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Iowa Supreme Court Hears Oral Arguments In Airport Case



The Iowa Supreme Court just moments after they heard oral arguments in the case of Site A Landowners and Mahaska County vs the cities of Pella and Oskaloosa.

by Ken Allsup
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Des Moines, Iowa – The Iowa Supreme Court heard oral arguments in the litigation of court cases over the validity of an Iowa Code chapter 28E agreement between Mahaska County and the cities of Pella and Oskaloosa over creating a regional airport.

The two cases contend that district court erred that the 28E agreement violated Iowa Code chapters 330 and 330A and imposed improper restriction on and delegation of the county’s legislative powers of eminent domain, road relocation, and zoning. The case says that the 28E agreement was improper because it would bind future boards in the exercise of legislative functions and that the county couldn’t freely revoke the delegation of its powers and retake its legislative authority.

The combined case also states that 28E agreements allow the joint exercise of powers that all parties to the agreement already possess.

On Thursday morning, the two sides argued their side of the case for nearly 45 minutes in front of the Iowa Supreme Court.

Lawyers for the parties, Site A Landowners and Mahaska County, argued that the 28E was created in a way that would delegate the eminent domain power away from the Mahaska County Board of Supervisors in a way that “would outlast any elections.”

The attorneys for Site A and Mahaska County then pointed towards elections in which they say the electorate chose new supervisors who would reassert their right to control in Mahaska County.

The attorneys for Site A and Mahaska County also referenced Iowa Code 330 and 330A and the powers to delegate eminent domain.

The attorney for the two cities opened with the following scenario.

“I’d asked this court to envision what would have happened had the project gone a little farther. So the runway is graded. Part of it is still a strip of dirt, and part of it is gravel and rebar. The pads for some of the hangars have been poured. There’s some structural iron, but nothing is enclosed. The electricians are busy tunneling along, putting in the cabling for the lights and the avionics and so forth. And at that point, there’s an election in Mahaska County, and the Mahaska County Board of Supervisors changes its mind and says stop, we’re out. No more construction.”

” In order to avoid that kind of ridiculous collision between the law and practicality. This court should affirm the judgments of the district courts,” the cities attorney argued. “It is plain from the way that 28E is written that it’s intended to be durable,” said the cities attorney in his argument. “But if the existing County Board of Supervisors agreed as they did here, to get into it without negotiating some sort of withdrawal language, that is what happens, and the reason is this isn’t a delegation. This is an aggregation.”

The justices were active, asking questions during the attorneys’ oral arguments from both sides. One such question from the justices revolved around the remedy if the county supervisors decided not to pursue eminent domain.

It further defined that question by asking if a district court could enter an order directing a board of supervisors to vote to condemn property, and if they didn’t, they could potentially be held in contempt of court.

Justices also referenced the liquidated damages clause of the 28E agreement and that the court could assess damages against the government for refusing to exercise its legislative power. Another justice stated, “I’m bothered by the notion of removing eminent domain from the political process.”

He went on to say, “I guess the power of eminent domain which is ordinarily subject to this political process is now kind of buried in this 28E entity and a, a past majority kind of, a past majority is capable of binding the future majority of political actors.”

The cities argued, “I think that the only way that you can have the durability of these projects, and avoid the scenario that I described at the very beginning of the argument, is by having the ability for a 28E agency to be the decision-maker about eminent domain, about zoning, about road relocation, and so forth. And that is how that has worked statewide.”

“The cases that have been cited by the other side, every one of them is either not a 28E... or it’s a 28E...that was defective in some way” said the attorney for the cities.

The case will now be researched and deliberated and could take several months before a decision is announced.