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#### Areas of Law

Mining  
Real Estate Litigation  
Appellate Advice & Advocacy  
Administrative and Regulatory Law  
Construction and Surety  
Construction Litigation  
Eminent Domain and Inverse Condemnation  
Environmental Regulations  
Litigation  
Property Tax Appeals  
Real Estate  
Government

#### Bar Admissions

Wisconsin, 1990  
Minnesota, 1984  
Iowa, 1980  
U.S. District Court, Minnesota  
U.S. Court of Appeals, Eighth Circuit  
U.S. District Court,  
Western District of Wisconsin  
U.S. Court of Appeals, 7th Circuit  
U.S. District Court, Northern District of Iowa  
U.S. District Court, District of North Dakota

#### Education

University of Iowa College of Law,  
Iowa City, IA, J.D., *With Distinction*

University of Wisconsin,  
Madison, WI, B.A., *With Honors*

#### Honors

AV® Preeminent Rating,  
by Martindale-Hubbell, 1997-present

Best Lawyers in America®, Eminent Domain  
and Condemnation Law, 2016-present

Super Lawyer, *Super Lawyers* magazine,  
2005-present

Top 40 Real Estate Lawyer,  
*Super Lawyers* magazine

## Gary A. Van Cleve

Gary A. Van Cleve is a seasoned trial attorney and an appellate advocate handling a full range of real estate-related litigation. Gary focuses on representing property owners in: (1) condemnation actions where either the government or a utility company takes private property for a public use through its power of eminent domain, (2) land use disputes with local governments typically involving zoning or permitting issues, and (3) property tax appeals. Gary is the chair of Larkin Hoffman's real estate litigation practice group.

#### Representative Experience:

- **Regulatory Taking.** Successfully secured approval for a golf course redevelopment into residential housing after the city denied a redevelopment plan and prevented a sale due to local residents' objections. We filed a petition for writ of mandamus and complaint for declaratory and injunctive relief, arguing that the denials constituted a regulatory taking under the Penn Central test. We alleged that the value of the property taken was \$25 million based on a pending purchase agreement. The city answered, and immediate settlement negotiations ensued, which resulted in the City Council voting to approve the client's plan with some minor changes and granting all of the entitlement requests.
- **Land Use Permit via Special Exception Permit.** Secured permission for a Wisconsin dry agricultural fertilizer business to be developed in a rural area after a land use permit application had been tabled by the county zoning committee to allow for the airing of issues raised by neighboring property owners. I submitted a detailed land-use analysis to the zoning committee and appeared at the hearing to argue in support of granting the special exception permit. Citing Wisconsin's relatively new Act 67 law that sets uniform standards that local governments must follow in deciding land use applications, requiring "substantial evidence" to support a local decision on a conditional use or special exception permit, the committee voted unanimously to grant the permit. The zoning committee granted the permit on the basis that the Act 67 standard had been met by the applicant and substantial evidence supported granting the permit. The opponents did not appeal the outcome and the clients are proceeding to build the plant in preparation for next year's planting season.
- **Constitutional Challenge in Minnesota Mining Matter.** Representation of property owners on constitutional challenge to county ordinance that banned industrial sand mining for out-of-state uses, but allowed the same type of mining for local, construction uses. Challenge based upon due process, equal protection and dormant Commerce Clause violations.
- **Compensation for Property Taken.** Obtained a \$650,000 jury award in March 2016 for a Rochester property owner and developer whose access to a highway frontage road was taken by the Minnesota Department of Transportation (MnDOT).

# Gary A. Van Cleve

## *Continued*

- **Inverse Condemnation Claims.** Won summary judgment in two separate inverse condemnation actions where the court held that the loss of the client's highway access was a compensable taking of a property right and ordered MnDOT to commence condemnation proceedings to determine the just compensation that must be paid to the client for the loss of access.
- **Assignment of Maintenance Responsibility.** Won summary judgment for a property owner who was fighting to have his township accept maintenance responsibility for a new road built by MnDOT to replace a direct highway access for his business that was taken by MnDOT for highway improvements.
- **Property Tax Appeal – Fortune 500 Company.** Successfully negotiated a property tax appeal settlement for a portion of the Twin Cities-based corporate headquarters of a Fortune 500 company that resulted in more than \$800,000 in property tax savings to the client.
- **Property Tax Counsel to Fortune 100 Company.** Representing Twin Cities-based Fortune 100 company on property tax issues and appeals for more than 20 properties, including corporate headquarters.
- **Government Permitting.** Ongoing representation of industrial sand mining client in litigation in Wisconsin on local government permitting issues.
- **Property Tax Recapture.** Successfully reduced open space property owner's 3 million property tax recapture liability by a million dollars.
- **Transportation Fee Invalidated.** In a case decided by the Minnesota Supreme Court, obtained ruling that \$1.6 million transportation improvement fee that city attempted to levy on developer was illegal and without statutory authority.