

# Court of Appeals, State of Michigan

## ORDER

Charter Township of Lansing v Groesbeck Park Drain Bd of Review

Michael J. Kelly  
Presiding Judge

Docket No. 316870

Patrick M. Meter

LC No. 13-000388-CE

Stephen L. Borrello  
Judges

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The Court orders that the motion for immediate consideration is GRANTED.

The motion to dismiss this appeal for lack of jurisdiction is DENIED. Contrary to the basic premise of that motion whether this Court has appellate jurisdiction over this appeal is not controlled by whether the circuit court had subject matter jurisdiction over this case. Rather, this Court has jurisdiction over this appeal because the June 4, 2013 circuit court order dismissing the amended complaint in this case is a final order under MCR 7.202(6)(a)(i) since it disposes of all claims and adjudicates the rights and liabilities of the parties as to this case. Further, the claim of appeal was timely filed. MCR 7.204(A)(1)(a). Indeed, a circuit court order dismissing a case for lack of subject matter jurisdiction must be subject to appellate review in this Court because such an order could be erroneous. Accordingly, the issue of whether the circuit court had subject matter jurisdiction in this case goes to the merits of this appeal, not to whether this Court has jurisdiction to decide the appeal. Moreover, MCL 280.161 does not define the appellate jurisdiction of this Court. Rather, MCL 600.308(1)(a) and MCL 600.309 provide this Court with jurisdiction over this appeal of right from a final judgment or order of the circuit court. *Cooper Twp v Little*, 220 Mich 62; 189 NW 914 (1922), and *In re Estate of Fraser*, 288 Mich 392; 285 NW 1 (1939), cases cited by appellee, do not support a conclusion that this Court lacks appellate jurisdiction in this case. First, these cases decided before this Court was established do not consider the court rule and statutory provisions providing this Court with jurisdiction. Also, the holding in *Cooper Twp* related to failure to pay a required statutory fee for the Michigan Supreme Court to have jurisdiction over the case is inapposite, while a careful reading of *Fraser* shows that our Supreme Court held that it and the lower courts in that case lacked subject matter jurisdiction to decide the merits of that case, not that it lacked appellate jurisdiction. Indeed, our Supreme Court in *Fraser* exercised appellate jurisdiction in that case by effectively vacating lower court orders.



A true copy entered and certified by Angela P. DiSessa, Acting Chief Clerk, on

JUL 11 2013

Date

*Angela P. DiSessa*  
Acting Chief Clerk