

Order

Michigan Supreme Court
Lansing, Michigan

June 8, 2007

Clifford W. Taylor,
Chief Justice

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Michael F. Cavanagh
Elizabeth A. Weaver
Marilyn Kelly
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman,
Justices

HOUDINI PROPERTIES, LLC,
Plaintiff-Appellant,

v

SC: 132018
COA: 266338
Wayne CC: 05-504139-CZ

CITY OF ROMULUS,
Defendant-Appellee.

On order of the Court, the application for leave to appeal the June 13, 2006 judgment of the Court of Appeals is considered. We direct the Clerk to schedule oral argument on whether to grant the application or take other preemptory action. MCR 7.302(G)(1). The parties shall include among the issues to be addressed at oral argument: (1) whether the claim of appeal to the Wayne Circuit Court from the City of Romulus Zoning Board of Appeals' (ZBA) variance denial was a "pleading" to which the compulsory joinder rule of MCR 2.203(A) applies, so as to require the plaintiff to assert and include its taking claim in the same document as its claim of appeal; (2) whether, when the plaintiff filed its claim of appeal to the Wayne Circuit Court from the ZBA's variance denial, the plaintiff's claim was ripe for review under the rule in *Paragon Properties Co v Novi*, 452 Mich 568, 583 (1996), which requires a property owner to obtain "a final decision from which an actual or concrete injury can be determined" before asserting a constitutional taking claim; and (3) whether, once the Wayne Circuit Court affirmed the plaintiff's appeal, pursuant to MCL 125.585(11) (now MCL 125.3606(1)), of the ZBA's variance denial, that determination was res judicata with respect to the plaintiff's constitutional taking claim. The parties may file supplemental briefs within 49 days of the date of this order, but they should not submit mere restatements of their application papers.

The Appellate Practice, Litigation, and Real Property Law Sections of the State Bar of Michigan are invited to file a brief or briefs amicus curiae. Other persons or groups interested in the determination of the issues presented in this case may move the Court for permission to file briefs amicus curiae.



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I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

June 8, 2007

Corbin R. Davis

Clerk