

Court of Appeals, State of Michigan

ORDER

State Fairgrounds Development Coalition v City of Detroit

Michael J. Riordan
Presiding Judge

Docket No. 355307

Cynthia Diane Stephens

LC No. 20-013755-AW

Anica Letica
Judges

The motion for immediate consideration is GRANTED. Because closing is scheduled to occur on November 4, 2020, at 10:00 a.m., defendants have demonstrated a need for immediate appellate review.

The motion to file a supplemental brief is GRANTED and the supplemental brief filed with the motion is accepted.

Pursuant to MCR 7.205(E)(2), in lieu of granting the application for leave to appeal, the Court orders that the October 28, 2020, temporary restraining order (TRO) is REVERSED. The trial court erred by granting the TRO without notice to defendants and failing to “describe the injury and state why it is irreparable and why the order was granted without notice.” MCR 3.310(B)(2)(b). The court also erred by failing to state the reason why no security was required. See MCR 3.310(D)(2). Further, the court erred by determining that plaintiffs had demonstrated a likelihood of success on the merits in this action for declaratory and mandamus relief. Plaintiffs failed to demonstrate entitlement to the “extraordinary remedy” of a writ of mandamus by showing that: (1) they had “a clear, legal right to performance of the specific duty sought,” (2) defendants had “a clear legal duty to perform,” (3) the act sought to be performed was ministerial, and (4) “no other adequate legal or equitable remedy exists that might achieve the same result.” *Rental Properties Owners Ass’n of Kent Co v Kent Co Treasurer*, 308 Mich App 498, 518; 866 NW2d 817 (2014). Plaintiffs also failed to demonstrate that defendants violated the Community Benefits Ordinance or the Community Outreach Ordinance. Accordingly, the TRO is REVERSED, the trial court shall not hold a show cause hearing, and no preliminary injunction shall be ordered.

This order shall have immediate effect. MCR 7.215(F)(2).

We do not retain jurisdiction.



Presiding Judge

Stephens, J., concurs in the result but asserts that, in this instance, with the assigned judge being unavailable, the case should be reassigned to the alternate judge who may hold a preliminary injunction hearing and decide the merits of the prayer for injunctive relief.



A true copy entered and certified by Jerome W. Zimmer Jr., Chief Clerk, on

November 3, 2020

Date



Chief Clerk