STATE OF MINNESOTA
IN COURT OF APPEALS
A17-0496

Kathryn Eich,
Respondent,

vs.

City of Burnsville,
Appellant,

Ted Oakland, et al.,
Defendants.

Filed January 8, 2018
Reversed
Connolly, Judge

Dakota County District Court
File No. 19HA-CV-15-2668

Kay Nord Hunt, Lommen Abdo, P.A., Minneapolis, Minnesota; and

Valerie Sims, Heley, Duncan & Melander, PLLP, Minneapolis, Minnesota; and

Jeffer Ali, Carlson, Caspers, Vandenburgh, Lindquist & Schuman, P.A., Minneapolis, Minnesota (for respondent)

Paul D. Reuvers, Jason J. Kuboushek, Nathan C. Midolo, Iverson Reuvers Condon, Bloomington, Minnesota (for appellant)

Susan L. Naughton, League of Minnesota Cities, St. Paul, Minnesota (for Amicus Curiae League of Minnesota Cities)

Considered and decided by Connolly, Presiding Judge; Jesson, Judge; and Florey, Judge.

S Y L L A B U S

Neither Minnesota law nor the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. §§ 5401-5426 (2012) preempts a local or municipal authority from enforcing zoning, subdivision, architectural, or aesthetic codes applicable to manufactured home parks, provided that they do not involve construction or safety standards related to manufactured housing.

O P I N I O N

CONNOLLY, Judge

Appellant City of Burnsville challenges the district court's order granting a permanent injunction against the city's enforcement of its city code within a manufactured home park where respondent Kathryn Eich resides. The city argues that the district court erred in enjoining enforcement of its codes because the city is expressly authorized by state law to enforce its codes within manufactured home parks when the codes are not inconsistent with federal or state laws. The city also argues that respondent's as-applied state constitutional claims for injunctive relief are moot. Because neither federal nor state laws preempt the city codes within the manufactured home park and because respondent's state constitutional claims are moot with respect to injunctive relief, we reverse.

FACTS

Among other sections, the Burnsville city code includes the city's zoning code and property maintenance code, and it adopts the state building code, which includes the state's Manufactured Home Building Code (MHBC). Before 2013, the city enforced its city code

on a complaint basis, whereby the city building official would inspect a property and its neighboring properties after a citizen filed a complaint. Effective January 2013, the city adopted a proactive policy, whereby the city established the Licensing and Code Enforcement Department to enforce the city code and a schedule for conducting inspections.

This policy stated that it was adopted under the city's authority to administer the implementation of city ordinances, subdivision regulations, and the Minnesota State Building and Fire Codes. If the city observed a violation, it would send the property owner a first-notice letter identifying the nature of the violation, providing the applicable ordinance information, itemizing the necessary actions to correct, and setting a compliance deadline of ten days. After a follow-up inspection, the property owner would not be charged if the property had been in compliance, but if the violation had not been corrected, the city would send the property owner a second-notice letter, giving seven more days to correct the violation and charging a $110 reinspection fee. After another inspection, if the violation still had not been corrected, the city would mail the property owner a citation reviewed and approved by the city's licensing and code enforcement coordinator, and the property owner would be charged a $50 citation filing fee and another $110 reinspection fee. If the violation remained uncorrected after the citation, the city would initiate a criminal complaint charging the property owner with the violation.

Rambush Estates is the manufactured home park in which respondent Kathryn Eich rents her home lot. Rambush Estates is licensed by the Minnesota Department of Health (MDH), which has the authority to prescribe rules regarding the operation and maintenance

of manufactured home parks to safeguard the health and safety of manufactured home park residents. Minn. Stat. § 327.20, subd. 2 (2016). Manufactured home parks are owned and operated by entities that lease space to residents, while park residents own their manufactured homes and related accessories. These rental relationships are governed by Minn. Stat. §§ 327C.01-.15 (2016 & Supp. 2017). Rental agreements must include "the rights, duties and obligations of the parties, and all rules applicable to the resident." Minn. Stat. § 327C.02, subd. 1(3). A resident may be evicted for violating park rules. Minn. Stat. § 327C.09, subd. 4. In accordance with Minn. Stat. § 327C.02, respondent is subject to the Rambush Estates park owners' rules and regulations. Pursuant to Minn. Stat. § 327.20, subd. 2 and Minn. R. 4630.2210 (2017), the MDH annually inspects Rambush Estates in accordance with its promulgated rules in Minn. R. 4630.0200-.2210 (2017), and it found no violations in its 2015 inspection.

Before the city conducted its first scheduled inspection in Rambush Estates, it invited park residents, including respondent, to the Burnsville City Hall for a presentation on the city's proactive property-maintenance program. At this presentation, the city stated that there were problems with manufactured home parks because owners were not enforcing rules and multiple authorities were causing inconsistent enforcement, which led to fire and safety issues. At the meeting, the city stated that carports and exterior storage were prohibited and awnings could not be attached to manufactured homes. The city also sent respondent a letter warning about specific issues for which the city was looking, including trash receptacle screening, setbacks for accessory buildings, and self-supported awnings.

In May 2015, the city code inspector inspected Rambush Estates and issued first-notice letters to 160 of the 223 home lots. The violations were primarily related to structure setbacks, carports, and awnings that the city deemed nonconforming. The city also identified lots that had exterior storage and trash containers in view. In July 2015, the city sent respondent a second-notice letter and an invoice for the $110 inspection fee. No criminal charges were brought against the residents of Rambush Estates.

The lots that had carports received notices that demanded removal, but failed to state the reason that a carport was nonconforming or whether it could be made conforming. The carport notices cited a provision in the city's property maintenance code, which has since been repealed and replaced, but this provision did not address why carports were not permitted.[1] *See* Burnsville, Minn., City Code (BCC) § 4-8-3-2(G) (2015) (providing that "[a]ll accessory structures, including detached garages, fences and retaining walls, shall be maintained structurally sound and in good repair, and the garage exterior shall be the same color as the principal structure.").

The setback-violation notices also stated requirements that were inconsistent with the city code. These notices did not cite to any city code provision, but the relevant zoning-code language, which has since been repealed and replaced, required that "[n]o accessory building or structure, unless an integral part of the principal building, shall be erected, altered, or moved within five feet (5') of the principal building." BCC § 10-7-4(I) (2015).

[1] The notice letters cited the 2015 version of the city code. Many of the relevant provisions have since been repealed and replaced.

However, the city's notices stated that accessory buildings must be five feet from the principal building or ten feet from a neighboring structure.

The notices for trash violations required that trash be screened from view by at least 80% opaqueness. However, the city code provision cited, BCC § 4-8-3-5(C) (2015), which has since been repealed and replaced, required that garbage be screened pursuant to BCC § 10-7-18 (2015 & 2017), which requires that screens be at least six feet tall and provide 100% obstruction of the view from adjacent properties and the right-of-way. The notices cited the 80% opaqueness requirement from a prior city code provision, which a district court had found unconstitutionally vague in 2013.

The residents of lots that had objects outside the home were notified that exterior storage is generally prohibited under BCC § 10-7-21 (2017). However, pursuant to BCC § 10-7-21(A), exterior storage is not prohibited; rather, like garbage, it is required to be screened in accordance with BCC § 10-7-18. Additionally, BCC § 10-7-18(F)(3) (2017) requires objects that have "existing uses" to comply with screening rules within 30 days' notice. The city's notices did not provide such an exception for objects in use, such as the wheelbarrow for which Kathryn Eich was cited.

The notices for awning violations demanded the awnings be detached, citing BCC § 4-8-3-3 (2015), which has since been repealed and replaced. However, BCC § 4-8-3-3(I) and (K) did not require that awnings and other attached appurtenances be "detached" from manufactured homes. They required proper anchorage. In his deposition, the city inspector admitted that the city code provisions cited in the notices did not require that

awnings be detached and that individuals who received awning-related notices would not understand why they were being ordered to remove their awnings.

In June 2015, the city sent another letter regarding carports and awnings within Rambush Estates, explaining that the structures must comply with the state building code. This letter outlined the state's variance application process.

The city's first-violation notices stated that respondent had the right to appeal a compliance order, to the city manager, in writing, accompanied by a filing fee, and within five days of the compliance order's service. However, this appeals language was taken from the city code's business regulations section, which applies to business rental license holders. BCC § 3-28-9(F) (2017). The notices also stated that any unpaid fee would be assessed against the property in accordance with Minnesota law, but did not identify the assessment statute or assessment appeals process. The district court found that Minn. R. 1350.5900 (2017) may have adequately governed the appeals process because it allows an aggrieved person to appeal to the commissioner of labor and industry any grievance regarding Minn. R. 1350.3900-.5700 (2017), which are the state rules governing Minn. Stat. §§ 327.31-.36 (2016), the state's MHBC. However, the district court ultimately found that respondent was neither notified of an applicable appeals process nor notified that the city was enforcing these state rules. Instead, respondent was notified that she violated provisions of the city's property-maintenance and zoning codes and was informed about an inapplicable appeals process with the city.

Respondent commenced this proposed class action seeking damages and injunctive relief and alleging that the city's enforcement within Rambush Estates was preempted by

federal and state law and violated her due process rights under the Minnesota Constitution. The district court granted class certification and temporary injunctive relief, enjoining the city from (1) communicating with respondent, (2) collecting or assessing fees from respondent, (3) notifying respondent of violations, (4) accepting or processing variance applications, and (5) conducting code-enforcement inspections of housing and property inside Rambush Estates.

After the action commenced, but before the district court granted respondent permanent injunctive relief on summary judgment, the city adopted a new appeals process for city-code violations, whereby a resident must pay a $100 fee or appeal within ten days of receiving a violation letter. The city also adopted the International Property Maintenance Code (IPMC) to replace its existing property maintenance code. After adopting this new process, the city rescinded *all* pending violations and violation letters that had been issued within Rambush Estates.

Both parties moved for summary judgment. The district court granted summary judgment and permanent injunctive relief to respondent, but stayed the issue of whether respondent was entitled to sanctions and damages based on her state constitution claims, pending resolution of this appeal. In support of its order issuing an injunction, the district court concluded that the city's code enforcement within Rambush Estates (1) was expressly preempted by federal law, (2) was expressly and field preempted by state law, and (3) violated respondent's procedural- and substantive-due-process rights because the enforcement action was arbitrary, the notices did not adequately provide respondent with

notice of what was permitted or how the city code applied, and the city did not have a meaningful appeals process.

This appeal follows.

ISSUES

I. Does federal law expressly preempt the city code within Rambush Estates?

II. Does state law expressly or field preempt the city code within Rambush Estates?

III. Are respondent's Minnesota State Constitutional claims moot as to injunctive relief?

ANALYSIS

As a preliminary matter, despite the city's repealing and replacing the majority of the city code that the district court analyzed in its order finding preemption and enjoining the city, the scope of the district court's injunction prevents the preemption issue from being moot. Minnesota courts will only decide actual controversies. "If the court is unable to grant effectual relief, the issue raised is deemed to be moot resulting in dismissal of the appeal." *In re Schmidt*, 443 N.W.2d 824, 826 (Minn. 1989). The district court did not limit its order to specific provisions of the city code; rather, it ruled that the entire city code is preempted and that the city is permanently enjoined from enforcing any city code within Rambush Estates. Thus, the city seeks the ability to enforce its city code within Rambush Estates.

Preemption is an issue of statutory interpretation. *Meyer v. Nwokedi*, 777 N.W.2d 218, 222 (Minn. 2010). When a district court grants injunctive relief based upon statutory interpretation, this court's review is de novo. *Williams v. Nat'l Football League*, 794

N.W.2d 391, 395 (Minn. App. 2011). "Where the legislature's intent is clearly discernable from plain and unambiguous language, statutory construction is neither necessary nor permitted and we apply the statute's plain meaning." *Id.* (quotation omitted).

Federal or state laws may preempt local laws in three ways: (1) express preemption, where a federal or state statute explicitly defines the extent to which it preempts local law; (2) field preemption, where a local law attempts to regulate conduct in a field that the federal or state legislature intended federal or state law to exclusively occupy; and (3) conflict preemption, where a local law permits what a federal or state statute forbids or vice versa. *See In re Estate of Barg*, 752 N.W.2d 52, 63-64 (Minn. 2008) (explaining three ways federal law may preempt state laws); *see also State v. Kuhlman*, 722 N.W.2d 1, 4 (Minn. App. 2006) (explaining three ways state law may preempt local laws).

I. Does federal law expressly preempt the city code within Rambush Estates?

The city first challenges the district court's conclusion that federal statutes and agency regulations expressly preempt the city from enforcing its city code within Rambush Estates.

"Along with Congress, 'a federal agency acting within the scope of its congressionally delegated authority may preempt state regulation and hence render unenforceable state or local laws that are otherwise not inconsistent with federal law.'" *Hous. & Redev. Auth. of Duluth v. Lee*, 832 N.W.2d 868, 873 (Minn. App. 2013) (quoting *City of N.Y. v. FCC*, 486 U.S. 57, 63-64, 108 S. Ct. 1637, 1642 (1988)), *aff'd*, 852 N.W.2d 683 (Minn. 2014). States and political subdivisions may be preempted from regulating in

a specific field if federal authority has an express preemption provision. Here, the federal legislation at issue has such a provision:

> Whenever a Federal manufactured home construction and safety standard established under this chapter is in effect, no State or political subdivision of a State shall have any authority either to establish, or to continue in effect, with respect to any manufactured home covered, *any standard regarding the construction or safety applicable to the same aspect of performance of such manufactured home which is not identical to the Federal manufactured home construction and safety standard.* Federal preemption under this subsection shall be broadly and liberally construed to ensure that disparate State or local requirements or standards do not affect the uniformity and comprehensiveness of the standards promulgated under this section nor the Federal superintendence of the manufactured housing industry as established by this chapter. Subject to section 5404 of this title, there is reserved to each State the right to establish standards for the stabilizing and support systems of manufactured homes sited within that State, and for the foundations on which manufactured homes sited within that State are installed, and the right to enforce compliance with such standards, except that such standards shall be consistent with the purposes of this chapter and shall be consistent with the design of the manufacturer.

National Manufactured Housing Construction and Safety Standards Act of 1974 (the Act), 42 U.S.C. § 5403(d) (2012) (emphasis added).

The Department of Housing and Urban Development (HUD) is a federal agency that has promulgated standards under the Act. These standards regulate actual construction of manufactured housing units, and include provisions on the preemptive effect of the Act:

> No State may establish or keep in effect through a building code enforcement system or otherwise, procedures or requirements which constitute systems for enforcement of the Federal standards or of identical State standards which are outside the system established in these regulations or which go

> beyond this system to require remedial actions which are not required by the Act and these regulations.
>
> No State or locality may establish or enforce any rule or regulation or take any action that stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress. The test of whether a State rule or action is valid or must give way is whether the State rule can be enforced or the action taken *without impairing the Federal superintendence of the manufactured home industry as established by the Act.*

24 C.F.R. § 3282.1l(c)-(d) (2017) (emphasis added).

Numerous federal courts have held that the Act's express preemption provision is limited to prohibiting states and municipalities from regulating the "construction or safety" of manufactured homes in any manner that is not identical to federal HUD standards. *See Lauderbaugh v. Hopewell Twp.*, 319 F.3d 568, 576 (3d Cir. 2003) (holding that "the [Act] prohibits localities from imposing any safety and construction standard upon manufactured homes that differs from the federal standard."); *see also Ga. Manufactured Hous. Ass'n v. Spalding County, Ga.*, 148 F.3d 1304, 1310 (11th Cir. 1998) (holding that "a zoning requirement related to aesthetics is not preempted because the goals and effects of such a standard have nothing to do with consumer protection"); *Tex. Manufactured Hous. Ass'n, Inc. v. City of Nederland*, 101 F.3d 1095, 1100 (5th Cir. 1996); *Parkview Homes, LLC v. City of Lexington*, No. 15-CV-3692, 2017 WL 758573, *3 (D. Minn. Feb. 27, 2017).

Here, the district court concluded that the Act "expressly preempts state and local laws that are inconsistent with the purpose and intent of the Act," but did not explain why the particular city code provisions were inconsistent with federal law. Instead, the district court stated that the city's "code *enforcement* conflicts . . . [by] imposing fines inconsistent

with Congress's objective to maintain affordability of this vital form of housing as expressed in [the Act] and adopted by the State of Minnesota." (Emphasis added.) We disagree.

The district court erred in its interpretation of the Act. Since the Act concerns itself with "safety and construction" standards of manufactured homes, and since states and localities may adopt safety and construction standards that are identical to the Act's standards, enforcement of any local law impairs the federal superintendence of the manufactured-home industry only when a local law attempts to regulate construction or safety standards inconsistent with the Act's standards. The Act does not preempt the city from enforcing its city code within Rambush Estates because the Act is limited to consumer protection, and the city code does not purport to regulate within that construction or safety standards context.

The city attempted to regulate carports, awnings, zoning setbacks, trash screening, and exterior storage within a manufactured home park. None of those regulated items relates to the construction or safety of the manufactured home itself. Therefore, the Act does not expressly preempt the relevant city code provisions.

II. Does state law expressly or field preempt the city code within Rambush Estates?

The district court also found that Minnesota state law both expressly and field preempts the city code within Rambush Estates. Again, we disagree.

Municipalities generally do not have inherent powers, so they "can enact regulations only as expressly conferred by statute or implied as necessary in aid of those powers which

have been expressly conferred." *Bicking v. City of Minneapolis*, 891 N.W.2d 304, 312 (Minn. 2017) (quotations omitted). Burnsville is a statutory Plan B city. *See* Minn. Stat. § 410.015 (2016). "Among other powers, statutory cities have the power to enact and enforce ordinances to promote 'health, safety, order, convenience, and the general welfare.'" *City of Morris v. Sax Invs., Inc.*, 749 N.W.2d 1, 6 (Minn. 2008) (quoting Minn. Stat. § 412.221, subd. 32 (2006)). Statutory cities also have the power to enact and enforce ordinances to promote zoning, subdivision, architectural, or aesthetic requirements pursuant to Minn. Stat. §§ 462.12-.398 (2016). *See* Minn. Stat. § 327.32, subd. 5. However, "state law may limit the power of a city to act in a particular area. For example, . . . state law may fully occupy a particular field of legislation so that there is no room for local regulation." *Sax Invs., Inc.*, 749 N.W.2d at 6 (quotation omitted).

State law does not preempt the city zoning and property maintenance codes.

Minnesota has incorporated the Act and the HUD regulations pursuant to the Act. Minn. Stat. § 327.31, subd. 3. Thus, Minnesota's state standards concerning the safety and construction of manufactured homes, known as the MHBC, are identical to the federal standards. For the same reasons that federal law does not expressly preempt the city from enforcing its zoning and property maintenance codes within Rambush Estates, the MHBC does not expressly preempt the city's zoning and property maintenance codes from being enforced within Rambush Estates. Moreover, a provision in the code-compliance section of the MHBC expressly prohibits cities from applying additional safety and construction standards to manufactured homes, while expressly authorizing local code enforcement that is outside the context of construction and safety:

> No manufactured home which bears a seal or label as provided in this section shall be required by any agency or political subdivision of this state to comply with any other building, plumbing, heating, or electrical code or any construction standards other than the Manufactured Home Building Code[,] nor be subject to any other state or local building inspection, except as the commissioner shall, by rule, provide in the case of alterations, manufactured home accessory structures and installations, or except as otherwise provided by federal or state law. No manufactured home installation or manufactured home accessory structure shall be required by any agency or political subdivision of this state to comply with any installation standards other than those adopted and promulgated by the commissioner. *Nothing in this section shall be construed to inhibit the application of zoning, subdivision, architectural, or [a]esthetic requirements pursuant to chapter 462*.

Minn. Stat. § 327.32, subd. 5 (emphasis added).

Further, the district court erred in finding that the rules promulgated by the Minnesota Department of Labor and Industry (DOLI) and MDH and related statutes occupy the field of manufactured-home-park regulation because state law explicitly permits action by municipalities. DOLI deals with the actual construction of manufactured homes, and MDH has the authority to prescribe rules regarding the operation and maintenance of manufactured home parks to safeguard the health and safety of manufactured home park residents. Minn. Stat. § 327.20, subd. 2. However, Minnesota statutes also explicitly protect the city's authority within manufactured home parks.

Minn. Stat. § 327.32, subd. 5, specifies that a city is permitted to apply "zoning, subdivision, architectural, or [a]esthetic requirements" within a manufactured home park. Minn. Stat. § 327.26, subd. 2 (2016), explicitly permits the city to enforce its ordinances relating to the safety and protection of people within a manufactured home park:

> Subd. 2. Local law enforcement. Any municipality which enacts or has enacted laws or ordinances relating to the safety and protection of persons and property is empowered to enforce the laws or ordinances within any manufactured home park or recreational camping area located in the municipality, notwithstanding the fact that the park or area may constitute private property.

The city's property maintenance code, which has been replaced by the IPMC, had the express purpose to "ensure public health, safety, aesthetics, and welfare insofar as they are affected by the continued occupancy and maintenance of structures, premises and land." BCC § 4-8-1-1(C) (2015). The IPMC has a very similar statement of purpose; "to ensure public health, safety and welfare insofar as they are affected by the continued occupancy and maintenance of structures and premises." IPMC § 101.3 (2017). The city's zoning code has the express purpose to "promote the general health, safety and the welfare" of the community. BCC § 10-2-1 (2017).

State law has explicitly authorized municipalities to regulate within manufactured home parks. Thus, state law has not fully occupied the field of manufactured-home-park regulation. The district court erred in finding that state law expressly and field preempts the city from enforcing its zoning and property maintenance codes within Rambush Estates.

State law does not preempt the city from enforcing the state building code.

The city also challenges the district court's finding that the city is preempted from enforcing Minnesota's state building code within Rambush Estates. The city argues that while the MHBC applies to manufactured homes themselves, the state building code applies to all other structures within the manufactured home park. *See* Minn. Stat. § 326B.151 (2016). Minn. Stat. § 327.16, subds. 4-5 (2016) indicates that before a

manufactured home park is approved, it must comply with applicable state building code rules:

> Subd. 4. Compliance with current state law. Any manufactured home park or recreational camping area must be constructed and *operated* according to all applicable state electrical, fire, plumbing, and building codes.
>
> Subd. 5. Permit. When the plans and specifications have been approved, the state Department of Health shall issue an approval report permitting the applicant to construct or make alterations upon a manufactured home park or recreational camping area and the appurtenances thereto according to the plans and specifications presented.
>
> *Such approval does not relieve the applicant from securing building permits in municipalities that require permits or from complying with any other municipal ordinance or ordinances, applicable thereto, not in conflict with this statute.*

(Emphasis added.) Additionally, the Rambush Estates park rules, which were specified in written leases pursuant to Minn. Stat. § 327C.02, subd. 1(3), provide that "[a]ll structures and improvements on the Lot must meet all city, state, and federal codes, guidelines, and regulations."

Through its city code, the city adopted the state building code. BCC § 4-1-1 (2017). Because the MHBC is a subsection of the state building code, the city has also adopted the MHBC. The state building code and the MHBC regulate different structures within manufactured home parks. The state building code applies to the "construction, reconstruction, alteration, repair, and use of buildings and other structures." Minn. Stat. § 326B.101 (2016). The MHBC applies to manufactured homes and their "accessory structures." The city is not preempted from enforcing the state building code within

manufactured home parks if that enforcement action is related to a structure other than a manufactured home or to a manufactured home's "accessory structures."

A manufactured home accessory structure is defined as "a factory-built building or structure which is an addition or supplement to a manufactured home and, when installed, becomes a part of the manufactured home." Minn. Stat. § 327.31, subd. 19; Minn. R. 1350.0100, subp. 39 (2017). Thus, structures not attached to the manufactured home, such as carports, are not accessory structures under the MHBC. Similarly, structures that are not "factory-built" are not accessory structures under the MHBC. Since these structures fall outside the scope of the MHBC, the city has the authority to regulate them in accordance with the state building code. The MHBC does not preempt the city from enforcing the state building code within manufactured home parks.

State law does not preempt the city from enforcing the MHBC.

The district court also held that the city is preempted from enforcing the MHBC within manufactured home parks. The MHBC is a subsection of the state building code. *See* Minn. R. 1300.0050 (2017) ("The Minnesota State Building Code adopted under § 326B.106, subdivision, 1 [2016], includes the following chapters: . . . 1350, Manufactured Homes . . . ."). The state legislature has expressly authorized municipalities to administer and enforce the state building code by adopting it. *See* Minn. Stat. § 326B.121, subd. 2(b) (2016) (a "municipality may choose to administer and enforce the [s]tate [b]uilding [c]ode within its jurisdiction by adopting the code by ordinance"). City officials are expressly given the authority to enforce all provisions of the state building code. *See* Minn. Stat. § 326B.133, subd. 4 (2016) ("Building officials shall, in the

municipality for which they are designated, be responsible for all aspects of the code administration . . . ."; *see also* Minn. R. 1300.0110, subp. 1 (2017) ("The building official is authorized and directed to enforce the provisions of this code."). Thus, the city is not preempted from enforcing the MHBC; rather, it is expressly authorized to enforce the entirety of the state building code, which includes the MHBC, within Rambush Estates.

III. Are respondent's Minnesota State Constitutional claims moot as to injunctive relief?

Finally, the city argues that respondent's Minnesota Constitutional claims cannot justify an injunction. The district court concluded that the city's application of its city code violated respondent's substantive- and procedural-due-process rights. The district court granted summary judgment to respondent on her constitutional claims, but stayed the issue of whether respondent was entitled to sanctions and damages, pending resolution of this appeal.

Respondent challenged the constitutionality of the ordinances as-applied, rather than facially. Since the city rescinded its enforcement action against respondent,[2] with respect to injunctive relief, which is the only issue before this court, respondent's state constitution claims are now moot.

D E C I S I O N

Since the city code does not regulate construction and safety standards for manufactured homes, the National Manufactured Housing Construction and Safety

[2] At oral argument, counsel for the city stated that certain reinspection fees had not been reimbursed to some class members. After oral argument, this court received a letter from counsel indicating that all such fees have been refunded.

Standards Act of 1974, 42 U.S.C. § 5403(d), does not expressly preempt the city code. Additionally, since the city is authorized under Minn. Stat. § 327.32, subd. 5, to apply any zoning, subdivision, architectural, and aesthetic requirements within manufactured home parks, state law does not expressly or field preempt the city code. Finally, because the city's code enforcement activities inside Rambush Estates have been rescinded and the reinspection fees have been refunded, respondent's as-applied due-process claims are moot with respect to injunctive relief.

Reversed.