STATE OF MINNESOTA
IN COURT OF APPEALS
A10-1760

Kraemer Mining & Materials, Inc., a Wisconsin corporation,
Appellant,

vs.

City of Sauk Rapids, et al.,
Respondents.

Filed July 5, 2011
Affirmed
Stauber, Judge

Benton County District Court
File No. 05CV091971

Steven J. Weintraut, Siegel, Brill, Greupner, Duffy & Foster, P.A., Minneapolis, Minnesota (for appellant)

George C. Hoff, David M. Quealy, Hoff, Barry & Kozar, P.A., Eden Prairie, Minnesota (for respondents)

Considered and decided by Stoneburner, Presiding Judge; Kalitowski, Judge; and Stauber, Judge.

U N P U B L I S H E D O P I N I O N

STAUBER, Judge

In this zoning dispute, appellant sought a conditional-use permit and a variance. Respondent-city denied the application and variance but granted appellant a five-year "conditional interim use permit." Appellant sought to compel issuance of the

conditional-use permit and variance. On appeal from summary judgment for the city, appellant argues (1) the city failed to make its decision within the time period allowed by Minn. Stat. § 15.99 (2010); (2) the five-year permit limitation is invalid because it is unauthorized by state law and lacks a rational basis; and (3) the district court erred by denying its motion to compel discovery. We affirm.

FACTS

The relevant facts in this case are largely undisputed. Appellant Kraemer Mining & Minerals, Inc. (Kraemer) is in the business of mining aggregate materials. In 2004, Kraemer acquired an 80-year leasehold interest in approximately 164 acres of land located in Benton County. The lease agreement allows Kraemer to mine, extract, and sell granite deposits from the property. The property is located within the Sauk Rapids Township/City of Sauk Rapids Orderly Annexation Area and is therefore subject to the jurisdiction of the Sauk Rapids Township/City of Sauk Rapids Joint Planning Board (the Board).

Some background on the Board and its experience in mining regulation is necessary to understand the issues in this case. From January 1, 2000, until August 22, 2007, the land-use regulation in effect in the joint-planning area was Joint Board Ordinance No. 13 (Ordinance 13). With regard to mining operations within the joint-planning area, Ordinance 13 simply adopted mining regulations from the Benton County Code and attached these as an appendix to the ordinance. Under these provisions, land reclamation and mining were considered conditional uses, which required a conditional-

use permit (CUP). Ordinance 13 also provided that CUPs automatically expire five years after issuance.

In 2003, Bauerly Bros., Inc. submitted a CUP application to operate a granite mine within the joint-planning area. In February 2005, following public comment and the completion of an environmental assessment worksheet (EAW), the Board denied Bauerly's CUP application, but approved an interim-use permit (IUP). The IUP contained numerous conditions, one of which limited the duration of the permit to five years, after which Bauerly could reapply for a new permit.

At the same February 2005 meeting where the Board approved Bauerly's IUP, the Board also imposed a one-year moratorium on new gravel and mining operations in the area. One of the Board members stated that he "would like to see what happens with the Bauerly pit before we 'open the gates.'" In January 2006, the Board revisited the moratorium and directed staff to begin drafting an ordinance amendment to bring to the next Board meeting. When the Board next met in March 2006, the one-year moratorium on mining had expired.

In April 2006, the Board adopted Joint Board Ordinance No. 16 (Ordinance 16), an interim ordinance that restricted the permitting of granite quarries or mining operations within one mile of residential wells. The interim ordinance was based on the Board's concerns over the impact mining would have on adjacent residential properties, particularly because the joint-planning area is an anticipated growth corridor for the city, as well to allow additional time for the ongoing study of the Bauerly mine and its impact on residential wells.

In July 2006, the Board conducted its first annual review of the Bauerly mine and received public comment from area residents. Neighboring residents complained that their homes would shake from the blasting; that they were bothered by noise from heavy equipment operation and blasting; and that dust and air pollution from the mine was a problem. The Board considered amending Ordinance 13 to reflect the conditions placed on the Bauerly IUP; however, the Board took no action, and Ordinance 16, with its restriction on mines within one mile of residential wells, expired on April 25, 2007. Original Ordinance 13 was therefore in effect.

On May 11, 2007, Kraemer submitted a CUP application to operate a granite mine within the joint-planning area. Kraemer also submitted a request for a variance from Ordinance 13's five-year limit on CUPs because Kraemer anticipated the operational timeline of its project would be 20 to 40 years. The Board was informed of Kraemer's CUP application at its May 23, 2007 meeting, but was advised that no review of the application would take place because the size of the proposed mine required a mandatory EAW under Minn. R. 4410.4300, subp. 12 (2009). Kraemer was notified on May 29, 2007, that a mandatory EAW was required before the Board could consider the CUP application or the variance request. Kraemer was also notified that the 60-day deadline for an agency to act on a zoning request provided by Minn. Stat § 15.99 would not begin to run until the EAW process was complete.

The EAW process lasted 15 months, from May 2007 to August 2008. During this time, the Board took action to amend its zoning ordinances. These amendments, and their effect on Kraemer's application, are the primary dispute in this appeal.

At the same May 23, 2007 meeting where the Board was informed of Kraemer's CUP application, the Board again discussed amending Ordinance 13 to include conditions similar to those that were imposed on the Bauerly mine. The intent of these amendments was to ensure that future Boards engaged in the same extensive review process and imposed similar conditions as the current Board had placed on the Bauerly mine. On July 25, 2007, staff presented the Board with proposed language for an amendment. The new ordinance proposed to regulate mining by a three-year "conditional interim use permit" (CIUP). In considering the proposed duration of the permits, several board members stated that they did not believe three years would be sufficient for a company to recoup its investment. A five-year limit was then proposed, and the board noted that an applicant could always reapply before their permit expired.

The Board held a public hearing on August 22, 2007. After lengthy discussion, the Board adopted Sauk Rapids Township/City of Sauk Rapids Joint Board Ordinance No. 23 (Ordinance 23), which regulates land extraction in the joint-planning area and replaced Appendix B to Ordinance 13. The stated purpose of Ordinance 23 was:

> [T]o allow for excavation projects within the Orderly Annexation Area in a manner that is consistent with the transitional nature of the area. This ordinance ensures that extraction projects are located and operated in such a manner as to minimize conflicts with future development. This ordinance is also intended to protect the ground water supply, which is a source of drinking water within the Orderly Annexation Area.

Sauk Rapids Township/City of Sauk Rapids, Minn., Joint Board Ordinance No. 23, § 1 (2007).

Under Ordinance 23, all extraction projects are required to obtain a CIUP, having a duration of five years. *Id.* § 5(b). The ordinance also sets forth additional required application information, permit-evaluation criteria, and required conditions. *Id.* §§ 4, 5.

The board later sought to create a more "user friendly" ordinance by codifying Ordinance 13 and all subsequent amendments, including new Ordinance 23, into one comprehensive document. This process resulted in Sauk Rapids Township/City of Sauk Rapids Joint Board Ordinance No. 25 (Ordinance 25), which was adopted on May 28, 2008. Ordinance 23 was codified as Section 14 of Ordinance 25.[1] All of these land-use changes were developed and enacted during the required EAW process for the Kraemer CUP application.

The environmental-review process for the Kraemer project was complete on August 27, 2008, when the Board determined that an Environmental Impact Statement (EIS) was not needed. On August 29, 2008, City Planner Marney Curfman notified Kraemer by letter that its CUP application was now incomplete because it did not contain all of the information required by Section 14. The letter also advised Kraemer that the 60-day deadline provided by Minn. Stat. § 15.99 did not begin to run until the Board received the completed application. Kraemer's general counsel wrote back and took the position that Ordinance 13 applied to Kraemer's CUP application because that was the ordinance in effect at the time the application was first submitted. The Board took the

[1] There are no substantive differences between Ordinance 23 and Section 14. Therefore, for simplicity, we will hereafter refer to Section 14 rather than Ordinance 23.

position that new Section 14 applied because that ordinance was adopted before the Board could take any action on Kraemer's initial application.

Although Kraemer disagreed with the Board's position, Kraemer eventually submitted a CIUP application on January 15, 2009, which included the additional information required by Section 14. The Board held a public hearing on Kraemer's CIUP application in February 2009. The Board voted unanimously to approve the CIUP with conditions, including the five-year permit limit required by Section 14, and denied Kraemer's request for a variance from the five-year limit.

In August 2009, Kraemer commenced this action against the Board, the City of Sauk Rapids, and Sauk Rapids Township. Kraemer's primary claim was that the Board violated Minn. Stat. § 15.99 by failing to approve or deny its 2007 CUP application within 60 days after the environmental-review process concluded. Kraemer contended that Ordinance 13 instead of new Section 14 applied to its application, and therefore its application was complete and approved as a matter of law when the Board did not act on it by October 27, 2008—60 days after the environmental-review process concluded. Kraemer further alleged that City Planner Curfman's letter, informing Kraemer that its application was incomplete under Section 14, was not "agency" action for purposes of Minn. Stat. § 15.99. Kraemer also argued that several of Section 14's mandatory conditions are invalid under state law and lacked a rational basis.

Kraemer sought to depose various parties, including City Attorney Tim Sime, City Planner Curfman, Community Development Director Todd Schultz, and a member of the Joint Board pursuant to Minn. R. Civ. P. 30.02(f). The Board objected to the depositions

and the district court granted its motion for a protective order and denied Kraemer's motion to compel. The parties brought cross-motions for summary judgment; the district court granted the Board's motion for summary judgment and denied Kraemer's. This appeal followed.

D E C I S I O N

Land-use decisions by a municipality are entitled to great deference and will not be disturbed on appeal unless a decision lacks any rational basis. *SuperAmerica Grp., Inc. v. City of Little Canada*, 539 N.W.2d 264, 266 (Minn. App. 1995), *review denied* (Minn. Jan. 5, 1996). "In reviewing actions by a governmental body, the appellate court focuses on the proceedings before the decision-making body, not the findings of the trial court." *Trisko v. City of Waite Park*, 566 N.W.2d 349, 352 (Minn. App. 1997), *review denied* (Minn. Sept. 25, 1997). This court reviews zoning actions "to determine whether the zoning authority was within its jurisdiction, was not mistaken as to the applicable law, and did not act arbitrarily, oppressively, or unreasonably, and to determine whether the evidence could reasonably support or justify the determination." *In re Stadsvold*, 754 N.W.2d 323, 332 (Minn. 2008) (quotation omitted). Interpretation of a zoning ordinance is a question of law, which appellate courts review de novo. *Watab Twp. Citizen Alliance v. Benton Cnty. Bd. of Comm'rs.*, 728 N.W.2d 82, 94 (Minn. App. 2007), *review denied* (Minn. May 15, 2007).

I.

Section 15.99 provides that "an agency must approve or deny within 60 days a written request relating to zoning," and that failure to do so amounts to "approval of the request." Minn. Stat. § 15.99, subd. 2(a). The 60-day time period begins to run "upon the agency's receipt of a written request containing all information required by law or by a previously adopted rule, ordinance, or policy of the agency." *Id.*, subd. 3(a). If a written request "does not contain all required information, the 60-day limit starts over only if the agency sends written notice within 15 business days of receipt of the request telling the requester what information is missing." *Id.*

Kraemer makes two arguments to support its claim that the Board violated section 15.99: (1) the Board erroneously applied new Section 14 rather than Ordinance 13 to determine the proper start date for the 60-day time period and (2) City Planner Curfman lacked authority to decide that new Section 14 applied or to review Kraemer's application and notify Kraemer that the 60-day deadline was tolled, and therefore these actions did not constitute "agency" action for purposes of section 15.99.

A. The Applicable Ordinance

Kraemer submitted its CUP application and variance request on May 11, 2007. At the time the application was submitted, Ordinance 13 was the applicable zoning ordinance in effect. However, because an environmental-review process was required for the project, the 60-day clock was stopped and reset once the EAW was declared complete on August 27, 2008. *See* Minn. Stat. § 15.99, subd. 3(d). Therefore, if Ordinance 13 applied, Kraemer's application was complete and the 60-deadline for the government to

act was October 27, 2008. However, if new Section 14 applied, the Board's deadline to act was March 17, 2009—60 days after Kraemer submitted the additional information required for its CIUP application under Section 14. The Board acted within this deadline by approving Kraemer's CIUP permit on February 25, 2009. Kraemer contends that the Board erred by applying the new ordinance to Kraemer's application. We disagree.

The interpretation of an ordinance is a question of law which this court reviews de novo. *Billy Graham Evangelistic Ass'n v. City of Minneapolis*, 667 N.W.2d 117, 122 (Minn. 2003). Ordinances are interpreted the same as statutes, with language construed in accordance with its common and approved usage. *In re Haslund*, 781 N.W.2d 349, 354 (Minn. 2010). "When interpreting a statute, [this court] first look[s] to see whether the statute's language, on its face, is clear or ambiguous. A statute is only ambiguous when the language therein is subject to more than one reasonable interpretation." *Am. Family Ins. Grp. v. Schroedl*, 616 N.W.2d 273, 277 (Minn. 2000) (citations and quotations omitted). But above all, the authority of appellate courts "to interfere in the management of municipal affairs is, and should be, limited and sparingly invoked." *White Bear Docking & Storage, Inc. v. City of White Bear Lake*, 324 N.W.2d 174, 175 (Minn. 1982).

The language of Section 14 provides that the ordinance "shall be effective immediately." Sauk Rapids Township/City of Sauk Rapids, Minn., Joint Board Ordinance No. 25, § 14 (2008). This language is clear on its face, and we interpret "immediately" to mean that the ordinance applies to pending applications. Further, even if the language is subject to more than one interpretation, the Board had discretion to

decide whether the new ordinance applied to Kraemer's application. Ordinarily, changes to zoning regulations may apply retroactively to pending matters. *See Almquist v. Town of Marshan*, 308 Minn. 52, 65, 245 N.W.2d 819, 826 (1976) (recognizing that "[t]he rule followed in most jurisdictions permits the retroactive application of a zoning regulation to deny a building permit for which application was made prior to the effective date of the new ordinance"); *Property Research & Dev. Co. v. City of Eagan*, 289 N.W.2d 157, 158 (Minn. 1980) (applying an amended zoning ordinance to affirm denial of plat approval for construction of single-family dwellings that were permitted at the time approval was applied for); *see also Rose Cliff Landscape Nursery, Inc. v. City of Rosemount*, 467 N.W.2d 641, 643 (Minn. App. 1991).

This rule is based on the principle that "[t]here is no vested right in zoning." *Property Research*, 289 N.W.2d at 158. However, "in limited circumstances, landowners can invoke the legal principles of vested rights and estoppel to preclude application of the new, more stringent rules." *Eagle Lake of Becker Cnty. Lake Ass'n v. Becker Cnty.*, 738 N.W.2d 788, 794 (Minn. App. 2007). The vested-rights doctrine "exists to protect developers from changes in zoning laws aimed at frustrating development." *Yeh v. Cnty. of Cass*, 696 N.W.2d 115, 132 (Minn. App. 2005), *review denied* (Minn. Aug. 16, 2005). For instance, a developer may obtain a vested right in a project if it has "progressed sufficiently with the physical aspects of the project or made a binding commitment to develop the property." *Concept Props., LLP v. City of Minnetrista*, 694 N.W.2d 804, 820 (Minn. App. 2005), *review denied* (Minn. July 19, 2005). However, Kraemer does not

allege that it acquired any vested right to have its application reviewed under the old ordinance.[2]

Kraemer instead contends that this court's decision in *Eagle Lake* precludes the Board from applying Section 14 to its CUP application. However, *Eagle Lake* does support Kraemer's argument. In that case, a developer submitted a CUP application to develop a shoreline campground under an ordinance that permitted 46 campsites. *Eagle Lake*, 738 N.W.2d at 791. During the environmental review process, the county amended the ordinance to reduce the number of campsites that would be permitted to 29; the county chose to apply the old ordinance to the developer's application, based on the county's usual policy of applying the ordinance in effect on the date the application was submitted, and approved the developer's project. *Id.* at 791–92. The local lake association argued that the county was required to review the CUP application under the new, stricter ordinance. *Id.* at 792. This court rejected that argument. *Id.* at 795.

The *Eagle Lake* court held that the county's decision to apply the old ordinance rather than the new amendment must be afforded the "deferential standard of review applicable to legislative-type determinations." *Id.* at 794. The court also rejected the lake association's argument that the county was "required to apply" the new zoning ordinance "unless [the developer] had acquired vested rights or estoppel rights" under the old ordinance. *Id.* The court stated that it "decline[s] to accept [the lake association's]

[2] The terms of Kraemer's lease agreement allow Kraemer to terminate the lease at any time with no further obligation, so long as it provides 90 days written notice.

assertion that the vested-rights principle has an inverse quality: that by implication it requires application of the new ordinance unless there are vested rights." *Id.* at 795.

Kraemer argues that "since the new ordinance did not apply to a pending and complete CUP application in *Eagle Lake*, Section 14 did not apply to Kraemer's pending and complete CUP Application here." However, this is faulty logic. The *Eagle Lake* court did not hold that the county was *required* to apply the old version of the ordinance to the pending application. The court merely rejected the lake association's argument that the language of the new ordinance or the vested-rights doctrine required the county to apply the new ordinance. *Eagle Lake*, 738 N.W.2d at 795. *Eagle Lake* stands for the proposition that the city had discretion to choose which version of an amended zoning ordinance to apply to the developer's pending application, and that this determination is entitled to deference from a reviewing court. *Id.*

Accordingly, there is no merit to Kraemer's argument that the Board erred by applying Section 14 to its permit application. Because the Board could apply Section 14 in its discretion, and because Kraemer's application was incomplete under that ordinance, the Board did not violate the 60-day requirement of Minn. Stat. § 15.99.

B. Tolling of 60-day Requirement

Kraemer also argues that the Board violated section 15.99 because the decision to apply Section 14 and to extend the Board's deadline was not "agency" action, and was therefore ultra vires and void, rendering the August 29, 2008 letter ineffective for purposes of tolling the 60-day deadline. *See* Minn. Stat. § 15.99, subd. 3(a) (allowing the 60-day deadline to start over if "the agency" sends written notice that an application does

not contain all required information). In that letter, City Planner Curfman notified Kraemer that its CUP application was incomplete under Section 14, and that the 60-day deadline was therefore tolled.

We find no merit to Kraemer's argument that City Planner Curfman's letter did not constitute agency action. The supreme court rejected a similar argument in *Calm Waters, LLC v. Kanabec Cnty. Bd. of Comm'rs*, 756 N.W.2d 716, 720-21 (Minn. 2008). In *Calm Waters*, the court held that a letter from a county employee constituted agency action for purposes of extending the 60-day deadline under subdivision 3(f) of section 15.99. *Id.* at 721. The letter was sent by the director of Kanabec County Environmental Services. *Id.* at 720. The court concluded that Kanabec County was clearly an agency under section 15.99, and that because environmental services was a department within the county and there was no evidence the director was not authorized to act on behalf of the department, her letter was the action of an agency under the statute. *Id.* at 721.

The record reflects that Curfman is employed as City Planner within the Community Development Department of the City of Sauk Rapids. She is the department's only city planner, and she reports directly to the Community Development Director. Her job description indicates that her responsibilities include "assist[ing] with enforcement of land use regulations including comprehensive plan, subdivision ordinance, and Sauk Rapids City Code," as well as "interpretation of City Code language and requirements," and "[p]erform[ing] site plan review for development and redevelopment projects in order to maintain consistency with the Comprehensive Plan

and land use regulations." This is sufficient evidence of agency action under the relatively low standard set forth by the *Calm Waters* court. Other than conclusory statements, Kraemer has not pointed to any evidence that Curfman was not authorized to act on behalf of the department.

The district court did not err by granting the Board's motion for summary judgment on Kraemer's section 15.99 claim.

II.

Kraemer argues that the five-year limitation on its permit is invalid under Section 14 because (1) a conditional interim use permit is not authorized by state law and (2) the permit lacks a rational basis.

A. Authorized by State Law

Kraemer argues that the CIUP is a "hybrid permit" that is not authorized by either the conditional use permit or interim use permit (IUP) statutes. We disagree. Minn. Stat. § 462.3597 (2010) allows municipalities to grant permits for interim uses of property. An "interim use" is defined as "a temporary use of property until a particular date, until the occurrence of a particular event, or until zoning regulations no longer permit it." *Id.*, subd. 1. Subdivision 2 of the statute provides that zoning regulations "may set conditions on interim uses." *Id.*, subd. 2. Under the plain language of the statute, the CIUP granted by the Board is permitted. That the Board chose to call the permit a "conditional interim use permit" rather than an "interim use permit subject to conditions," does not somehow transform the permit into something other than an IUP.

The CIUP is authorized by Minn. Stat. § 462.3597. Because we conclude that the CIUP is permitted under this statute, we need not address Kraemer's additional argument that the CIUP is not authorized by the CUP statute because it contains a durational limitation.

Kraemer also argues that the CIUP violates the interim-use statute because it does not identify with certainty the date when the use will terminate. *See* Minn. Stat. § 462.3597, subd. 2(2) (providing that a municipality may grant permission for an interim use if "the date or event that will terminate the use can be identified with certainty"). Here, the CIUP expressly states that it will terminate five years from the date it was issued. This date can be identified with certainty.

B. Rational Basis

Kraemer argues that the five-year CIUP duration mandated by Section 14 is invalid because it lacks a rational basis. When reviewing municipal land use decisions, this court uses a rational basis standard. *Mendota Golf, LLP v. City of Mendota Heights*, 708 N.W.2d 162, 179 (Minn. 2006). The scope of review is narrow. *Id.* at 180. An appellate court will uphold a city's decision unless the challenging party establishes that the decision is "unsupported by any rational basis related to promoting public health, safety, morals, or general welfare." *Honn v. City of Coon Rapids*, 313 N.W.2d 409, 414–15 (Minn. 1981) (quotation omitted). A municipality has "broad discretion . . . and even if [its] decision is debatable, so long as there is a rational basis for what it does, the courts do not interfere." *Id.* at 415.

In enacting Section 14, the Board's stated purpose was to (1) allow for excavation projects within the orderly annexation area in a manner consistent with the transitional nature of the area; (2) ensure that extractions projects are located and operated in such a manner as to minimize conflicts with future development; and (3) protect the groundwater supply, which is a source of drinking water within the orderly annexation area.

Kraemer first contends that the five-year limitation is not rationally related to furthering these purposes because any future development is only hypothetical and it is uncertain exactly when it will occur. Kraemer notes that the minutes from the Board's July 25, 2007 meeting indicate that a board member stated, "[a]t some point the city will start to go in that direction, though we don't know when." Although Kraemer is correct that the Board could not reliably predict when development will begin in the area, the Board's decision to limit the duration of mining projects is rationally related to its purpose of preserving the transitional nature of the area and minimizing conflicts with future development. Choosing five years as the limit is arbitrary to some extent, but another duration would have been just as arbitrary. *See Holt v. City of Sauk Rapids*, 559 N.W.2d 444, 446 (Minn. App. 1997) (recognizing that "numbers chosen as legal limits are often arbitrary: e.g., speed limits, building ordinances, statutes of limitation," but that the "necessity of selecting some number arbitrarily does not render an ordinance itself arbitrary"), *review denied* (Minn. Apr. 24, 1997).

The wisdom of the Board's decision to limit permits to five years, which may effectively render mining projects impractical, is debatable. But the fact that a governing

body's decision is debatable does not mean it lacks a rational basis. *Honn*, 313 N.W.2d at 415. The Board's intent was to avoid issuing conditional use permits that would continue indefinitely and hamper future development. The Board's decision to issue five-year permits, with the possibility of renewal after five years, is rationally related to this purpose.

Kraemer also argues that its project will not have a detrimental effect on surrounding development. But during the process of reviewing the Bauerly mine and revising its zoning ordinances, the Board received extensive input from residents concerning the Bauerly mine's detrimental effect on the area. This included complaints from neighboring residents that their homes would shake from blasts at the mine, that they were bothered by noise from heavy equipment operation and blasting, and that dust and air pollution from the mine was a significant problem. Several residents stated that they avoided spending time outside, that they worried about their property values decreasing, and that their overall quality of life had declined.

A zoning authority may consider neighborhood opposition if it is based on "concrete information." *Yang v. Cnty. of Carver*, 660 N.W.2d 828, 833 (Minn. App. 2003); *see also Chanhassen Estates Residents Ass'n v. City of Chanhassen*, 342 N.W.2d 335, 340 (Minn. 1984) (providing that generalized or unsupported neighborhood opposition, by itself, is not a legally sufficient reason for a CUP denial). Given these specific examples of the negative impact of a mining project that was already in operation, it was reasonable for the Board to have concluded that an indefinite CUP for Kraemer's proposed mine could have a negative impact on surrounding development.

The five-year limitation is therefore rationally related to the purpose of lessening the impact on development.

III.

Kraemer argues that even if the panel does not reverse the district court's dismissal of its section 15.99 claim, it should find that the district court erred by denying its motion to compel depositions.

District courts have "considerable discretion in granting or denying discovery requests." *Erickson v. MacArthur*, 414 N.W.2d 406, 407 (Minn. 1987). "Absent a clear abuse of discretion, a [district] court's decision regarding discovery will not be disturbed." *Id.* "[I]nformation subject to discovery must, at least, be likely to lead to relevant admissible evidence." *Shetka v. Kueppers, Kueppers, Von Feldt & Salmen*, 454 N.W.2d 916, 919 (Minn. 1990).

Kraemer sought to depose City Planner Curfman, City Attorney Tim Sime, Community Development Director Todd Schultz, and a member of the Board pursuant to Minn. R. Civ. P. 30.02(f). The district court denied Kraemer's motion to compel for multiple reasons, including that review of the Board's decision would be limited to the administrative record and there was no need for additional discovery, that the information sought was irrelevant, and that the depositions would impermissibly inquire into the mental impressions of the Board and its staff as well as information protected by the attorney-client privilege. In light of the fact that we find no merit to Kraemer's section 15.99 claim, we conclude that the district court's decision to deny the additional

depositions, which sought information regarding the Board's decision to apply the new ordinance, was not an abuse of discretion.

Affirmed.