



May Case Law Update May 31, 2019

A summary of court opinions decided during the month of May affecting planning in Wisconsin

Previous Case Law Updates are available at: wisconsin.planning.org/policy-and-advocacy/law-updates/case-law-updates/

Wisconsin Supreme Court Opinions

County Authority to Establish Rural Numbering System in Towns Upheld

Section 59.54(4) of the *Wisconsin Statutes* authorizes counties to “establish a rural naming or numbering system in towns for the purpose of aiding in fire protection, emergency services, and civil defense.” In 2016 Marathon County passed an ordinance establishing such a system. The County applied the ordinance to all unincorporated areas (towns) of the County. The Town of Rib Mountain, a Town with “urban” development, challenged the County’s authority to implement the numbering system arguing the *Statutes* only authorized the County to implement the system within the “rural” areas of the Town. The circuit court denied the Town’s lawsuit but the Wisconsin Court of Appeals agreed with the Town and reversed the circuit court’s decision. The County petitioned the Wisconsin Supreme Court to review the Court of Appeals decision and the Supreme Court granted the petition to review the case.



In [Town of Rib Mountain v. Marathon County](#), 2019 WI 50, the Wisconsin Supreme Court reversed the Court of Appeals. The Supreme Court held that the *Statutes* authorized counties to establish a numbering system “in towns.” After an analysis of what is meant by the term “rural” the Court concluded that the use of the term “rural” in the *Statutes* “merely describes the naming or numbering system” and that and the word was not meant as a geographical limitation on counties to establishing the numbering system.

Wisconsin Court of Appeals Opinions

No Compensation for Loss of Access as a Partial Taking

[James & Judith Nonn Trust v. Department of Transportation](#) involved a challenge to a condemnation award for the partial taking of the Nonn property by the Wisconsin Department of Transportation (DOT) for a highway improvement project. The Nonns operate a restaurant on property they own at the intersection of U.S. Highway 14 and County Highway P in the Village of Cross Plains in Dane County. The DOT acquired 158 square feet of the Nonn property for a sidewalk. The DOT also installed a median on Highway 14 that prevented restaurant customers from making left-hand turns from Highway 14 in the parking lot and from turning left when exiting the parking lot. The award for the taking of the Nonn property for the sidewalk did not include any compensation for the loss of value caused by the median.

The circuit court held that the access damages were not compensable under the section of the *Wisconsin Statutes* providing for damages caused by a partial taking of property (the section of the Statutes followed by DOT to compensate for taking property for the sidewalk). On appeal, the Wisconsin Court of Appeals affirmed the circuit court's decision. The Court noted that it was not holding that damages for loss of access are not compensable under any theory, rather only the source of authority relied on by the Nonns.

U.S. Court of Appeals for the 7th Circuit Opinions

[No planning-related cases to report.]