

STATE OF MINNESOTA

Case Type: OTHER CIVIL  
DISTRICT COURT

COUNTY OF DAKOTA

FIRST JUDICIAL DISTRICT

TK Properties of Northfield, LLC,

Plaintiff,

Case No:

vs.

Greenvale Township, a political subdivision  
within Dakota County, State of Minnesota,**COMPLAINT**

Defendant.

As and for its Complaint, Plaintiff TK Properties of Northfield, LLC (“Plaintiff”) states and alleges as follows:

**PARTIES**

1. Plaintiff is a Minnesota limited liability company.
2. Greenvale Township (“Township”) is a political subdivision located in Dakota County, State of Minnesota.

**JURISDICTION**

3. The Court has jurisdiction over this matter pursuant to Minn. Stat. § 555.01 and Minn. Stat. § 462.361.

**VENUE**

4. The property is located within Dakota County, State of Minnesota. Therefore, Dakota County District Court is an appropriate venue.
5. Plaintiff owns real property legally described in the attached **Exhibit A** to this Complaint, all located in Greenvale Township (the “Property”). The Property, with tax PID 16-

00500-80-010, is approximately 8.11 acres in size and is located within an area zoned agricultural preservation district.

6. The Township's ordinance Section 5.04 B.5 provides that one single-family dwelling per quarter-quarter section is permitted in the agricultural preservation district; no other houses are in the quarter-quarter section where the Property is located.

7. The Property meets all the performance standards required by Section 5.04 B.5: no other houses exist in the quarter-quarter, it exceeds the minimum lot size of two (2) acres; it has more than an acre of 'buildable' land; and it has direct frontage onto a public road.

8. In addition to meeting plain language of the ordinance for a building entitlement, the Property is a lot of record, which is defined as:

“A lot which is part of a subdivision or plat, an Auditor's Subdivision or a registered Land Survey or a parcel of land not so platted, which has been approved by the Township or meets the following conditions: a. was a separate parcel of record April 1, 1945 or the date of adoption of subdivision regulations under Laws 1945, Chapter 287, whichever is later, or of the adoption of subdivision regulations pursuant to a home rule charter; b. was the subject of a written agreement to convey entered into prior to such time; c. was a separate parcel of not less than 2-1/2 acres in area and 150 feet in width on January 1, 1966; d. was a separate parcel of not less than five acres in area and 300 feet in width on July 1, 1980; e. is a single parcel of commercial or industrial land of not less than five acres and having a width of not less than 300 feet and its conveyance does not result in the division of the parcel into two or more lots or parcels, any one of which is less than five acres in area or 300 feet in width; f. is a single parcel of residential or agricultural land of not less than 20 acres and having a width of not less than 500 feet and its conveyance does not result in the division of the parcel into two or more lots or parcels, any one of which is less than 20 acres in area or 500 feet in width.”

9. There are documents in the title records, as provided to the Township's planner, that show that the Property has had a distinct legal description of the “East Thirty-two (E.32) rods of the South One fourth (S.¼) of the South-east quarter of Section Five (5),” going back to at least April 25, 1908.

10. The Property satisfies components a, c, and d of the “lot of record” definition in the Township’s ordinance even though only one component is required; the Property is a lot of record under the ordinance, which means it has a building entitlement.

11. Plaintiff maintains that the Property, no matter what analysis is used, is buildable and that Plaintiff is entitled to a building entitlement. On January 15, 2019, agents of Plaintiff requested the Township to issue a determination that the Property had a building entitlement.

12. The Township never requested that Plaintiff utilize a specific application form.

13. The request was discussed at the Township’s Planning Commission on February 4, 2019; the request was then discussed by the Town Board on February 19, 2019.

14. The Township did not approve or deny the Plaintiff’s request within the 60 day timeframe required by Minnesota Statute § 15.99.

15. It was not until the Township’s regularly scheduled meeting on March 19, 2019, 63 days after the request was made, that the Township has determined via motion that Plaintiff’s Property is not buildable and has no building entitlement.

16. The Township did not provide written notice of the decision until sending a letter dated April 17, 2019. The letter contains no reasons for the denial as required by Minnesota Statute § 15.99.

17. In an audio recording of the March 19, 2019 Township meeting, the only rationale stated was “there are multiple owners in the quarter-quarter,” and “there is no proof a house ever existed on the Property;” neither of these purported findings relate to building entitlement criteria under the Township’s ordinance.

18. There is nothing in the Dakota County Recorder's Office which restricts the Property as being unbuildable. There is likewise no declaration of restriction or covenant on the Property that purports to limit the Plaintiff's right to build.

19. Any allocation of a building entitlement within the SE $\frac{1}{4}$ SE $\frac{1}{4}$  of Section 5 which the Township might claim restricted the Property, would have been done so without the consent of or notice to the property owner. Notwithstanding that, there is no record with the County Recorder's Office of any restriction on Plaintiff's Property or any portion thereof.

20. A quick review of the GIS mapping of the Township shows numerous examples of quarter-quarters throughout the Township that have multiple single-family dwellings and the Township is treating the owner of the Property differently than other property owners in the Township, with no legal basis for doing so.

21. Plaintiff is in need of a judicial determination as to its rights, as the owner of the Property, to build a residence thereon.

22. Plaintiff is aggrieved by the Township's interpretation of its ordinance and determination that the Property has no building entitlement.

23. Plaintiff is aggrieved by the Township's failure to timely act on Plaintiff's request.

24. To the extent Township's ordinances are vague, they should be construed against Township.

**COUNT I**  
**DECLARATORY RELIEF**

Plaintiff restates and realleges all of the aforementioned allegations in paragraphs 1 – 24 above, inclusive, as though fully stated and set forth herein.

25. The Township did not act on Plaintiff's request within 60 days.

26. The Property is entitled to a building entitlement and Township has made a determination that the Property is not buildable.

27. Plaintiff, in order to resolve the legal controversy between the parties, seeks a judicial determination from the District Court with regard to its rights to build on the Property as the current owner.

28. Plaintiff seeks a declaratory judgment, pursuant to Minnesota Statutes Chapter 555, determining as a matter of law that the Property has a building entitlement.

**COUNT II**  
**STATUTORY REVIEW OF DECISION BY DEFENDANT**

Plaintiff restates and realleges all of the aforementioned allegations in paragraphs 1 – 28 above, inclusive, as though fully stated and set forth herein.

29. Pursuant to Minnesota Statute § 462.361, Plaintiff is entitled to judicial review of the Township's determination and decision that the Property has no building entitlement.

30. Plaintiff asserts that, as a matter of law, the Property has a building entitlement and seeks a judicial determination consistent therewith by the District Court upon review.

**WHEREFORE**, Plaintiff prays for the following relief from the Court:

1. Relief in the form of a Declaratory Order and Judgment allowing Plaintiff a building entitlement for the Property;
  2. An Order for Plaintiff's costs and attorneys' fees to the extent allowed by law;
- and
3. For such other relief the Court deems just and equitable.

Dated: April 29, 2019

RINKE NOONAN

By /s/ Nicholas R. Delaney  
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ATTORNEYS FOR PLAINTIFF

**ACKNOWLEDGMENT**

Plaintiff, through counsel, hereby acknowledges that costs, disbursements, and reasonable attorney and witness fees may be awarded to the opposing party pursuant to Minnesota Statutes § 549.211, subd. 2.

/s/ Nicholas R. Delaney  
Nicholas R. Delaney (#0350035)

**EXHIBIT A**  
**(Legal Description)**

The East 32 rods of the South  $\frac{1}{4}$  of the Southeast  $\frac{1}{4}$  of Section 5, Township 112, Range 20, Dakota County, Minnesota.