courts do not determine issues of fact on appeal, *Fontaine v. Steen*, 759 N.W.2d 672, 679 (Minn. App. 2009), and "the burden of showing error rests upon the one who relies upon it," *Loth v. Loth*, 35 N.W.2d 542, 546 (Minn. 1949) (quotation omitted). An assignment of error in a brief based on "mere assertion" and not supported by argument or authority is waived unless prejudicial error is obvious on mere inspection. *Schoepke v. Alexander Smith & Sons Carpet Co.*, 187 N.W.2d 133, 135 (Minn.

1971). We accordingly conclude that Ulland has not demonstrated any error by the district court regarding the sufficiency of the city's application for expenses.

III. Ulland has not properly raised his arguments about the separate case file involving the same property.

Ulland's final argument is that he should have been served with a notice of application for costs and disbursements and allowed to participate in a separate case file regarding the same property.

The city brought the related action that Ulland references against Beverly Scheurer, concerning the same hazardous property. Scheurer sold Ulland the property decades before this proceeding commenced, but the two did not record the deed evidencing the sale. The city therefore initiated an action regarding the property against Scheurer before it then commenced a separate action against Ulland.

Immediately before the hearing in this matter on the city's application for expenses, the district court called and briefly addressed the Scheurer matter.[7] Ulland attempted to speak during the Scheurer matter, and the district court would not allow him to do so, explaining: "I'm not going to address your – any arguments from you in the [Scheurer] file because you're not a party to that case."

On appeal, Ulland does not provide any analysis or legal argument as to why he should have been permitted to participate in the related matter, where Scheurer is the only defendant. Again, "mere assertion," without more, cannot support an assignment of error. *Schoepke*, 187 N.W.2d at 135. And inadequately briefed issues are not properly before an

[7] The transcript for Ulland's hearing also contains the brief hearing on the Scheurer matter.

appellate court. *Melina*, 327 N.W.2d at 20. Moreover, Ulland has not shown that it is procedurally permissible for him to challenge the district court's decision in a separate file through an appeal in this file. We accordingly decline to consider Ulland's assertions about notice and an opportunity to participate in the related matter.

Affirmed.