

Alert: *Moratzka* Decides Century-Old Plat not Subject to Marketable Title Act

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The Minnesota Supreme Court recently held, *In the Matter of the Application of Timothy D. Moratzka, Trustee*, that public interests dedicated by plat are not subject to Minnesota's Marketable Title Act, Minn. Stat. § 541.023 ("MTA").

An owner of lake resort property initiated a Torrens proceeding to register title to a small strip of land platted in 1911 as a "public road" "dedicate[d] to the public use forever." No road was ever constructed on such strip, and it had instead been left as a sandy beach. The resort owner argued that title could be claimed because the strip had been abandoned under the MTA, which requires any claimant of a real estate interest to record "notice" within 40 years. The Minnesota DNR and the county both counterargued that the owner must instead seek to vacate the public road under Minn. Stat. § 505.14.

Interpreting the MTA anew, the Court concluded that the MTA's express statutory purpose – that "ancient records shall not fetter the marketability of real estate" – does not apply to plats because plats are governed by Minn. Stat. §§ 505.01 to 505.1793 and have stringent review, approval, recording, and public inspection requirements, separate and apart from the MTA. The Court was also persuaded that the "public interest is ... particularly strong here" because the consequences of holding that the MTA can extinguish 40-year or older platted public interests would result in the loss of public access to many lakes across Minnesota.

Moratzka illustrates that private landowners subject to a plat, no matter how old or how public land is actually used, will not be able to unilaterally sidestep platted public roadways, public access, park land, or other public features, and should instead work in cooperation with governmental authorities instead of against them.

The "strip" at issue in *Moratzka*. (Itasca County GIS Viewer.)

If you need assistance reviewing an old plat, or want to explore options to resolve public land use issues, contact the Moss & Barnett real estate team today.

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