STATE OF MINNESOTA
IN COURT OF APPEALS
A10-943

Linda Knutson d/b/a The Zerkel Store,
Appellant,

vs.

Clearwater County,
Respondent.

Filed November 23, 2010
Affirmed
Stoneburner, Judge

Clearwater County District Court
File No. 15CV0997

Rita Fish-Whitlock, Alan B. Fish, P.A., Roseau, Minnesota (for appellant)

Thomas P. Carlson, Nigel H. Mendez, Carlson & Associates, Ltd., Vadnais Heights, Minnesota (for respondent)

Considered and decided by Stoneburner, Presiding Judge; Worke, Judge; and Bjorkman, Judge.

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

STONEBURNER, Judge

Appellant, owner of a convenience store, challenges summary judgment in favor of respondent county. Because the district court did not err by holding that the county has authority under Minn. Stat. § 398.32, subds. 1, 3 (2008) to operate a retail store at a nearby county campground, we affirm.

FACTS

The material facts in this case are undisputed. Respondent Clearwater County (the county) has operated the Long Lake Park and Campground (the campground) since the 1960s. The campground, which is open to the public for camping and other outdoor recreational pursuits, includes a swimming beach, boat landing, and recreational vehicle and camping sites.

In 1987, the county constructed a permanent structure at the campground to house the campground's registration office, a shower and restroom facility, and a store (the campground store) selling camping and picnic supplies, fishing supplies, children's campsite and travel toys and games, and about two dozen types of souvenirs.[1] The campground store operates seasonally from mid-May through mid-September for the convenience of campground patrons. The profit[2] the county derives from operating the campground store is deposited into a designated fund within the county's general revenue fund and is used for the provision of outdoor recreational pursuits throughout the county.

[1] Examples of camping and picnic supplies sold at the campground store include first-aid and hygiene items, food and beverages, can openers, charcoal, firewood, lanterns, one-use laundry detergent, one-use cameras, sunscreen, tarps, paper plates, and towels. Examples of fishing supplies sold at the campground store include bait, hooks, lines, and rods. Examples of campsite toys and games sold at the campground store include balls, playing cards, coloring books, stickers, "critter nets," dominoes, jump ropes, swim toys, and yo-yos. Examples of souvenirs sold at the campground include key chains, mugs, post cards, decorative spoons, water bottles, and pens.

[2] From 2005 to 2008, the county derived a total net profit of $23,344. The annual net profit during these years ranged from $4,908 (in 2008) to $6,881 (in 2007).

Appellant Linda Knutson owns and operates The Zerkel Store, a convenience store and gas station located approximately 4.5 miles from the campground. The Zerkel Store is open year-round and has been owned and operated by Knutson's family since 1964.

In 2009, Knutson sued the county, alleging that it lacks authority to operate a store and that the campground store actively competes with The Zerkel Store, causing it to lose profits. Knutson sought lost-profit damages and a permanent injunction prohibiting the county from operating the campground store. The county moved for summary judgment, arguing that it has authority to operate the store under Minn. Stat. § 398.32, subds. 1, 3, and that Knutson's claim for lost profits is not supported by the evidence. Knutson opposed the county's motion and also moved for summary judgment. The district court granted the county's motion and denied Knutson's motion, concluding that the county has both express and implied authority to operate the campground store. Judgment was entered dismissing Knutson's case, and Knutson initiated this appeal.

D E C I S I O N

"On an appeal from summary judgment, we ask two questions: (1) whether there are any genuine issues of material fact and (2) whether the [district] court[] erred in [its] application of the law." *State by Cooper v. French*, 460 N.W.2d 2, 4 (Minn. 1990). "When the district court grants summary judgment based on the application of a statute to undisputed facts, the result is a legal conclusion that we review de novo." *Weston v. McWilliams & Assocs.*, 716 N.W.2d 634, 638 (Minn. 2006).

Generally, "municipalities have no inherent powers and possess only such powers as are expressly conferred by statute or implied as necessary in aid of those powers which

have been expressly conferred." *Mangold Midwest Co. v. Village of Richfield*, 274 Minn. 347, 357, 143 N.W.2d 813, 820 (1966). Minn. Stat. § 398.32, subd. 1, expressly authorizes any Minnesota county to acquire land that "the county board deems suitable for use by the residents of the county for public park purposes and related outdoor recreational purposes." And subdivision 3 expressly allows "[t]he county board of any county having a county park . . . [to] provide for the construction, installation, maintenance, and operation therein of suitable facilities, accommodations, and services for public use for the purposes specified in subdivision 1." Knutson argues that Minn. Stat. § 398.32, subds. 1, 3, do not authorize the county to operate a for-profit campground store that, she asserts, competes with The Zerkel Store.

When interpreting a statute, our object is to "ascertain and effectuate the intention of the legislature." Minn. Stat. § 645.16 (2008). "[An appellate 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." *The Am. Family Ins. Group v. Schroedl*, 616 N.W.2d 273, 277 (Minn. 2000) (quotation and citations omitted). If the legislature's intent is clearly discernible from a statute's unambiguous language, appellate courts interpret the language according to its plain meaning, without resorting to other principles of statutory construction. *State v. Anderson*, 683 N.W.2d 818, 821 (Minn. 2004).

An "accommodation" is "[s]omething that meets a need; a convenience." American Heritage Dictionary of the English Language 11 (3d ed. 1992). As the district court found, the campground store supports the public's use of the park and campground

and it is intended as "a convenience only for park and campground visitors." Therefore, the campground store is an accommodation.

A public park is a primarily open area of land set aside and maintained for recreational use by the community or by the people. *See* American Heritage Dictionary of the English Language 1316, 1464 (defining "park" in relevant part, as "[a]n area of land set aside for public use as [a] piece of land with few or no buildings . . . maintained for recreational . . . purposes, " and indicating that a "public" park is one that is "[m]aintained for or used by the people or community"). And outdoor recreation means "[r]efreshment of one's mind or body . . . through an activity that amuses or stimulates" and that is done outdoors. *See id*. at 1511 (defining "recreation"). In this case, the park, campground, and supporting facilities are open to the public for outdoor recreation (e.g., swimming, picnicking, camping, and fishing), and the county maintains the land for such purposes. Therefore, the campground store is an accommodation for "public use" that is "suitable" to "public park purposes and related outdoor recreational purposes" as Minn. Stat. § 398.32, subds. 1, 3, require.

There is no evidence that the county requires visitors to pay anything beyond a user fee, which is authorized under Minn. Stat. § 398.33, subd. 2 (2008), for using the public park and campground. As the district court found, and the record demonstrates, the campground store sells only items aimed at furthering park and campground visitors' outdoor recreational experiences: camping and picnic supplies, fishing supplies, campsite and travel toys and games, and souvenir items to commemorate visits to the park and campground. Any purchases that park and campground visitors make at the campground

store are optional. The campground store is not, as Knutson argues, inconsistent with public-park and other outdoor recreational purposes simply because it derives a profit.

We conclude that the language of Minn. Stat. § 398.32, subds. 1, 3, allowing "operation . . . of suitable facilities, accommodations, and services for public use" for "public park purposes and related outdoor recreational purposes," unambiguously authorizes the operation of the campground store, which is designed to provide items related to campground use.

Knutson essentially urges this court to read Minn. Stat. § 398.32, subds. 1, 3, as prohibiting a for-profit store in a county park, but we cannot read such a prohibition into the plain language of the statute. *See Tracy State Bank v. Tracy-Garvin Coop*, 573 N.W.2d 393, 395 (Minn. App. 1998) (stating that "this court is prohibited from adding words to a statute and cannot supply what the legislature either purposely omitted or inadvertently overlooked"). The legislature could have prohibited the operation of any accommodation that returns a profit, but it did not. We conclude that Minn. Stat. § 398.32, subds. 1, 3, expressly authorize the county to operate the campground store as a permitted accommodation. Therefore, the district court did not err by granting summary judgment to the county. Because we conclude that the operation of the campground store is expressly authorized by Minn. Stat. § 389.32, subds. 1, 3, we do not reach the district court's alternative holding that the county has implied authority derived from the statutory provisions.

Affirmed.