

THURSDAY, JANUARY 14, 2009
10:00 A.M.

NO. 2

#25312

WADE and LISA HUBBARD, ET AL.,
Plaintiffs and Appellees,

vs.

CITY OF PIERRE, SOUTH DAKOTA,
Defendant and Appellant.

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(FOR APPELLANT)

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(FOR APPELLEES)

The Honorable Kathleen F. Trandahl
Sixth Judicial Circuit
Hughes County

(CIV 08-55)

STATEMENT OF LEGAL ISSUES

- 1) Whether the trial court erred when interpreting the statute's required implementation in a manner which rendered it ineffective or meaningless.

The lower court concluded that the authorized procedure could be implemented in an exacting manner.

Hawley v. City of Hot Springs, 276 N.W. 2d 704, 705 (S.D. 1979)

Whittaker v. City of Deadwood, 122 N.W. 590 (S.D. 1909)

Appeal of Real Estate Tax Exemption for Black Hills Legal Services, Inc., 1997 SD 64, 563 N.W. 2d 429

SDCL 9-45-30

- 2) Whether the Trial Court erred when it recognized the City's assessment was presumed to be correct, yet simultaneously allowed general assertions to prevail over examination of each specific property before and after construction.

The lower court concluded the City failed to show an increase in the market value of the affected properties after the improvements were made.

Hawley v. City of Hot Springs, 276 N.W.2d 704 (S.D. 1979)

Kadzban v. City of Grandville, 502 N.W.2d 299, 303 (Mich. 1993)

- 3) Whether the trial court erred by holding that when Plaintiffs had their curb and gutter and driveways replaced, they received no benefit above and beyond that enjoyed in common with the public at large and that an injunction should be entered.

The lower court did not acknowledge the special improvements received by Appellees as a result of the construction of new curb and gutter and driveway adjacent to their property.

City of Marion v. Schoenwald, 2001 S.D. 95, 631 N.W. 2d 213

Breck v. Janklow, 2001 S.D. 48, 623 N.W. 2d 449