

Judgment rendered September 30, 2026.
Application for rehearing may be filed
within the delay allowed by Art. 2166,
La. C.C.P.

No. 57,074-CA

COURT OF APPEAL
SECOND CIRCUIT
STATE OF LOUISIANA

* * * * *

C&W DEVELOPERS, L.L.C.
AND VENTURE WIRELESS,
LLC

Plaintiffs-Appellants

versus

BOSSIER PARISH, LOUISIANA

Defendant-Appellee

* * * * *

Appealed from the
Twenty-Sixth Judicial District Court for the
Parish of Bossier, Louisiana
Trial Court No. 150,215

Honorable Charles A. Smith, Judge

* * * * *

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* * * * *

Before PITMAN, STEPHENS, and HUNTER, JJ.

HUNTER, J., dissenting with written reasons.

PITMAN, C. J.

Plaintiffs-Appellants C&W Developers, L.L.C. (“C&W”) and Venture Wireless, LLC (“Venture”) appeal the trial court’s judgment in favor of Defendant-Appellee Bossier Parish, Louisiana (the “Parish”). The Parish appeals the trial court’s denial of its exception of prescription. For the following reasons, we affirm the judgments of the trial court.

FACTS

On June 7, 2016, Plaintiffs filed a petition against the Parish. They purchased Unit 2 and Unit 4 (collectively, the “Properties”) in the River Bluff Subdivision, located along the Red River in Bossier Parish, with the intent to develop them for residential construction. They obtained a development permit from the Parish, which required construction to be one foot above the established base flood elevation (“BFE”). On June 7, 2015, the Red River flooded above the BFE. Plaintiffs alleged that the Properties were inundated by floodwaters, and their development activities were damaged or destroyed. They argued that the Parish knew or should have known that the BFE was inadequate to provide protection from flooding. They stated that as a result of their reliance on the BFE provided by the Parish, the Properties were unfit for residential development and virtually worthless. They also argued that the Parish’s moratorium on building permits and raising of the BFE constituted illegal takings of their property.

On September 22, 2016, the Parish filed an answer and raised affirmative defenses. On October 3, 2016, it filed an amended answer and raised additional affirmative defenses, including discretionary immunity.

On June 9, 2023, Plaintiffs filed an amended petition. They argued that they developed the Properties based on the Parish’s requirements and

obtained approval at each step in the process. They stated that by May 2015, the only requirement remaining before they could begin selling lots was for the Parish to accept Unit 2's streets and drainage into the Parish road system (the "System"). They alleged that in the June 2015 flood, the Properties did not sustain any appreciable or permanent damage. They stated that at a June 17, 2015 meeting, the Bossier Parish Police Jury (the "Police Jury") placed a 90-day moratorium on all new construction for three subdivisions on the river side of the levee, which included the Properties, and twice extended this moratorium. They stated that at its July 1, 2015 meeting, the Police Jury tabled their request to accept Unit 2's streets and drainage into the System; and at subsequent meetings, it took no action on the acceptance. They stated that on September 22, 2015, the Bossier Parish Tax Assessor devalued all property and non-flooded homes in the River Bluff Subdivision by 50 percent and devalued all flooded homes in the Subdivision by 75 percent. They stated that at a March 16, 2016 meeting, the Police Jury adopted a new advisory BFE (the "ABFE"), which raised the previous BFE over five feet. Plaintiffs stated that the Police Jury never voted to accept or reject Unit 2's streets and drainage into the System. They contended that as they built the streets and drainage to the Parish's specifications, the Police Jury was required by ordinance to accept them into the System. They argued that the Police Jury arbitrarily and capriciously failed to accept the streets and drainage into the System, placed a moratorium on building permits, devalued the Properties and adopted the ABFE. They contended that the Parish's actions prevented them from developing and selling lots and rendered their investment almost worthless. They argued that the Parish is liable for all damages caused by their arbitrary and capricious actions,

including all costs and expenses incurred by Plaintiffs to develop the Properties to the Parish's specifications and requirements, the total amount of the diminished value of the Properties and all other damages or relief deemed proper. In the alternative, Plaintiffs argued that the Parish's actions constituted illegal takings of their property pursuant to La. Const. art. I, § 4, and entitled them to just compensation.

On September 14, 2023, the Parish filed an answer to the amended petition and raised affirmative defenses.

On August 5, 2024, the parties filed a joint motion for separate trials on the issues of liability and damages. The trial court signed an order for separate trials.

On March 14, 2025, Plaintiffs filed a second amended petition to identify the claims they would continue to pursue and to exclude any remaining claims. They argued that the following actions by the Police Jury were arbitrary and capricious: the failure to accept Unit 2's streets and drainage into the System, the moratorium on the issuance of building permits, the devaluation of the Properties and the adoption of the ABFE. Plaintiffs contended that these actions prevented them from selling lots on the Properties, diminished the value of the Properties and rendered their investment in and development of the Properties virtually worthless.

On April 25, 2025, the Parish filed an answer and raised affirmative defenses.

A bench trial on the issue of liability was held on September 4 and 5, 2025. In lieu of testimony, the parties stipulated that Mike Ervin was a subdivision inspector in Bossier Parish; that prior to the 2015 flood, he personally inspected the streets and drainage of Unit 2; that he confirmed

that the streets and drainage satisfied all of the construction requirements and specifications of the Parish; and that he approved of same.

Henry Warren Cantrell, Jr. testified that he is a land developer and has developed three subdivisions in the Parish. He, Jeff Wyatt and their fathers founded C&W, which purchased Unit 4 in April 2010 and continues to own it. He and Mr. Wyatt also founded Venture, which purchased Unit 2 in November 2012 and continues to own it. He explained that the River Bluff Subdivision has four units and that Units 1 and 3 were already developed when they purchased Units 2 and 4. He stated that C&W did everything the Parish asked when designing, constructing and developing Unit 4 and that Venture did everything the Parish asked when designing, constructing and developing Unit 2. Mr. Cantrell testified that Unit 4's streets and drainage were built in accordance with the Parish's requirements and that it was his understanding that the Parish accepted Unit 4's streets and drainage in the System. He testified about the development of Unit 2, which included dredging the Red River to fill a hole with hydraulic fill, attending meetings to learn of development requirements and obtaining approvals from governmental agencies. He detailed the materials used to construct Unit 2's streets and drainage and noted that they used the more expensive materials for appearances and longevity. He stated that the streets were built at the BFE, and the lots were built higher than that level for drainage purposes. He stated that prior to the June 2015 flood, Unit 2's streets and drainage were substantially complete and had been inspected by the Parish. He testified that Venture has not sold any lots in Unit 2 because the Police Jury has not accepted the streets and drainage into the System. He stated that this has also affected the development of Unit 4 because they did not receive the

income they expected from Unit 2 to use to develop Unit 4. Mr. Cantrell testified that on June 15, 2015, the Police Jury placed a moratorium on new building permits on the river side of the levee while waiting for guidance from the Federal Emergency Management Agency (“FEMA”). He stated that despite the moratorium, the Parish allowed houses in Unit 1 to be repaired, completed and rebuilt. He stated that after the Police Jury lifted the moratorium and adopted the ABFE, it still refused to vote on the streets and drainage because it thought the streets were damaged and needed to be replaced or repaired. He stated that no repairs have been made and explained that, as of the day before trial, there were no defects other than they are ten-year-old streets.

On cross-examination, Mr. Cantrell testified that Venture did not agree to pay 25 percent of the costs to repair the streets because there was no proof that they had been damaged. He stated that the acceptance of the roads was removed from the Police Jury’s agenda because Venture refused to contribute any funds to the repair of the roads. He clarified that the Police Jury’s moratorium applied to all new construction and that C&W and Venture were not singled out.

Jeff Wyatt testified that he is a realtor and a member of C&W and Venture. He stated that they planned to use profits from developing Unit 2 to develop Unit 4. He noted that lots in Unit 1 sold quickly, so he thought the same would happen with Unit 2 as they both had lots on the river and interior lots. Following the 2015 flood, he researched houses that might be marketable at a higher BFE. He stated that he went to Unit 2 several days before trial and observed that the streets looked “perfect” and ready for use. He explained that Venture did not pay to have the streets repaired because

there were no problems with them. On cross-examination, he agreed that it was reasonable for the Police Jury to enact a moratorium following the flood, but he stated that it should have ended as quickly as possible so they could move forward.

Joe E. Ford, Jr. testified that from January 2003 until January 2022, he served as Parish engineer, and from his appointment in January 2022 until his retirement in 2025, he served as Parish administrator. His duties as Parish engineer included issuing building permits, reviewing subdivision plans and plots, attending Police Jury meetings, making recommendations to the Police Jury and serving as the floodplain manager. He testified that he ensured the Properties complied with Parish ordinances during their approval processes. He stated that on November 5, 2010, he notified C&W's engineer that Unit 4's plans met current regulations with the exception of a drainage easement, which C&W subsequently added. He noted that C&W also constructed an emergency entrance and exit in Unit 4 as required by the Police Jury. He signed the plat for Unit 4 on June 30, 2014, which signified the Parish's approval. He testified that due to an error, the Police Jury did not formally accept Unit 4's streets and drainage into the System. He stated that on March 5, 2014, the Police Jury considered the approval of the Unit 2 plat and advised that no lots could be sold in any subdivision until the Police Jury approved the streets and drainage. He stated that on April 16, 2014, the Police Jury approved the Unit 2 plat subject to two conditions, i.e., the completion of emergency access and the inclusion of 15-foot levee setbacks. Mr. Ford testified that both conditions, as well as requested changes to the outfall structure, were satisfied. In a February 4, 2015 letter, Mr. Ford advised Venture's engineer that the Parish

reviewed the plans for Unit 2; the plans met the subdivision regulations; the Parish required a three percent inspection fee prior to construction; the Parish required a two-year maintenance bond before the streets were accepted into the System; and he needed to coordinate an inspection with the subdivision inspector. Mr. Ford testified that he signed the Unit 2 plat on February 4, 2015, which signified the Police Jury's approval. He stated that the Parish received the maintenance bond and the inspection fee and that the streets passed the Parish's inspection prior to the June 2015 flood. He noted that the only remaining requirement before Venture could begin selling lots in Unit 2 was for the Police Jury to accept the streets and drainage into the System. Mr. Ford testified that the Police Jury did not vote to accept Unit 2's streets following the 2015 flood because the streets were damaged, sand was covering them and pipes were sticking out of the ground. He stated that the Parish did not engage in any testing to determine if the streets in Unit 2 were actually damaged.

Larry Bartlett Little testified that in 2023, he was interested in purchasing Unit 2 for a homesite and development. While determining whether to purchase the property, he met with Mr. Ford, who advised him that the site, including the roads, would have to be raised above the ABFE. He stated that he did not purchase Unit 2 because it did not "work" financially. On cross-examination, he clarified that if he were to purchase Unit 2 solely to build his own house, the roads could remain at their current height as private streets, but they would have to be raised if he wanted to sell lots. When the Parish asked if the streets could remain at the current elevation if he repaired them rather than replaced them, he said that was not his understanding from his meeting with Mr. Ford.

Travis Ryan Estess, a civil engineer and land surveyor, testified that he was the designer and project manager of Unit 2. He detailed its development and stated that Venture received every approval and addressed all the concerns of the Police Jury and Mr. Ford. He noted that Venture followed the recommendations of geotechnical engineers when constructing Unit 2's streets and detailed the materials used to build them. He stated that the streets were built in accordance with the plans approved by Mr. Ford and that they passed the Parish's inspection. He identified the certificate of substantial completion dated May 12, 2015, and testified that prior to the 2015 flood, nothing remained unfinished except the vote to accept the streets and drainage into the System. He testified that he went to Unit 2 two days before trial and observed a general lack of maintenance of the streets but described their integrity as "holding up fine." He noted that the flood occurred ten years prior to trial, that he was not aware of any repairs in that time and that he had not seen any of the roads caved in, buckling or broken.

On cross-examination, Mr. Estess testified that Venture never performed testing to determine if the streets were damaged by the 2015 flood. He did not recall if the roads had been cleared of sand when he attended the July 1, 2015 Police Jury meeting and asked it to accept the roads into the System. He was aware that FEMA agreed to pay 75 percent of the cost to repair the roads in Unit 2. He stated that Venture intended to repair the outfall pipes and sweep the streets but did not do so following the moratorium put in place by the Police Jury.

Plaintiffs rested their case, and the Parish presented its witnesses. Mr. Ford testified about the Parish's flood damage prevention ordinance, which is based on FEMA regulations. He stated that the purpose of the

ordinance is to protect human life and minimize property damage. He explained that the Army Corps of Engineers (the “Corps”) established the BFE for the River Bluff Subdivision in 2004. He stated that when he approved the plans for the Properties, he was under the belief that this BFE was accurate but learned during the 2015 flood that it was not. Mr. Ford testified that when the Parish accepts roads into the System, it does not become completely liable for them; rather, the contractor provides a two-year maintenance bond. He explained that prior to the end of the two years, the Parish inspects the streets for defects and requests that the contractor make any necessary changes or repairs. He noted the importance of the inspection because it is costly to repair streets that were not constructed properly or were damaged before acceptance. He testified that the Police Jury never accepted Unit 4’s streets and drainage into the System because C&W did not provide a certificate of substantial completion, a valid no-lien certificate or a maintenance bond. He stated that the Parish has not been maintaining Unit 4’s roads but mistakenly repaired a cul-de-sac following the 2015 flood. He testified that at the July 1, 2015 Police Jury meeting, he noted that three feet of water covered the River Bluff Subdivision during the flood and requested that the Police Jury table the acceptance of Unit 2’s streets and drainage to allow time for the water to recede and to determine if there were damages. He stated that at the April 6, 2016 meeting, he informed the Police Jury that FEMA agreed to pay 75 percent of the total cost of \$64,845 to repair Unit 2’s roads. He stated that Venture declined to pay the remaining 25 percent and explained that the Parish did not pay this portion because it does not spend public funds on anything private. Mr. Ford discussed the Legacy Subdivision where he

discovered damage to the streets after they were substantially completed but before they were accepted. He stated that in that subdivision the Parish required the developers to repair the damages before the Police Jury accepted the roads and drainage into the System. He testified that after the 2015 flood, he asked the Police Jury to place the moratorium on new building permits until more information was learned about the river. He noted that during the moratorium, those who already had building permits could continue building and those whose houses were damaged could repair them. He met with the Parish, the City of Bossier, Caddo Parish, the City of Shreveport, FEMA, the Corps and the National Weather Service to decide how to move forward. He stated that the Parish worked with the City of Bossier, the City of Shreveport and Caddo Parish to draft an ordinance, that FEMA approved the ordinance and that all the agencies adopted the ordinance with a new ABFE of the high-water mark plus 18 inches on the river side of the levee and 12 inches on the protected side of the levee. He stated that once the Police Jury adopted the ordinance, it lifted the building moratorium. Mr. Ford stated that he drove through Unit 2 the day before his testimony and observed that the roads were damaged, cracked and deformed.

Toby Fruge was qualified as an expert professional engineer specializing in hydrology and hydraulics, with a focus on storm water and floodplain management. He testified that he is the president of a consulting engineering firm; that the Police Jury had been a client for 18 years; and that most of its work was floodplain-related, including reviewing new subdivisions. He noted that he was not involved in the Parish's adoption of the moratorium, the ABFE or the new floodplain development ordinance and testified that he was first exposed to these matters when consulting on this

lawsuit. He stated that it was wise for the Police Jury to put in place the moratorium on new building permits to protect residents from building in an area that recently experienced three feet of water. He noted that the length of the moratorium was not out of the ordinary because it takes time for government agencies to coordinate their efforts and collect data. He opined that the Police Jury's decision to adopt the ABFE was not unlawful, arbitrary or capricious but rather was consistent with FEMA guidance and reflective of responsible and reasonable floodplain management. He disagreed with Plaintiffs' claim that the ABFE rendered Units 2 and 4 almost unbuildable and detailed building techniques that could be used in flood-prone areas. He noted that BFEs change frequently, which is the nature of living in a floodplain. He contended that the Parish acted prudently by observing high-water marks from the 2015 flood, which provided a more accurate and site-specific representation of flood risks than older, less precise theoretical models. He opined that using the outdated BFE would have been irresponsible, particularly on the unprotected side of a major river. He stated that the 2015 flood produced credible evidence of flood behavior directly adjacent to the River Bluff Subdivision and that ignoring such evidence and allowing construction with the original BFE would have been poor floodplain management and a significant increase to public safety risk. He contended that the Parish's adoption of the ABFE and the 18-inch freeboard reflects proactive and sound floodplain management to better safeguard life and property while promoting long-term resiliency by reducing flood risk to the River Bluff Subdivision. On cross-examination, Mr. Fruge stated that he had not formed an opinion as to whether the Parish should have accepted the

streets and drainage of Unit 2 into the System. He stated that water standing or running on a road can greatly deteriorate it.

The parties stipulated that if Bobby Edmiston, the Bossier Parish Tax Assessor, were called to testify he would state that he did not devalue any properties in Unit 2 or Unit 4 but did devalue properties in Unit 1 and Unit 3 as a result of the 2015 flood.

Richard Brontoli, a civil engineer and former executive director of the Red River Valley Association, testified that he chaired the Flood Technical Committee following the 2015 flood. This committee included the Parish, Caddo Parish, the City of Bossier, the City of Shreveport, the Port and the Red River Waterway Commission. He stated that its purpose was to determine “what happened” with the 2015 flood. He detailed the process of determining the ABFE.

The Parish rested, and Plaintiffs recalled Mr. Cantrell. He testified that Mr. Ford told him that Venture would have to replace all the roads in Unit 2, not just the portions FEMA approved for reimbursement if repairs were made. He also stated that he and Mr. Ford discussed the 25-75 percent split of costs with FEMA but did not discuss the actual cost of repairs.

On September 9, 2025, the Parish filed an exception of prescription. It argued that Plaintiffs’ claim that the Police Jury was arbitrary and capricious for refusing to accept the streets and drainage into the System prescribed on its face because they did not assert it in their original petition.

On December 5, 2025, the trial court presented its ruling in open court. It denied the Parish’s exception of prescription. It explained that Louisiana is a fact-pleading state and that Plaintiffs alleged the same facts in their original petition as they did in their amended petitions. The court then

addressed Plaintiffs' claims. Regarding C&W, the trial court found that the Police Jury accepted Unit 4's streets into the System. Regarding Venture, the trial court stated that the Parish did not accept Unit 2's streets and drainage into the System. It found that the Parish was not arbitrary and capricious, was correct in not accepting Unit 2's streets and drainage and was not required to accept Unit 2's streets and drainage into the System.

On December 29, 2025, the trial court filed a final judgment. It denied the Parish's peremptory exception of prescription. It rendered judgment in favor of the Parish and against C&W, dismissing with prejudice C&W's claims against the Parish. It rendered judgment in favor of the Parish and against Venture, dismissing with prejudice Venture's claims against the Parish. Accordingly, the trial court determined that the issue of damages need not be addressed in further proceedings.

Plaintiffs appeal, and the Parish filed an answer to the appeal.

DISCUSSION

Standard of Review

In their first assignment of error, Plaintiffs argue that the trial court erred in failing to decide the primary issue presented at trial, i.e., whether the Parish had a duty to accept Unit 2's streets and drainage into the System. They contend that as the trial court made no factual findings on this issue, this court on appeal should apply a de novo standard of review.

The Parish argues that the trial court expressly decided the central issue and that its factual findings were fully supported by the record. It contends that Plaintiffs' request for de novo review is unwarranted.

It is well settled that a court of appeal may not set aside a trial court's finding of fact in the absence of manifest error or unless it is clearly wrong. *Rosell v. ESCO*, 549 So. 2d 840 (La. 1989).

In all appealable contested cases, other than those tried by a jury, the court when requested to do so by a party shall give in writing its findings of fact and reasons for judgment, provided the request is made not later than ten days after the mailing of the notice of the signing of the judgment. La. C.C.P. art. 1917(A).

Plaintiffs' argument that the trial court failed to make a factual finding regarding the Parish's duty is incorrect. The trial court directly addressed Plaintiffs' claim when it found that the Parish was not required to accept Unit 2's streets into the System. Although the trial court did not detail its finding of fact with reasons for judgment, it presided over the two-day trial, heard the testimony of the witnesses, reviewed documentary evidence and considered the parties' post-trial memoranda. Pursuant to La. C.C.P. art. 1917(A), Plaintiffs had the opportunity to request written findings of fact and reasons for judgment but did not do so.

Accordingly, manifest error is the appropriate standard of review in this case, and this assignment of error lacks merit.

Duty to Accept the Streets

In their second assignment of error, Plaintiffs argue that the trial court erred in failing to find that the Parish had a mandatory duty to accept Unit 2's streets and drainage into the System. They contend that as the streets and drainage were built to the Parish's specifications and were inspected and approved prior to the 2015 flood, the Parish was required to accept them into the System. They argue that the Parish's refusal violates

Ordinance 110-121(d). They contend that the word “will” in the ordinance makes the Parish’s acceptance of the streets and drainage into the System mandatory, not discretionary. They further argue that the record contains no proof that the Unit 2 streets were damaged.

The Parish argues that the trial court correctly found that its acceptance of Unit 2’s streets and drainage was discretionary, not mandatory. It contends that Venture did not prove compliance with several of the prerequisites for approval, including resolving the flood-related damage. It argues that the record contains extensive evidence that Unit 2’s streets and drainage were damaged in the flood, including FEMA reports, testimony from Mr. Ford and admissions from Mr. Estess. It contends that Venture’s refusal to acknowledge that its property sustained flood damage coupled with its refusal to pay for repairs necessary to remedy that damage left the Parish with no choice but to decline acceptance of the damaged and unrepaired streets and drainage into the System. It states that its decision not to accept Unit 2’s streets and drainage because of the damage sustained in the flood is a discretionary decision grounded in economic policy and protection of the taxpayers.

A local governmental subdivision may adopt regulations for land use and zoning. La. Const. art. VI, § 17. Bossier Parish Ordinance 110-121(d), which was in effect at the time of the 2015 flood, states in part:

Upon final completion of any project, the owner or developer will present to the police jury a written application to accept the completed sections of roads and/or streets to be incorporated in the parish road system, and, after inspection of such roads and/or streets, the police jury will, upon satisfactory completion and resolution, accept the roads and/or streets into the parish road system for permanent maintenance.

The trial court was not manifestly erroneous in determining that the Parish was not required to accept Unit 2's streets and drainage into the System.¹ Plaintiffs incorrectly focus on the mandatory nature of Ordinance 110-121(d) and its use of the word "will." The relevant portion of Ordinance 110-121(d) is the requirement of "satisfactory completion and resolution." Plaintiffs' argument also refuses to acknowledge the significance of the 2015 flood and its effect on properties in the floodplain. Although the Parish inspected Unit 2's streets and drainage and confirmed that they satisfied its requirements, this inspection occurred before the June 2015 flood. The record shows that in the weeks following the flood, Unit 2's streets were covered by floodwater and sand. After their July 1, 2015 meeting, the Police Jury tabled the acceptance of Unit 2's streets and drainage to determine if they were damaged following the flood. As Plaintiffs never proved the streets were undamaged by the flood or contributed to the FEMA-identified repairs as requested by the Parish, they did not meet the ordinance's requirement of "satisfactory completion and resolution." Therefore, the Parish was not mandated by Ordinance 110-121(d) to accept Unit 2's streets and drainage into the System.

Accordingly, this assignment of error lacks merit.

Arbitrary and Capricious

In their third assignment of error, Plaintiffs argue that the trial court erred in failing to find that the Parish's actions were arbitrary and capricious. They state that the only reason the Police Jury refused to accept the streets

¹ Both parties reference discretionary immunity in their briefs. La. R.S. 9:2798.1. As the trial court did not err in determining that the Parish was not required to accept Unit 2's streets and drainage into the System, we need not address immunity on appeal.

and drainage was its allegation that the 2015 flood damaged the streets. They contend that the Parish's refusal to act in accordance with its own ordinance, supported only by an unproven concern of damaged streets, is the definition of willful and unreasoning action in disregard of the facts. They also note that the Parish's treatment of other properties on the river side of the levee demonstrates the arbitrary and capricious nature of the Parish's treatment of Unit 2.

The Parish argues that the trial court properly rejected Plaintiffs' claim that it acted arbitrarily and capriciously. It states that it acted within its police powers based upon flood damage to Unit 2's streets and drainage. It contends that its refusal to accept damaged, unrepaired streets was rationally related to protecting the public fisc. It states that it presented evidence-based reasons for its decision, including FEMA's findings, engineering testimony and its obligation to avoid assuming permanent responsibility for defective infrastructure. It contends that it exercised and applied its valid zoning authority evenhandedly and held Plaintiffs to the same standards as any other owner or developer.

The terms "arbitrary and capricious" mean willful and unreasoning action, absent consideration and in disregard of the facts and circumstances of the case. *Toups v. City of Shreveport*, 10-1559 (La. 3/15/11), 60 So. 3d 1215. However, when there is room for two opinions, an action is not arbitrary or capricious when exercised honestly and upon due consideration, even though it may be believed an erroneous conclusion has been reached. *Id.* Generally, the action of a governmental body is arbitrary and capricious and unreasonable if it bears no relation to the health, safety or general welfare of the public. *Id.*

The trial court did not err in determining that the Parish's actions were not arbitrary and capricious. It was reasonable for the Police Jury to table approval of Unit 2's streets and drainage because it could not confirm that the streets were undamaged, as accepting them into the System obligates public funds for maintenance and repairs. Mr. Ford's testimony regarding the acceptance of Redwood Place's streets and drainage into the System demonstrates that the Parish similarly applied Ordinance 110-121(d) to Unit 2's streets and drainage.

The record, notably through Mr. Fruge's testimony, demonstrates that the Parish was prudent in its temporary placement of a moratorium on new building permits for three subdivisions on the river side of the levee following the 2015 flood. This decision was directly related to the health, safety and general welfare of the public as these areas were covered in three feet of floodwater and the Parish sought information about how to prevent future damage from flooding. Nothing in the record suggests that the Properties were treated differently than the other two subdivisions affected by this moratorium. Plaintiffs' attempt to equate new building projects in Units 2 and 4 with rebuilding and repairs in Units 1 and 3 is misplaced.

Accordingly, this assignment of error lacks merit.

Takings

In their fourth assignment of error, Plaintiffs argue that the trial court erred in failing to rule on their alternative claim and to find that the Parish's refusal to accept Unit 2's streets and drainage into the System constituted an illegal taking under La. Const. art. I, § 4.

The Parish argues that Plaintiffs have waived this claim because they provide no argument, no record citations and no authority regarding this assignment of error.

As the trial court addressed Plaintiffs' primary claim and determined that the Parish was not required to accept Unit 2's streets and drainage into the System, it did not err in not ruling on Plaintiffs' alternative claim.

Accordingly, this assignment of error lacks merit.

Exception of Prescription

The Parish filed an answer to the appeal and argues that the trial court erred in denying its exception of prescription. It contends that Plaintiffs' original petition contains no factual connexity to the claims asserted seven years later in their amended petition concerning the Parish's refusal to accept Unit 2's streets and drainage. It argues that as the amended claim elaborates on facts not previously alleged, it cannot relate back pursuant to La. C.C.P. art. 1153; it is prescribed and should have been dismissed.

Plaintiffs argue that the trial court correctly denied the exception of prescription. They note that Louisiana is a fact-pleading state and that the petitions alleged the same facts. They contend that the amendment relates back because only the legal theory changed.

When the action or defense asserted in the amended petition arises out of the conduct, transaction or occurrence set forth or attempted to be set forth in the original pleading, the amendment relates back to the date of filing the original pleading. La. C.C.P. art. 1153. The purpose of La. C.C.P. art. 1153 is to allow amendment of pleadings despite technical prescriptive bars when the original pleading gives the parties fair notice of the general fact situation out of which the amended claim or defense arises. *Bryant v.*

Tokio Marine HCC, 54,771 (La. App. 2 Cir. 11/16/22), 351 So. 3d 837. The doctrine of relation back of amended pleadings should be liberally applied, particularly in the absence of prejudice. *Gamble v. Gamble*, 54,595 (La. App. 2 Cir. 1/18/23), 354 So. 3d 864.

The trial court did not err in denying the Parish's exception of prescription. The allegations in both petitions arise from the same conduct, transaction or occurrence, i.e., how the Parish's actions following the 2015 flood affected Plaintiffs' development of Units 2 and 4. Plaintiffs' original petition addresses the Parish's flood damage prevention ordinances, required permits and approvals, the BFE and ABFE and the building moratorium. A liberal application of this doctrine confirms that Plaintiffs' amended petitions related back to their original petition.

Accordingly, this assignment of error lacks merit.

CONCLUSION

For the foregoing reasons, we affirm the trial court's judgment dismissing the claims of Plaintiffs-Appellants C&W Developers, L.L.C. and Venture Wireless, LLC. We also affirm the trial court's denial of Defendant-Appellee Bossier Parish, Louisiana's exception of prescription. Costs of this appeal are assessed to Plaintiffs-Appellants C&W Developers, L.L.C. and Venture Wireless, LLC.

AFFIRMED.

HUNTER, J., dissenting.

While I do not agree the Parish was mandated to approve the streets, and I am mindful of the manifest error/clearly wrong standard of review, I would reverse the trial court's judgment for the following reasons.

The evidence established that the Police Jury approved the streets, subject to two conditions – (1) the completion of the emergency access, and (2) the inclusion of 15-foot setbacks. Both conditions were satisfied, and the Parish engineer signed off on the plat in February 2015, which, as Mr. Ford testified, signified the Police Jury's approval. Further, the streets passed the Parish's inspection prior to the flood. It appears that the plaintiff completed each task and the only issue remaining was the Police Jury's official vote. Unfortunately, for reasons which cannot be attributable to the plaintiff, the vote did not take place prior to the flood.

Accordingly, I dissent.