STATE OF MINNESOTA
IN COURT OF APPEALS
A21-0829
A21-0832

In the Matter of the Application of Timothy D. Moratzka,
Trustee of the Nancy L. Mayen Residual Trust.

Filed April 11, 2022
Affirmed
Gaïtas, Judge

Itasca County District Court
File No. 31-CV-19-1367

Matti R. Adam, Itasca County Attorney, Michael J. Haig, Chief Assistant County Attorney, Grand Rapids, Minnesota (for appellant Itasca County)

Keith Ellison, Attorney General, Peter J. Farrell, Assistant Attorney General, St. Paul, Minnesota (for appellant Minnesota Department of Natural Resources)

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Aaron Britton, Bovey, Minnesota (self-represented respondent)

Kelly Britton, Bovey, Minnesota (self-represented respondent)

Considered and decided by Frisch, Presiding Judge; Gaïtas, Judge; and Cleary, Judge.[*]

SYLLABUS

The Minnesota Marketable Title Act applies to land dedicated by plat to public use and extinguishes any public interest in such land that is not properly recorded under the act.

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

OPINION

GAÏTAS, Judge

In these consolidated appeals involving a parcel of land created via dedication "to the public forever" in 1911, appellants Itasca County and the Minnesota Department of Natural Resources (DNR) challenge the district court's grant of summary judgment in favor of respondent trustee Timothy Moratzka. Appellants argue that the district court erred in concluding as a matter of law that the public's interest in the land was abandoned under the Minnesota Marketable Title Act (MTA) because the interest was not recorded within 40 years of the dedication. Because we conclude that the MTA creates a conclusive presumption of abandonment where, as here, the public's interest in a parcel of land created by plat is not validly recorded by the relevant public authority within 40 years of the dedication of any such interest, we affirm.

FACTS[1]

The dispute in this case centers on a 30-foot-wide strip of land abutting Trout Lake in Itasca County. Appellants argue that this land, which is essentially a beach, can be used by the public because it was dedicated to the public long ago. But Moratzka, who represents the trust that purchased the disputed land, contends that any public interest in the beach was abandoned under Minnesota law. Before we address the parties' dispute, we examine the parcels of land at issue, the public dedication, and the procedural history of the case.

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[1] Because we are reviewing a grant of summary judgment, the facts are presented in the light most favorable to the nonmoving parties. *STAR Ctrs., Inc. v. Faegre & Benson, L.L.P.*, 644 N.W.2d 72, 76-77 (Minn. 2002).

A. The Disputed Land

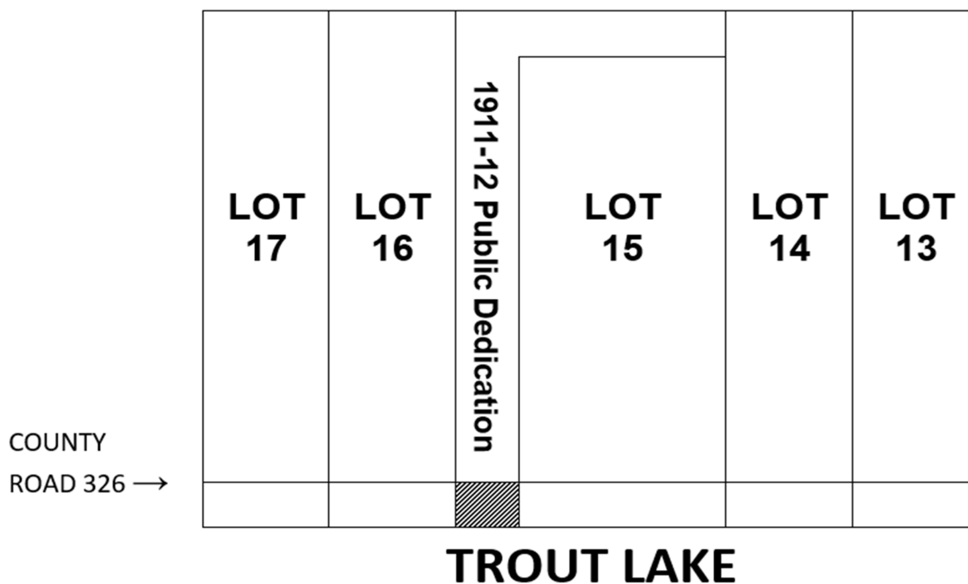
In 2008, the Nancy L. Mayen Residual Trust (the trust) purchased three parcels of land in Balsam Township, Itasca County, which are near or abutting Trout Lake. Currently, Britton's Trout Lake Resort occupies much of the land.

Parcel one contains lots 13 through 17 of Trout Lake Park, all of which abut the lake, as well as a portion of a "vacated public platted roadway lying [between lots 15 and 16] North of the East-West road as it traverses the Plat of Trout Lake Park."

Parcel two is not directly relevant to the issues raised on appeal.

Parcel three, which contains the land in dispute here, consists of "[t]hat part of the road dedicated to the public by the Plat of Trout Lake Park" which lies "South of that [vacated] portion of said road" described in parcel one.

Below is an approximate rendering of parcels one and three, drawn from the abstract of title provided by Moratzka.[2] The disputed land—parcel three—is shaded.



[2] This image is not to scale and is here only to provide the reader with a sense of the areas in dispute.

The land that comprises the three parcels was platted in 1911 and recorded the following year. At that time, the land was owned by Healy C. Akeley. In 1911, Akeley dedicated the strip of land running between lots 15 and 16 "to the public use forever." The dedication filed by Akeley described the dedicated land as "the public roads known . . . as the Grand Rapids and Big Fork roads." It included all of what is now parcel three and a portion of what is now parcel one.

Following the dedication, neither Balsam Township nor any other public entity took any action in relation to the land. But there was occasional tension between the property owners and the county regarding use of the public way.

In 1967, for example, the operators of the resort then located on the parcels attempted to vacate the public way but the county board voted to oppose their efforts.[3] And in 1985, when the county sought to develop the dedicated public way into an actual roadway providing greater access to the lake, the then-owners of the property sued to block the county's plan.

Eventually, the county and the property owners reached a resolution. The county agreed to allow vacation of the portion of the public roadway north of county road 326 and the owners granted the county "a public access located upon the most Easterly property owned by the [owners], a portion of Lot Thirteen." Given this agreement, only a portion of the public-way easement running between lots 15 and 16 remained—the portion now in

[3] "Vacation" is a procedure whereby interested landowners may apply to have the public's interest in platted land extinguished. Minnesota Statutes section 505.14 (2020) provides that, upon application from the owner of land included in a plat, a "district court may vacate or alter all, or any part, of [a] plat" if specific requirements are met.

dispute. The remainder was formally vacated by court order. As a compromise, the public was allowed to access the small remaining portion of the public way—the beach—by proceeding south along the east side of parcel two along lot 13, west down county road 326, then south through parcel three.

Although what is now known as parcel 3 was platted as a roadway, there is no physical road there. And as noted, given the vacation of most of that roadway, the portion of the land that is in dispute is a beach used by the resort, which is now under different ownership.

B. Moratzka's Application to Register Title

The current dispute arose when Moratzka, acting as trustee for the trust that owns the three parcels, filed a Torrens application to register title in 2019.[4] He asserted that the trust possessed a fee simple interest in the parcels, and he submitted three abstracts of title—one for each parcel identified in his application.

The application acknowledged a public easement on parcel three, indicating that it was encumbered by a "[p]lat dated June 12, 1911 filed of record in the Office of the County Recorder in and for Itasca County, Minnesota, on January 12, 1912 . . . dedicating to the public Grand Rapids and Big Fork roads." Moratzka's application further stated:

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[4] Moratzka sought to register title pursuant to Minnesota Statutes chapter 508, otherwise known as the "Torrens Act," which provides that "a party seeking to register an ownership interest in property [may] appl[y] for a court adjudication of ownership and a court decree that converts abstract property into Torrens property." *In re Collier*, 726 N.W.2d 799, 804 (Minn. 2007). The Torrens system is notably different from the "abstract system," under which "transactions that affect real property are recorded with the county recorder in the county where the property is located," rather than title being registered by the registrar of titles. *Id.* at 803-04.

> Applicant seeks the determination that the public and the Town of Balsam and County of Itasca have no right, title, or interest in [parcel three] hereto under or by virtue of the Plat dated June 12, 1911 filed of record in the Office of the County Recorder in and for Itasca County, Minnesota, on January 12, 1912 in Book "2" of Plats page 35.
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> The reason is that the Town of Balsam and County of Itasca did not record any interest in the road within 40 years of the road's dedication, the road was abandoned, the Marketable Title Act's presumption of abandonment applies, and no public road exists thereon.

The application asked the district court to adjudicate the trust's title to the three parcels of land, including parcel three, free of any encumbrance.

Subsequently, the Itasca County Examiner of Titles (the examiner) reported on Moratzka's application, determining that the township, the DNR, and the county should be parties to the proceeding because (1) the township had jurisdiction over platted roads within the township, (2) the DNR had an interest in maintaining public lake access, and (3) the county had been involved in the prior road-vacation proceeding. Moratzka filed a petition and order for summons requesting that the district court issue a summons for the three public entities.

C. The District Court Proceedings

In the district court, appellants objected to Moratzka's application and moved for summary judgment.[5] They argued that Moratzka was estopped from denying the existence of the public way and the only way to extinguish the public's interest in the disputed land

[5] The township initially objected to Moratzka's application. However, the township withdrew its objection after the district court denied summary-judgment motions filed by the township, the county, and the DNR, and did not oppose Moratzka's subsequent summary-judgment motion. The township does not participate on appeal.

was vacation under Minnesota's road vacation statute. Moratzka responded that any public interest in parcel three had expired 40 years after Akeley's dedication because it had been abandoned by operation of the MTA.

The district court denied appellants' motion for summary judgment, concluding that Moratzka had "source of title, arising from Healy C. Akeley's interest in Parcel 3" which "ha[d] been of record for at least forty (40) years" within the meaning of the MTA, that Minnesota's road-vacation statute was inapplicable as vacation had not been raised by Moratzka, that Moratzka was not estopped from claiming abandonment under the MTA, and that the easement created by the 1911-12 dedication had been "abandoned" within the meaning of the MTA.

Moratzka then moved for summary judgment. The district court granted the motion, largely relying on the legal conclusions in its order denying appellants' motion.

Appellants challenge the district court's grant of summary judgment in favor of Moratzka.

ISSUES

I. Did the MTA extinguish the public interest created by the 1911-12 dedication?

II. Is Moratzka estopped from seeking a remedy under the MTA?

III. Is Moratzka required to seek vacation of the public way created by the 1911-12 dedication under Minnesota's road-vacation statute?

ANALYSIS

Appellate courts review a district court's grant of summary judgment de novo. *STAR Ctrs.*, 644 N.W.2d at 77. In doing so, the reviewing court views the evidence in the light most favorable to the party against whom summary judgment was granted. *Id.* at 76-77. The goal of appellate review is to determine whether there are any genuine issues of material fact and whether the district court erred in its application of the law. *Id.* at 77. Insofar as appellants' arguments present questions of law, we also review those questions de novo. *See Doe v. Minn. State Bd. of Med. Exam'rs*, 435 N.W.2d 45, 48 (Minn. 1989) (stating that statutory-construction questions are subject to de novo review).

I. Because no public entity recorded the 1911-12 dedication within 40 years, the MTA extinguished any public interest in the platted roadway.

A. The Minnesota Marketable Title Act

The MTA is a mechanism for landowners to "relieve a title from the servitude of provisions contained in ancient records which fetter the marketability of real estate." *Wichelman v. Messner*, 83 N.W.2d 800, 812 (Minn. 1957) (quotation omitted); Minn. Stat. § 541.023 (2020). To achieve this purpose, the MTA provides that no interest can "be asserted against a claim of title based on a source of title unless the interest is preserved by filing a notice within 40 years of the creation of the interest." *State v. Hess*, 684 N.W.2d 414, 427 (Minn. 2004). In relevant part, the MTA states,

> As against a claim of title based upon a source of title, which source has then been of record at least 40 years, no action affecting the possession or title of any real estate shall be commenced by a person, partnership, corporation, other legal entity, state, or any political division thereof, to enforce any right, claim, interest, incumbrance, or lien founded upon any instrument, event or transaction which was executed or

> occurred more than 40 years prior to the commencement of such action, unless within 40 years after such execution or occurrence there has been recorded in the office of the county recorder . . . a notice . . . setting forth the name of the claimant, a description of the real estate affected and of the instrument, event or transaction on which such claim is founded . . . .

Minn. Stat. § 541.023, subd. 1. This provision "appl[ies] to every right, claim, interest, incumbrance, or lien founded by any instrument, event, or transaction that is at least 40 years old." *Id.*, subd. 2(a). To invoke the MTA, a party must have a "source of title" which has been "of record at least 40 years." *Hess*, 684 N.W.2d at 427 (quotation omitted).

The failure to record an interest in land within 40 years establishes a conclusive presumption that the interest has been abandoned.[6] Minn. Stat. § 541.023, subds. 2, 5; *Hess*, 684 N.W.2d at 427. Once abandoned, any interest in land is "extinguish[ed]." *Id.*

B. The MTA applies to land dedicated by plat to public use.

Here, the district court concluded as a matter of law that any public interest in parcel three was extinguished under the MTA because neither the county nor any other public entity claimed and recorded the interest. Appellants contend, however, that the MTA does not apply to dedications that are made in recorded plats.

To address appellants' argument, we must first interpret the MTA. Appellate courts review questions of statutory interpretation de novo. *State v. Defatte*, 928 N.W.2d 338, 340 (Minn. 2019). When interpreting a statute, the goal is to ascertain the legislature's intent. Minn. Stat. § 645.16 (2020); *Caldas v. Affordable Granite & Stone, Inc.*, 820

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[6] There is an exception to this general rule where there is actual "possession" of the property in question. *Id.* at 424 n.8 (citing Minn. Stat. § 541.023, subd. 6 (2002)). Neither the DNR nor the county has alleged "possession" of parcel three.

N.W.2d 826, 836 (Minn. 2012). Reviewing courts first examine the language of the statute and ask whether it is ambiguous or "subject to more than one reasonable interpretation." *Tapia v. Leslie*, 950 N.W.2d 59, 61 (Minn. 2020). In determining whether language is ambiguous, reviewing courts give words their plain and ordinary meaning, unless the terms are statutorily defined. *See Broadway Child Care Ctr. v. Dept. of Hum. Res.*, 955 N.W.2d 626, 631 (Minn. App. 2021). If the statutory language is susceptible to only one reasonable interpretation, reviewing courts apply the statute's plain language and do "not explore the spirit or purpose of the law." *Caldas*, 820 N.W.2d at 836 (citing Minn. Stat. § 645.16 (2010)).

Applying these principles, we conclude that the plain language of the MTA unambiguously encompasses dedications made by recorded plat. We first note that the text of the MTA explicitly pronounces the legislature's purpose in enacting the statute. The MTA states that "it [is] hereby declared as the policy of the state of Minnesota that, except as herein provided, ancient records shall not fetter the marketability of real estate." Minn. Stat. § 541.023, subd. 5.

We next observe that, to achieve this purpose, the MTA is broadly drafted. It "appl[ies] to *every right, claim, interest, incumbrance*, or lien founded by *any instrument, event, or transaction* that is at least 40 years old." *Id.*, subd. 2(a) (emphasis added). When the word "any" is used in a statute, the statute is broadly applied. *In re Welfare of Child of D.L.D.*, 771 N.W.2d 538, 546 (Minn. App. 2009) (citing *Olson v. Ford Motor Co.*, 558 N.W.2d 491, 494 (Minn. 1997)). The broad language of the MTA—which applies to *every*

interest founded by *any* instrument—seemingly includes an interest in a public way created by a recorded plat.

The exceptions to the MTA's recording requirement further support this interpretation. A subdivision entitled "Limitations; certain titles not affected" excludes from the MTA specific entities, including the federal government, and specific types of interests, including "the record title or record interest, or title obtained by or through any congressional or legislative grant, of any railroad corporation." Minn. Stat. § 541.023, subd. 6. This subdivision does not exclude a dedication to the public made by plat. *Id.* When a statute contains explicit exceptions to the statute, the exceptions "shall be construed to exclude all others." Minn. Stat. § 645.19 (2020). Because a dedication made in a recorded plat is not excepted from the MTA, we interpret the statute to apply to such an interest.

Given the unambiguous language of the MTA, which applies to all conveyances with limited delineated exceptions, we conclude that it applies to land dedicated by plat to public use. Thus, to claim such an interest, the claimant must properly record it.

But what if the claimant is the public? When the public is given an interest in land, a public entity must affirmatively accept the interest by following the requirements of the MTA. For example, a township abandons its interest in a town road by operation of the MTA when it does not record its interest in the road within 40 years. *Sterling Township v. Griffin*, 244 N.W.2d 129, 133 (Minn. 1976); *Township of Villard v. Hoting*, 442 N.W.2d 826, 829 (Minn. App. 1989) ("[A] township must comply with the requirement that it

record properly its possessory interest in a public road within 40 years of the road's establishment or it will be presumed to have abandoned its right to the road.").

Appellants argue that a dedication to the public in a plat is different, however. They point out that township roads are typically created by town order. *See, e.g.*, *Griffin*, 244 N.W.2d at 131 ("The road was established . . . by order of the Sterling Town Board."); *Hoting*, 442 N.W.2d at 827 ("[T]he township's supervisors . . . executed a final road order establishing a public road." (quotations omitted)). And, according to appellants, the cases concerning township roads involve the townships' failure to record their interests with the relevant county authority. *Griffin*, 244 N.W.2d at 133; *Hoting*, 442 N.W.2d at 829. Appellants contend that "[p]latted public ways in recorded and admittedly valid land plats simply are not the same as a township road order that has never been recorded under the recording laws." They note that the act of recording the plat provides "actual notice" of the dedication and should preclude the statutory presumption of abandonment.

We are not persuaded by this argument, which is not supported by the caselaw or the MTA. While it is true that Akeley *created* the interest by recording the 1911-12 dedication with Itasca County, there was no act of *acceptance* by the claimant. The MTA requires the claimant to accept the interest by recording in the office of the county recorder "a notice *sworn to by the claimant or the claimant's agent or attorney*" identifying the interest, the transaction upon which the interest is founded, and a description of the property. Minn. Stat. § 541.023, subd. 1 (emphasis added). And we made clear in *Hoting* that even a public entity—in that case a township—"must comply with the requirement that it record properly *its* possessory interest in a public road within 40 years of the road's

establishment or it will be presumed to have abandoned its right to the road." 442 N.W.2d at 829 (emphasis added). Thus, neither actual notice nor the recording of a dedication by plat satisfies the MTA's requirement that a claimant record its interest. We therefore reject appellants' attempt to create an exception for platted public ways.

In sum, we conclude that the MTA applies to land dedicated by plat to public use.

C. Application of the MTA

We next consider whether the public interest created by Akeley's 1911-12 dedication was abandoned under the MTA. To decide this issue, we must determine whether the trust has a "source of title" that has been "of record for at least 40 years" and whether a claimant of the public interest abandoned that interest. *Hess*, 684 N.W.2d at 427.

As a preliminary matter, it is unclear whether appellants challenge the district court's conclusion that the trust owned parcel three in fee simple.[7] Because the undisputed facts support the district court's conclusion, we reject any assertion that the trust did not have fee-simple ownership of the parcel containing the disputed land. The examiner concluded that the trust is the successor-in-interest to the parcels of land abutting and near Trout Lake, as described in the title abstracts provided by Moratzka. Moreover, the trust's source of title for those parcels extends back at least as far as the 1911-12 dedication, when

[7] The district court explicitly determined that the trust possessed fee simple ownership of the land comprising parcel three subject only to an easement created by the 1911-12 dedication. Appellants do not directly challenge this determination. Instead, appellants—in particular the DNR—generally argue that the trust cannot use the MTA to *establish* fee title. Implicit in this argument is an assumption that the trust did not possess fee simple ownership of parcel three despite the district court's conclusion to the contrary, though neither appellant directly addresses this apparent ambiguity.

Akeley dedicated the strip of land which would eventually become part of parcel one and all of parcel three "to the public use forever."

That dedication did not affect the fee-simple ownership of the land. Dedication of land by a private landowner to the public does not convey fee title to the land, but rather "only such an estate as the purpose of the trust requires." *Headley v. City of Northfield*, 35 N.W.2d 606, 609 (Minn. 1949); *see also Huff v. Winona & St. Peter R.R.*, 11 Minn. 180, 191-93, 11 Gil. 114, 123-25 (1866); *Schurmeier v. St. Paul & Pac. R.R.*, 10 Minn. 82, 104, 10 Gil. 59, 78 (1865). A plat dedication operates as a "conveyance in trust to the municipality of *a terminable easement only*, in any area designated in the plat for public use, and the fee title thereto remains in the dedicator, subject to the easement." *Bolen v. Glass*, 755 N.W.2d 1, 4 (Minn. 2008) (emphasis added) (quoting *Etzler v. Mondale*, 123 N.W.2d 603, 610 (Minn. 1963)). Accordingly, when Akeley dedicated the strip of land in dispute "to the public use forever," he conveyed an easement which, among other things, allowed the public the use and enjoyment of the land, as well as access to Trout Lake. *Id.*

Notwithstanding the dedication, Akeley maintained fee-simple ownership of the land. And because the trust traces its source of title at least as far back as the 1911-12 dedication, it satisfies the first requirement for invoking the MTA to extinguish an interest in land—a source of title that has been of record for 40 years.

Citing *Padrnos v. City of Nisswa*, 409 N.W.2d 36 (Minn. App. 1987), the DNR argues that Moratzka is improperly using the MTA as a "sword" to seek affirmative relief rather than as a "shield" to defend against another's action to enforce property rights. In *Padrnos*, we examined the claims of a resort owner who owned property on both sides of

an unopened roadway and attempted to use the MTA to acquire title to the roadway itself. 409 N.W.2d at 37. The district court rejected the resort owner's attempt to use the MTA to obtain title. *Id.* In affirming the decision, we observed that "the MTA was designed to be invoked *as a defense* in a situation where a party claims title to property and another party asserts a hostile claim to the same property," but it could not "provide a foundation for a new title." *Id.* at 38 (emphasis added). Because the resort owner lacked the requisite "claim of title" required for an action under the MTA, using the MTA to establish that title was improper. *Id.*

But unlike the resort owner in *Padrnos*, who did not have source of title for the roadway land, Moratzka has not invoked the MTA to establish "a foundation for a new title." Instead, the trust, as successor-in-interest to parcels one, two, and three, retained fee simple ownership of the roadway, which was merely encumbered by the easement created by the 1911-12 dedication. Thus, the *Padrnos* rationale does not preclude application of the MTA here.

In addition to establishing the trust's source of title to the land, the undisputed evidence shows that no claimant recorded an interest in the disputed property within 40 years of the dedication. Neither the township (the public entity that had jurisdiction over the public way created by the 1911-12 dedication) nor the county claimed the interest by recording it in the office of the county recorder. Therefore, the second requirement for invoking the MTA—that no claimant recorded an interest in the property within 40 years of the creation of that interest, Minn. Stat. § 541.023, subd. 1—is satisfied. The conclusive presumption of abandonment accordingly applies.

Because the trust possessed source of title of record for at least 40 years and the public interest in parcel three was not recorded within 40 years of Akeley's dedication, the interest was abandoned. We agree with the district court that, pursuant to the MTA, the public interest created by the dedication has been extinguished. *Hess*, 684 N.W.2d at 427.

II. Moratzka is not estopped from invoking the MTA to challenge the existence of the easement on parcel three.

Appellants argue that, even if the MTA applies, Moratzka is estopped from challenging the existence of the easement on parcel three. Because the 1911-12 dedication was included in the plat, they contend that the principle of estoppel forecloses Moratzka from denying its existence.

In support of their estoppel argument, appellants rely on our decision in *Popp v. County of Winona*, 430 N.W.2d 19 (Minn. App. 1988), *rev. denied* (Minn. Nov. 23, 1988). There, soon after new landowners acquired their property, the county widened a public roadway abutting the property by seven feet, resulting in a 66-foot-wide road. *Popp*, 430 N.W.2d at 21. The landowners claimed that the project took 17 feet of their land. *Id.* But an 1880 auditor's plat, which was on file with the county recorder, showed that the dedicated roadway was 66 feet wide. *Id.* The county therefore believed that a 66-foot-wide public dedication existed and that the road expansion project would conform to the parameters of that dedication. *Id.* In a petition for a writ of mandamus, the landowners challenged the county's action, arguing that the county had seized their property without providing compensation. *Id.* The district court quashed the writ of mandamus and we affirmed. *Id.* at 22-24. Citing a 1908 Minnesota Supreme Court decision, we stated that "[w]hen a conveyance is made with reference to a plat, all lot owners are deemed to have

full knowledge and notice of everything appearing on the plat." *Id.* at 23 (citing *Poudler v. City of Minneapolis*, 115 N.W. 274 (Minn. 1908)); *see also Raines v. Village of Alden*, 90 N.W.2d 906, 909 (Minn. 1958). We further stated, "where, after platting lands, the owner sells lots or blocks with references to the plat, the platters and their grantees are estopped to deny the legal existence of such streets and public grounds as are described in the plat." *Popp*, 430 N.W.2d at 23-24. Although the 1880 plat did not satisfy statutory requirements in dedicating a plat, we concluded that the landowners were estopped from denying the validity of the plat because it was incorporated into the legal description of the property in the deed. *Id.* at 24. Because the deed explicitly referred to the plat, the landowners "were on notice and accepted all rights and easements, including the 66-foot roadway." *Id.*

The circumstances here do not implicate *Popp's* reasoning. Moratzka is not challenging the "validity of the plat." *Id.* He accepts that the plat was validly created. Instead, he argues that the roadway was subsequently abandoned by operation of the MTA. This distinction is subtle, but determinative. While Moratzka would be estopped from denying the validity of the easement created by the 1911-12 dedication, nothing in the *Popp* case or its predecessors prevents the application of the MTA to extinguish the dedication because it was never accepted.[8] We therefore reject appellants' estoppel argument.

[8] The county also presents this as an issue of the trust "ratifying" the existence of the easement upon parcel three when it took possession. However, even assuming without deciding that this is a separate legal basis for reversal, and not merely a restatement of the estoppel argument (we note that the primary caselaw relied upon by the county for this argument is *Popp*), the argument fails for the same reason: Moratzka is not challenging the validity of the underlying 1911-12 dedication. He merely seeks application of the MTA to extinguish the unclaimed dedication.

III. Because the MTA extinguished the public interest in parcel three, Moratzka is not required to seek vacation under Minnesota's road-vacation statute.

Finally, appellants argue that the only lawful means of eliminating the public interest in the disputed land is through the vacation process provided by the road-vacation statute, Minnesota Statutes section 505.14.[9] In relevant part, this statute states,

> Upon the application of the owner of land included in any plat, and upon . . . the notice hereinafter provided for . . . , the district court may vacate or alter all, or any part, of the plat, and adjudge the title to all streets, alleys, and public grounds to be in the persons entitled thereto; but streets or alleys . . . providing access for the public to any public water, shall not be vacated between the lots, blocks, or plats as are not also vacated, unless it appears that the street or alley or part thereof sought to be vacated is useless for the purpose for which it was laid out.

Minn. Stat. § 505.14.

Appellants contend that a landowner cannot use a Torrens proceeding or the MTA to avoid the requirements of section 505.14. Invoking the rule of statutory interpretation that a specific statute controls over a general statute, they argue that section 505.14 is a specific statute that governs vacation of platted roadways whereas the Torrens and MTA statutes are general.

As appellants note, generally, "specific terms covering the given subject matter will prevail over general language of the same or another statute which might otherwise prove controlling." *Connexus Energy v. Comm'r of Revenue*, 868 N.W.2d 234, 242 (Minn. 2015) (quotation omitted). But, as appellants also acknowledge, this statutory-interpretation

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[9] While, of the two appellants, only the DNR made this argument in its appellate brief, at oral argument the DNR presented this issue on behalf of both parties.

principle is particularly applicable when "the general and the specific provisions exist side by side," or where "the two are interrelated and closely positioned, both in fact being parts of the same statutory scheme." *Id.* at 242 (quotations omitted). For example, in *Connexus*, the statutes at issue were two sequential tax-assessment provisions providing separate statutes of limitations. *See id.* at 241 (addressing Minn. Stat. § 289A.37, subd. 2 (2014), and Minn. Stat. § 289A.38, subd. 1 (2014)).

Appellants contend that section 505.14, which is a "law[] with reference to . . . platting," is implicitly referenced by the more general Torrens statute, which provides that, in land registration proceedings, "[a]ll laws with reference to the subdivision and platting of unregistered land shall apply with like force and effect to registered land." Minn. Stat. § 508.46 (2020). As to the MTA, they argue that it is a general law because it "does not expressly say that it applies to public interests founded upon a recorded plat."

We are not persuaded by this analysis. The Torrens Act, the MTA, and the road-vacation statute exist in separate chapters and are not part of the same statutory scheme. Moreover, to accept appellants' argument, we would be required to adopt an exception to the MTA that does not exist. As discussed, the MTA, by its plain language, applies to unclaimed public interests made by plat. Finally, appellants provide no authority that reasonably supports their contention that the road vacation statute is a more specific provision than the Torrens Act and the MTA under the circumstances here, which involve an unclaimed ancient interest.[10]

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[10] The county also argues that the district court erred in failing to acknowledge the mandate of Minnesota Statutes section 508.25(4) (2020)—a portion of the Torrens Act—which states that "[e]very person receiving a certificate of title pursuant to a [Torrens] decree of

Although that interest was a platted public way, neither the township nor the county recorded it with the county recorder. Because the interest was extinguished pursuant to the MTA, the trust was not required to seek vacation of the extinguished interest under section 505.14.[11]

DECISION

The district court did not err in concluding that there were no genuine issues of material fact and that Moratzka was entitled to judgment as a matter of law because the public interest created by the 1911-12 dedication by plat was abandoned and extinguished within the meaning of the MTA.

Affirmed.

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registration . . . shall hold it free from all encumbrances and adverse claims, *excepting . . . all rights in public highways upon the land*." (Emphasis added.) It contends that this language precluded Moratzka from discharging the public way in a Torrens registration proceeding and required Moratzka to seek vacation under section 505.14. However, this argument also fails. While it is true that Torrens actions do not allow for the elimination of public rights in public roads, *see* Minn. Stat. § 508.25(4), Moratzka does not claim they do. Rather, he (correctly) argues that the MTA—wholly separate and independent from the Torrens Act—has extinguished the easement upon parcel three, *see Hoting*, 442 N.W.2d at 829, and his Torrens action merely seeks acknowledgement of that fact. Thus, while a Torrens action cannot itself create an independent basis for elimination of a public road, when the MTA provides an independent basis for elimination, such a fact may be recognized in a Torrens proceeding.

[11] Before this court, the DNR argues for the first time that the "constitutional avoidance canon" and "public interest presumption" support their general position. However, although both appellants alleged in the district court that the "public interest" supported their position, neither appellant raised the above doctrines. Appellate courts generally decline to consider issues raised for the first time on appeal. *Thiele v. Stich*, 425 N.W.2d 580, 582 (Minn. 1988). Because these issues were not presented to the district court, we do not address them.