

Court of Appeals, State of Michigan

ORDER

City of Holland v Department of Natural Resources & Environment

Douglas B. Shapiro
Presiding Judge

Docket No. 302031

Joel P. Hoekstra

LC No. 10-002031-AA

Jane E. Markey
Judges

The Court orders that the motion to file a reply brief in further support of the motion to dismiss is GRANTED. The motion for leave to file a late response to the reply brief is also GRANTED.

The motion to dismiss pursuant to MCR 7.211(C)(2) is DENIED. The order entered December 16, 2010 is a final order under MCR 7.202(6)(a)(i) because it resolved and adjudicated the claims in this case by ordering further proceedings for defendant-appellee Department of Natural Resources and Environment (DNRE) to evaluate and decide whether to grant a permit in accordance with the circuit court's legal conclusions and, thus, that order left nothing further for the circuit court to decide as to the claims and the circuit court did not retain jurisdiction. *Rooyakker & Sitz, PLLC v Plante & Moran, PLLC*, 276 Mich App 146, 148 n 1; 742 NW2d 409 (2007). This is true regardless of new issues or circumstances that might have arisen during subsequent developments in the DNRE during the remand proceedings. Further, the December 16, 2010 order is not excluded from the scope of final circuit court orders that are appealable of right to this Court by MCR 7.203(A)(1)(a) because the DNRE is plainly not a court and did not act as a tribunal during the permit consideration process at issue in this case since the DNRE did not act in an adjudicatory or quasi-judicial role in its initial decision to deny the requested permit. See *Fort v Detroit*, 146 Mich App 499, 503; 381 NW2d 754 (1985) (“[t]ribunals include administrative agencies acting in a judicial or quasi-judicial capacity”).

The motion to hold this appeal in abeyance is DENIED.



A true copy entered and certified by Larry S. Royster, Chief Clerk, on

MAY 27 2011

Date

A handwritten signature in black ink, appearing to read "Larry S. Royster".
Chief Clerk