

Court of Appeals, State of Michigan

ORDER

Deanna Hughes v Department of Environmental Quality

Docket No. 312902

LC No. 12-000497-CE

Stephen L. Borrello
Presiding Judge

Michael J. Kelly

Amy Ronayne Krause
Judges

The Court orders that the motion to dismiss this appeal is DENIED. MCR 7.203(B)(3), which allows this Court to grant leave to appeal certain orders of an administrative agency or tribunal, is immaterial to whether this Court has jurisdiction over the present claim of appeal from a circuit court order. We also note that MCR 7.203(A)(1)(a) does not apply to bar an appeal of right in the present circumstances because appellee did not act as a tribunal in issuing the relevant declaratory ruling which was not issued in an adversary proceeding or with procedures remotely similar to those used by a court. See *Natural Resources Defense Council v Dep't of Environmental Quality*, ___ Mich App ___; ___ NW2d ___ (Docket No. 310036, issued March 21, 2013), pp 4-5.

We further note that the application for leave to appeal pending in this Court in Docket No. 312844 is not before this panel in the context of the present motion to dismiss filed in Docket No. 312902. However, we observe that, if the parties agree that application is moot in light of our denial of this motion to dismiss, they may file a stipulation to dismiss the application in Docket No. 312844 pursuant to MCR 7.218(B). Alternatively, appellants may file a motion to withdraw the application in Docket No. 312844. See MCR 7.218(A).



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

MAY 24 2013

Date


Chief Clerk