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January 15, 2004 LB 155

SENATOR BEUTLER: So if it's not recorded, aren't they void anyway, as to creditors and subsequent purchasers in good faith?

SENATOR QUANDAHL: You would think so. If I could respond to that, too. LB 155 just didn't materialize out of thin air, because you would think that they would be void, but it was as a result of a case that happened, a 2002 Dodge County District Court case. And I can give you the...a little bit of the history behind that. But it was a case called Platte Valley Bank v. Guyle, which relied on a prior Supreme Court decision, which was Grand Island Hotel Corp. v. Second Island Development Company. And I can go into a little bit of explanation as to what that case was. But just to make a long story short, those cases were the genesis for LB 155.

SENATOR BEUTLER: Okay. Senator, I'm still missing the point. I'm sorry. Because it seems to me that that paragraph does absolutely nothing that the current law doesn't do. Or do you agree with that?

SENATOR QUANDAHL: No. No, I guess I understand what you're saying, that the current law, you would think, would take care of a case. But in the Platte Valley case, in the Dodge County case, it was actually, what happened was, is there was some lakefront property that went into foreclosure. After the deed of reconveyance was actually issued by the trustee, a new purchaser came on board, and then the sister of the previous owner popped up with an unrecorded 20-year lease for this lakefront property.

SENATOR BEUTLER: But if it's not recorded, it shouldn't be given effect. Was it a given effect in the case?

SENATOR QUANDAHL: It was given effect in that case. And so...

SENATOR BEUTLER: On what grounds or basis?

SENATOR QUANDAHL: You know, I'm not sure exactly what the grounds or the basis was, but all I can tell you was that in Dodge County District Court in that case, that prior unrecorded