

CHAPTER 430

LAND FOR STREETS AND PARKS; ELWELL LAW

430.03 Objections to confirmation; appeal to district court; reappraisal; court of appeals.

430.031 Appeals from adoption of pedestrian mall ordinances; limitation of actions.

430.03 OBJECTIONS TO CONFIRMATION; APPEAL TO DISTRICT COURT; REAPPRAISAL; COURT OF APPEALS.

Any person whose property is proposed to be taken, interfered with, or assessed for benefits under any of the provisions of this chapter, who deems that there is any irregularity in the proceedings of the council or action of the commissioners, by reason of which the award of the commissioners ought not to be confirmed, or who is dissatisfied with the amount of damages awarded to him for the taking of or interference with his property or with the amount of the assessment for benefits to any property affected by the proceedings, has the right to appeal from the order of confirmation of the city council, to the district court of the county at any time within 20 days after the order. This appeal shall be made by serving a written notice of the appeal upon the clerk of the city. The appeal shall specify the property of the appellant affected by the award and assessment, and refer to the objection filed. The appellant shall also deliver to the city clerk a bond to the city, executed by the appellant, or by someone on his behalf, with two sureties, who shall justify in the penal sum of \$50 conditioned to pay all costs that may be awarded against the appellant. The city clerk shall then make out and transmit to the clerk of the district court a copy of the award of the commissioners, as confirmed by the council, and of the order of the council confirming it, and of the objection filed by the appellant, all certified by the clerk to be true copies, within ten days after the taking of the appeal. If more than one appeal is taken from any award, it shall not be necessary that the clerk, in subsequent appeals, send up anything except a certified copy of the appellant's objections. There shall be no pleading on the appeal, but the court shall determine, in the first instance, whether there was in the proceedings any irregularity or omission of duty prejudicial to the appellant and specified in his written objections, that, as to him, the award or assessment of the commissioners ought not to stand, and whether the commissioners had jurisdiction to take action in the premises. If any person claims that any pedestrian mall ordinance proposed in connection with the improvement pursuant to section 430.011, and adopted by the city council, is invalid, he shall perfect an appeal pursuant to the provisions of section 430.031, subject to the right of the court to consolidate for hearing any appeal taken pursuant to that section with an appeal taken pursuant to this section.

The case may be brought on for hearing on eight days' notice, at any general or special term of the court. It shall have precedence of other civil cases, and the judgment of the court shall be either to confirm or annul the proceedings only as they affect the property of the appellant proposed to be taken, damaged, or assessed for benefits and described in the written objection. From this determination no appeal or writ of error shall lie.

In case the amount of damages awarded or assessment made for benefits is complained of by the appellant, the court shall, if the proceedings are confirmed in other respects, upon confirmation, appoint three disinterested freeholders, residents of the city, commissioners to reappraise the damages or benefits. The parties to the appeal shall be heard by the court upon the appointment of these commissioners. The court shall fix the time and place of the meeting of the

commissioners. They shall be sworn to the faithful discharge of their duties as commissioners, proceed to view the premises, and hear the parties interested, with their allegations and proofs pertinent to the question of the amount of the damages or assessments. These commissioners shall be governed by the same provisions in respect to the method of arriving at the amount of damages and the offset thereto of benefits to other property of the same owners, and in all other material respects, as are provided in this chapter for the government of commissioners appointed by the city council. They shall, after the hearing and view of the premises, report to the court of their appraisal of damages or assessments of benefits in respect to the appellant. The award or assessment of these commissioners shall be final unless set aside by the court for good cause shown. If the report is set aside, the court may, in its discretion, recommit it to the same commissioners or appoint a new board as it deems best. The court shall allow a reasonable compensation to these commissioners for their services, and make such award of costs on the appeal, including the compensation of commissioners, as it deems just in the premises.

If the court is of the opinion that the appeal was frivolous or vexatious, it may adjudge double costs against the appellant.

An appeal may be taken from the court's final order to the court of appeals by the city or any party.

In case of proceedings conducted by the city council, all reports and other papers shall be filed in the office of the city clerk. Notices of appeal and other notices to the city shall be served upon the city clerk. In case of proceedings conducted by the board of park commissioners, all papers shall be filed in the office of the secretary or other recording officer of the board. All notices of appeal and other notices to the city shall be served upon the secretary or other recording officer of the board.

History: 1983 c 247 s 154

430.031 APPEALS FROM ADOPTION OF PEDESTRIAN MALL ORDINANCES; LIMITATION OF ACTIONS.

[For text of subs 1 to 3, see M.S.1982]

Subd. 4. **Effect of appeal.** An appeal taken pursuant to this section shall suspend the effectiveness of the ordinance until the determination of the action by a final order of the court. The court shall advance the case on its calendar for trial at the earliest feasible date. An appeal from any judgment entered in the district court in the action shall be taken within 30 days after notice of entry of judgment. A party may apply to the court of appeals for an order fixing the time and manner of the hearing of the appeal, whereupon the court may provide for a speedy hearing.

History: 1983 c 247 s 155