

STATEMENT OF LEGAL ISSUES

1. Whether there was sufficient evidence to support the trial court's findings of fact and conclusions of law that there was specific affirmative action taken by an appropriate governmental authority to vacate a section line right-of-way.

The trial court found that the section line right-of-way was vacated based on specific affirmative action of the City of Rapid City. SR: 410-419.

2. Whether there was sufficient evidence to support the trial court's findings of fact and conclusions of law that the sixty-six foot access easement across Lot 23 of Wildwood Subdivision was a private easement rather than an impliedly dedicated public right-of-way.

The trial court found that the sixty-six foot access easement was a private easement. Id.

3. Whether there was sufficient evidence to support the trial court's findings of fact and conclusions of law that the sixty-six foot access easement across Lot 23 of Wildwood Subdivision was a private easement in gross rather than an appurtenant easement.

The trial court found that the sixty-six foot access easement was a private easement in gross. Id.

Issue I

WHETHER A SECTION LINE MAY BE VACATED BY A MUNICIPALITY'S (A) APPROVAL OF A SUBDIVISION PLAT OF LAND LOCATED WITHIN THE MUNICIPALITY'S EXTRATERRITORIAL JURISDICTION, (B) ANNEXATION OF REAL PROPERTY WITHOUT THE USE OF AN ANNEXATION PLAT, (C) GRANTING OF BUILDING PERMITS, AND/OR (D) MAINTENANCE OF SETBACK REQUIREMENTS?

The trial court concluded that a municipality can vacate a section line by such actions.