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Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA  
IN COURT OF APPEALS  
A21-0280**

Mary Skarsten-Dinerman,  
Appellant,

vs.

Milton Skarsten Living Trust,  
Respondent.

**Filed December 27, 2021  
Affirmed  
Cochran, Judge**

Swift County District Court  
File No. 76-CV-20-232

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Considered and decided by Connolly, Presiding Judge; Bjorkman, Judge; and  
Cochran, Judge.

**NONPRECEDENTIAL OPINION**

**COCHRAN**, Judge

Appellant challenges the district court's order denying her petition for modification of a trust and her request for costs, expenses, and attorney fees. Appellant, a beneficiary of the trust, sought to modify the trust to allow the immediate sale or distribution of the

trust's real property assets. The district court denied the petition, finding the proposed modification to be inconsistent with a material purpose of the trust. Appellant argues that the district court abused its discretion by denying her petition to modify the trust, erred by failing to consider extrinsic evidence related to the settlor's intent, and abused its discretion by denying her request to recover costs, expenses, and attorney fees from the trust. We affirm.

## FACTS

The Milton Skarsten Living Trust (the trust) was created in 2003 by Milton Skarsten (Milton), who passed away in 2017.<sup>1</sup> The trust named Milton's six adult children, including appellant Mary Skarsten-Dinerman, as its beneficiaries. The trust further provided that the trust assets were to be divided into equal shares to create one share for each beneficiary.

The trust assets originally consisted of four parcels of land. Milton, who was the original trustee, sold some of the land before his death. The land now held by the trust consists of 507 acres of farmland. As of August 2020, the farmland was valued at \$1,961,200, which reflects about a five-percent decrease in value from 2019 to 2020. The land has been leased for many years and the current farmland lease was expected to produce a 2.7% annual rate of return in 2021.

The terms of the trust provide specific instructions to the trustee regarding the use and disposition of the trust assets, including the land, upon Milton's death. The trust directs

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<sup>1</sup> We refer to Milton Skarsten by his first name for clarity and for consistency with the district court's and the parties' usage.

the trustee to pay any funeral expenses, estate taxes, and other debts out of the trust. The remaining balance of each share of the trust estate “shall be retained in trust for the benefit of the beneficiaries” or their issue. Thereafter, the trustee is to distribute equal shares of the trust’s net income to the beneficiaries or their issue “no less frequently than annually.” The annual distributions continue until three of Milton’s children pass away. Upon the death of the third of Milton’s children, the trustee is directed to distribute the remaining balance of each share of the trust estate to the three surviving beneficiaries and by right of representation to the issue of any deceased beneficiary. If any deceased beneficiary leaves no surviving issue, the deceased beneficiary’s share goes to the surviving beneficiaries or their issue.

The terms of the trust specifically address the potential sale of the land in two places. First, Paragraph IX of the trust document states: “Except as expressly permitted by this paragraph, no sale of real estate included in the trust estate shall be permitted after my death.” The referenced exception allowed for the sale of a portion of the land upon Milton’s death, but only if the liquid assets of the trust estate were insufficient to pay Milton’s funeral expenses, estate taxes, and other specified debts. Second, Paragraph VII of the trust document gives one of Milton’s daughters the right to occupy an existing residence located on one of the properties rent-free and prohibits selling that property without her consent. In addition to these specific references to real estate, the trust document also includes a general provision in Paragraph VIII.E that requires the trustee to exercise prudent judgment and care “[i]n acquiring, investing, reinvesting, exchanging, retaining, *selling*, and managing” the trust property. (Emphasis added.)

In the summer of 2019, three of Milton’s six children created special needs trusts for themselves, naming Skarsten-Dinerman as trustee.<sup>2</sup> Each of the adult children with special needs trusts assigned their beneficiary interests in the trust to their special needs trusts.

Approximately one year later, Skarsten-Dinerman filed a petition to modify the trust to allow the farmland held by the trust to be sold and the proceeds distributed to the beneficiaries. The petition was brought pursuant to Minn. Stat. §§ 501C.0411(b), .0412(a) (2020), which allow courts to modify trusts under certain circumstances. Skarsten-Dinerman asked the court to modify the trust for the following reasons: (1) the value of the farmland held by the trust had decreased due to “the farming economy [suffering] over the last several years”; (2) this decrease in value would “predictably result” in reduced rent payments for the farmland and reduced income to the beneficiaries; and (3) the term of the trust requiring distribution after the first three beneficiaries pass away would create an unequal outcome, because the first three beneficiaries to pass away would “realiz[e] very little benefit” while the surviving beneficiaries would benefit substantially. At the time the petition was filed, all six of the beneficiaries of the trust (Milton’s adult children) were still living. The petition asserted that allowing for the sale of the trust property before three of the trust beneficiaries passed away would not be inconsistent with Milton’s intent or a material purpose of the trust. The petition indicated that all the

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<sup>2</sup> Special needs trusts, discussed in more detail below, allow persons with a disability to receive medical-assistance payments from the state despite having funds held in a separate trust. *Norwest Bank of N. D., N.A. v. Doth*, 159 F.3d 328, 330 (8th Cir. 1998); 42 U.S.C. § 1396p(d)(4)(A) (2018).

beneficiaries consented to the proposed modification. The petition also sought to recover costs, expenses, and attorney fees from the trust.

Skarsten-Dinerman later filed an amended petition asking the court to modify the trust to “permit and instruct the [t]rustee to *distribute* the real property assets” of the trust to the six beneficiaries immediately (rather than waiting until the death of the third beneficiary), arguing that this distribution would not violate the prohibition on *selling* the real property assets in the trust. (Emphasis added.) The amended petition asserted that all beneficiaries supported the proposal.

The current trustee, who was appointed in 2017, objected to the proposed modification on behalf of the trust. He asserted that Milton’s intent in creating the trust was to preserve the land for his children *and* ensure “that it would remain intact to provide a continuing source of income for them.” The trustee asserted that allowing the sale *or* distribution of the land would therefore directly contradict a material purpose of the trust.

The district court denied Skarsten-Dinerman’s petition to modify the trust. It concluded that “[t]he material purpose of the [t]rust was for all real property contained in the [t]rust to remain unsold, providing annual payments to the beneficiaries.” Though the district court found the trust “ambiguous with respect to the sale of the real property assets,” it ultimately concluded that Skarsten-Dinerman’s proposed modification was inconsistent with Milton’s intent and a material purpose of the trust. The district court also held that the trust should not be ordered to pay Skarsten-Dinerman’s costs, expenses, and attorney fees.

Skarsten-Dinerman appeals.

## DECISION

Skarsten-Dinerman raises three arguments on appeal. She first argues that the district court abused its discretion by denying her petition to modify the trust. Second, and alternatively, she argues that the district court erred by failing to hold an evidentiary hearing to consider extrinsic evidence related to the settlor's intent. Finally, she argues that the district court abused its discretion by denying her request to recover costs, expenses, and attorney fees from the trust. We address each argument in turn.

### I. Trust Modification

Skarsten-Dinerman challenges the district court's denial of her petition to modify the trust. We review a district court's decision on whether to modify a trust for an abuse of discretion. *In re Ruth Easton Fund*, 680 N.W.2d 541, 547 (Minn. App. 2004). "Factual issues embedded in a discretionary determination are reviewed for clear error." *Id.* And legal issues, including the interpretation of trust documents, are reviewed de novo. *Id.*

Skarsten-Dinerman argues that the district court erred in its identification of a material purpose of the trust and abused its discretion by denying her petition to modify the trust under Minn. Stat. § 501C.0411(b) based on that interpretation. She also argues that unforeseen circumstances favor modifying the trust and that the district court abused its discretion by failing to allow modification under Minn. Stat. § 501C.0412(a) on that basis as well. We address each argument in turn.

#### *Modification under Minn. Stat. § 501C.0411(b)*

Skarsten-Dinerman first argues that the modification she proposes is consistent with a material purpose of the trust, which in her view is "to ensure that the [t]rust assets [are]

employed in a manner to best provide for the financial support of the Skarsten children.” On this basis, she contends that the district court erred when it concluded that modification of the trust is inconsistent with a material purpose of the trust. We are not persuaded.

A court may modify a noncharitable irrevocable trust if all of the beneficiaries consent and the court concludes that “modification is not inconsistent with a material purpose of the trust.” Minn. Stat. § 501C.0411(b). To determine a material purpose of a trust, we look to the plain language of the trust document. *See In re Tr. of Boright*, 377 N.W.2d 9, 12 (Minn. 1985) (finding that the terms of the trust instrument and its amendment revealed the purpose of that trust). A trust’s material purpose is a reflection of the settlor’s intent. *In re Tr. of Tufford*, 145 N.W.2d 59, 64 (Minn. 1966). Because all of the beneficiaries consent to the proposed modification here, determining whether the trust can be modified depends on the material purpose(s) of the trust as a reflection of Milton’s intent.

We review a district court’s interpretation of a trust document de novo. *In re Tr. of Schwagerl*, 965 N.W.2d 772, 779 (Minn. 2021). The goal in interpreting a trust document is “to ascertain and give effect to the [settlor]’s intent” by looking at the document as a whole. *In re Stisser Grantor Tr.*, 818 N.W.2d 495, 502 (Minn. 2012). When a trust document is unambiguous, we ascertain the settlor’s intent from its language, without looking to extrinsic evidence. *Id.* When a trust document is ambiguous, courts may consider extrinsic evidence to resolve the ambiguity. *Bolander v. Bolander*, 703 N.W.2d 529, 550 (Minn. App. 2005), *rev. dismissed* (Minn. Oct. 28, 2005). Language is ambiguous if it is subject to more than one reasonable interpretation. *Id.* at 554.

Here, the district court concluded, without explanation, that the trust is “ambiguous with respect to the sale of the real property assets,” but it ultimately determined that “[t]he material purpose of the [t]rust was for all real property contained in the trust to remain unsold, providing annual payments to the beneficiaries.” The district court therefore concluded that Skarsten-Dinerman’s proposed modification to allow the sale or distribution of the land at this time is inconsistent with a material purpose of the trust.

We agree with the district court’s ultimate conclusion but disagree that an ambiguity exists regarding the sale of the real estate assets held by the trust. Based on our de novo review of the terms of the trust, we conclude that the trust document is unambiguous with regard to both the sale of the real estate held by the trust and that a material purpose of the trust was to provide annual payments to the trust beneficiaries until three of them passed away. Specifically, the plain language of the trust document transfers certain farmland assets to the trust and directs the trustee to distribute the income generated from those assets to the beneficiaries in equal shares at least “annually” after Milton’s death. The trust document explicitly states in Paragraph IX that “no sale of real estate included in the trust estate shall be permitted after [Milton’s] death,” except under expressly permitted circumstances not present here. The trust document also explicitly states in Paragraph VI.D. that “[u]pon the death of the third of the above named beneficiaries to die, the remaining balance of each share of the trust estate . . . shall be distributed.” Reading the document as a whole, its plain language shows that Milton’s intent, and therefore a material purpose of the trust, was to retain the farmland as a continuous source of income for his six children until three of them had passed away.

Skarsten-Dinerman’s alternative interpretation—that Milton intended to ensure that the trust assets were employed in a manner to best provide for the financial support of the Skarsten children—disregards the specific manner in which Milton wanted the real estate assets in the trust to benefit his children. When Milton established the trust, he expressly decided to require the farmland to be retained by the trust to provide an ongoing source of income for his beneficiaries. And Milton’s intent controls, even if the beneficiaries disapprove of his choice. *See In re Trusteeship Under Agreement with Mayo*, 105 N.W.2d 900, 903 (Minn. 1960) (“One of the court’s highest duties is to give effect to the [settlor]’s dominant intention . . .”). Allowing the sale or distribution of the trust property before expressly permitted by the trust document would frustrate Milton’s intent and a material purpose of the trust.<sup>3</sup>

We are not persuaded otherwise by Skarsten-Dinerman’s contention that the trust document shows that Milton did not intend to prohibit the sale of the trust property where selling it would provide a superior financial benefit to the beneficiaries (at least in Skarsten-Dinerman’s view). To support her contention, Skarsten-Dinerman cites to select provisions of the trust document. None of the provisions that Skarsten-Dinerman cites contradict or countermand the provision prohibiting the sale of the trust property under the

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<sup>3</sup> As noted above, Skarsten-Dinerman’s amended petition asked the court to modify the trust by *distributing* the trust assets to the beneficiaries, arguing this would not violate the prohibition on *selling* the real property in the trust. While distributing the real property held by the trust would not run afoul of the trust provision regarding *sale* of the real property, it would run afoul of the material purpose of the trust identified above—to hold the property in trust to provide annual payments to the beneficiaries until three of them passed away. Thus, the distinction between selling the real property and distributing the real property does not change our analysis.

current circumstances. First, Skarsten-Dinerman cites to the general language in Paragraph VI establishing the trust “for the benefit of the beneficiaries named herein” and the language in Paragraph VIII that requires the trustee to use judgment and care in “acquiring, investing, . . . selling and managing” trust assets. This language is general in nature and does not override the more specific language in Paragraph IX that precludes the sale of real estate after Milton’s death except in circumstances not applicable here. Second, Skarsten-Dinerman points to Paragraph VII. This paragraph gives Debra Sackey, one of Milton’s daughters, the right to occupy a residence on a designated trust parcel and requires Sackey’s consent to any sale that would affect her right of occupancy. It further provides that the “right of occupancy shall not be affected by [Milton’s] death or by the distribution of asset[s] from the trust.” But the provision contains no language that authorizes the sale or the distribution of the designated parcel or any other property. The sale or distribution of that parcel (and the other parcels) is governed by the other provisions of the trust discussed above. The language cited by Skarsten-Dinerman, therefore, fails to support her contention that her proposal to allow the immediate sale or distribution of the trust property would be consistent with Milton’s intent. As Skarsten-Dinerman acknowledged in her original petition, the plain language of the trust document does not authorize the trustee to sell or distribute the trust’s real property at this time without modification.

Having determined that a material purpose of the trust is to retain the farmland to provide a source of annual income for the beneficiaries and to distribute the land only after three of them have passed away, we turn to the proposed modification to the trust. The record reflects that the real property in the trust is still generating income—a 2.7% annual

rate of return—for the benefit of the Skarsten children, all of whom are living. In other words, the record reflects that the farmland is providing a stable and reliable source of income as intended by Milton. And providing a stable and reliable source of income does not require obtaining a maximum possible return on investment. Therefore, either the sale or the distribution of the trust’s real property assets at this time would conflict with a material purpose of the trust to retain the land as a source of income for the beneficiaries until three of the beneficiaries have passed away, even if selling or distributing the trust assets would better serve the beneficiaries’ current financial needs. Accordingly, we conclude that the district court did not abuse its discretion by denying Skarsten-Dinerman’s petition to modify the trust under Minn. Stat. § 501C.0411(b).

*Modification under Minn. Stat. § 501C.0412(a)*

In the alternative, Skarsten-Dinerman argues that the district court abused its discretion by not granting her petition for modification based on what she asserts are unanticipated changed circumstances. A court may modify a trust if, “because of circumstances not anticipated by the settlor,” modification will “further the purposes of the trust.” Minn. Stat. § 501C.0412(a). The modification “must be made in accordance with the settlor’s probable intention.” *Id.*

Even though Skarsten-Dinerman cited Minn. Stat. § 501C.0412(a) to the district court, the district court did not explicitly address this section of the trust modification statute. Instead, the district court simply found that “[n]othing has fundamentally changed since Milton Skarsten made his value judgments in setting up the [t]rust as he did,” and

denied Skarsten-Dinerman's petition to modify the trust.<sup>4</sup> By doing so, the district court implicitly rejected Skarsten-Dinerman's request to modify the trust based on changed circumstances under Minn. Stat. § 501C.0412(a). *See Hogenson v. Hogenson*, 852 N.W.2d 266, 275 (Minn. App. 2014) (“Because this argument was presented to the district court, but the district court did not issue a ruling on it, we assume the argument was implicitly rejected when the district court granted [the opposing party's] motion. . . .”).

On appeal, Skarsten-Dinerman contends that the following unanticipated circumstances justify modifying the trust: (1) the creation of special needs trusts for three of the trust's beneficiaries, and (2) the decrease in the value of the trust's farmland assets along with the “negligible” rate of return the trust receives by renting the land. We address each circumstance in turn.

With respect to the first circumstance, Skarsten-Dinerman argues that the establishment of the special needs trusts for three of the beneficiaries was unforeseen and had an impact on the trust that supports the proposed modification. Special needs trusts allow a person with a disability to receive medical-assistance payments from the state despite having funds held in a separate trust that would otherwise disqualify them on financial grounds. *Norwest Bank*, 159 F.3d at 330; 42 U.S.C. § 1396p(d)(4)(A). The person with a disability remains eligible for medical assistance and can use the funds in the special needs trust “as a supplement to enhance the quality of their [life]” so long as the

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<sup>4</sup> Skarsten-Dinerman argues that because the district court failed to consider the issue, we should remand the matter back to the district court for further consideration. But because the district court at least implicitly rejected the changed-circumstances argument, there is no basis to remand to the district court for further consideration of this issue.

special needs trust includes a pay-back provision that provides for reimbursement of the state after the beneficiary's death if funds remain in the special needs trust at that point. *Norwest Bank*, 159 F.3d at 330. Skarsten-Dinerman emphasizes that if the three beneficiaries *without* special needs trusts pass away first and leave no descendants, the trust property will be distributed to the beneficiaries with special needs trusts and placed in those trusts. When those beneficiaries pass away, some or all of the funds may then go to the state as reimbursement for medical services paid for by the state. But the state's ultimate interest in the special needs trusts is speculative because it depends on which beneficiaries pass away first. Further, the state would still have an interest in the trust assets under the proposed modification because the proceeds from any sale of the trust assets would be placed in the special needs trusts. And ultimately, the state's interest would simply constitute repayment after the beneficiaries' deaths for medical assistance received during their lifetimes. This outcome, which benefits the beneficiaries of the special needs trusts as intended, is not a changed circumstance that justifies modifying the trust.

Second, Skarsten-Dinerman argues that the recent decrease in the value of the farmland held by the trust and the low rate of return from renting the farmland are unforeseen circumstances that support modification of the trust. This argument is not persuasive either. Milton was a farmer who likely would have anticipated fluctuations in the farm economy, yet he chose to place his land in the trust as a source of steady income for his children in the future. As discussed above, the trust is still earning income by leasing the land. Further, the value of the land may fluctuate *upward* before the trust property is ultimately distributed. Finally, and most importantly, even assuming these circumstances

relating to the farmland were unforeseen, selling or distributing the land at this time as Skarsten-Dinerman proposes would thwart a material purpose of the trust: to provide the beneficiaries with a continuing source of annual income from the farmland.

Having determined that a material purpose of the trust was to retain the land as a source of continuous income for the beneficiaries and that selling or distributing the land held by the trust at this time would be contrary to that purpose, the district court did not abuse its discretion when it denied the request for modification of the trust under Minn. Stat. § 501C.0412(a). Even unanticipated circumstances do not justify modifying a trust if the proposed modification will not “further the purposes of the trust.” Minn. Stat. § 501C.0412(a).

In sum, we conclude that the district court did not err in its determination that the provision of annual income to the beneficiaries is a material purpose of the trust. Based on that interpretation, the district court did not abuse its discretion by denying the motion to modify the trust under Minn. Stat. § 501C.0411(b). Nor did it abuse its discretion by refusing to modify the trust under Minn. Stat. § 501C.0412(a).

## **II. Consideration of Extrinsic Evidence**

In the alternative, Skarsten-Dinerman argues that the district court’s order denying her petition to modify the trust should be reversed and remanded because the district court erred by construing the terms of the trust without first holding an evidentiary hearing. She contends that the district court should have held a hearing to consider extrinsic evidence of Milton’s intent regarding the sale of real estate from the trust because the district court

determined that the trust was ambiguous “with respect to the sale of the real property assets.” This argument is unavailing for two independent reasons.

First, appellate courts generally will not consider matters not previously presented to and considered by the district court. *Thiele v. Stich*, 425 N.W.2d 580, 582 (Minn. 1988). Skarsten-Dinerman did not request an evidentiary hearing before the district court. She also did not argue that an evidentiary hearing was required. Nor did she argue that the district court should have looked beyond the trust document to determine Milton’s intent. Skarsten-Dinerman has therefore forfeited this argument by failing to raise it before the district court.

Second, even if Skarsten-Dinerman had properly raised the issue below, an evidentiary hearing is unnecessary to determine Milton’s intent. As discussed above, based on our de novo review, we conclude that the trust document is unambiguous with respect to both its relevant material purpose and the sale of real estate held by the trust. When a trust document is unambiguous, courts ascertain the settlor’s intent from its language, without looking to extrinsic evidence. *Stisser*, 818 N.W.2d at 502. Therefore, we discern no basis to reverse and remand for an evidentiary hearing.

### **III. Costs, Expenses, and Attorney Fees**

Skarsten-Dinerman also challenges the district court’s determination that the trust should not be ordered to pay Skarsten-Dinerman’s costs, expenses, and attorney fees for this litigation. We will not reverse a district court’s denial of a request for attorney fees absent an abuse of discretion. *In re Margolis Revocable Tr.*, 765 N.W.2d 919, 928 (Minn. App. 2009). A district court abuses its discretion when it bases its decision on an erroneous

view of the law or reaches a decision inconsistent with the facts in the record. *Stisser*, 818 N.W.2d at 508.

Minn. Stat. § 501C.1004 (2020) governs a beneficiary’s ability to recover attorney fees from trust assets. *Lund ex. rel. Revocable Tr. of Lund v. Lund*, 924 N.W.2d 274, 286 (Minn. App. 2019), *rev. denied* (Minn. Mar. 27, 2019). The statute provides that “[i]n a judicial proceeding involving the administration of a trust, the court, as justice and equity may require, may award costs and expenses, including reasonable attorney fees, to any party from the trust that is the subject of the judicial proceeding.” Minn. Stat. § 501C.1004. In *Lund*, this court held that the common-law standard for awarding attorney fees also continues to apply to a *trustee’s* motion for attorney fees, though it did not explicitly extend that holding to a *beneficiary’s* motion for attorney fees. 924 N.W.2d at 286.

Under the common-law standard, a court may award attorney fees to a beneficiary when the litigation is (1) necessary to resolve ambiguous language in the trust document, (2) essential to proper administration of the trust, and (3) conducted in good faith, without unnecessary expense or delay, for the primary benefit of the trust as a whole. *In re Campbell’s Trs.*, 258 N.W.2d 856, 867-68 (Minn. 1977) (quoting *In re Atwood’s Tr.*, 35 N.W.2d 736, 740 (Minn. 1949)). The trust document in dispute “must be sufficiently ambiguous to require litigation to establish [its] meaning and effect.” *Id.* at 868. And fees are awarded “[i]n the sound and cautiously exercised discretion of the court . . . not as a matter of right.” *Id.* at 867 (quoting *Atwood*, 35 N.W.2d at 740).

Here, the district court held that “[t]he [t]rust should not be ordered to pay the costs, expenses, and reasonable attorneys’ fees incurred by” Skarsten-Dinerman. The district court reached this conclusion without providing a detailed explanation of its reasoning.

Skarsten-Dinerman argues that because the district court did not provide explicit findings or discuss the common-law standard in denying her request for attorney fees, the matter should be remanded to the district court to make additional findings and consider that standard. Skarsten-Dinerman also argues that the common-law factors weigh in her favor. And she asserts that the district court erred as a matter of law by seeming to deny her request because she did not prevail in the litigation. *See In re Van Dusen Marital Tr.*, 834 N.W.2d 514, 527 (Minn. App. 2013), *rev. denied* (Minn. June 26, 2013) (recognizing that “[a] party need not prevail to be awarded attorney fees and costs”).

We are not persuaded that the district court abused its discretion by denying Skarsten-Dinerman’s request for costs, expenses, and attorney fees. First, under both Minn. Stat. § 501C.1004 and common law, litigation fees are awarded according to the district court’s discretion and not paid to trust beneficiaries as a matter of right. Minn. Stat. § 501C.1004; *Campbell’s Trs.*, 258 N.W.2d at 867. The district court could have reasonably concluded that justice and equity did not require ordering the trust to pay Skarsten-Dinerman’s fees under Minn. Stat. § 501C.1004. The district court could also have reasonably concluded, under the common-law standard, that the litigation was not essential to the administration of the trust or beneficial to the trust as a whole.

Second, while a party need not prevail to be awarded attorney fees, the district court’s discretion in making that decision still “depends in part on the reasonableness of

the party's arguments," which may be reflected in the outcome of the litigation. *Van Dusen*, 834 N.W.2d at 527. And to justify awarding attorney fees to the beneficiary, the trust document must be sufficiently ambiguous to require litigation to establish its meaning and effect. *Campbell's Trs.*, 258 N.W.2d at 868. Here, the litigation was not necessary to establish the meaning and effect of ambiguous language in the trust document. Rather, as Skarsten-Dinerman acknowledged in her original petition, she sought to modify the trust document's original unambiguous terms because the trust document does not authorize the trustee to sell or distribute the trust's real property under the current circumstances.

Third, Skarsten-Dinerman did not ask the district court to consider the common-law factors in her original request. Accordingly, the absence of such an analysis by the district court in its decision does not support reversal. We review a district court's decision in light of the information and arguments before the district court, and a party cannot obtain review of "the same general issue litigated below but under a different theory." *Thiele*, 425 N.W.2d at 582. Thus, for the reasons explained above, we conclude that the district court did not abuse its discretion by denying Skarsten-Dinerman's request to recover costs, expenses, and attorney fees from the trust.

#### **IV. Conclusion**

In sum, we conclude that the district court did not err in its identification of a material purpose of the trust. Therefore, it did not abuse its discretion by denying Skarsten-Dinerman's petition to modify the trust based on that interpretation under Minn. Stat. §§ 501C.0411(b), .0412(a). In addition, there are no grounds to reverse and remand

the matter to the district court to consider extrinsic evidence of the settlor's intent, because the terms of the trust are unambiguous with respect to a material purpose of the trust. Finally, we conclude that the district court did not abuse its discretion by determining that the trust should not be ordered to pay the costs, expenses, and attorney fees incurred by Skarsten-Dinerman through this litigation.

**Affirmed.**