

STATE OF MICHIGAN
COURT OF APPEALS

EUGENE GREENSTEIN,
Plaintiff,

UNPUBLISHED
September 20, 2012

and

MELVYN C. STERNFELD,
Plaintiff-Appellant,

v

No. 306268
Oakland Circuit Court
LC No. 2011-120733-CZ

FARMINGTON PUBLIC SCHOOLS and
FARMINGTON PUBLIC SCHOOLS BOARD OF
EDUCATION,

Defendants-Appellees.

Before: MURPHY, C.J., and MARKEY and WHITBECK, JJ.

PER CURIAM.

Plaintiff, Melvyn C. Sternfeld, appeals as of right the trial court's order granting summary disposition under MCR 2.116(C)(5) in favor of defendants, Farmington Public Schools (FPS) and the Farmington Public Schools Board of Education (the Board). The trial court dismissed Sternfeld's claims for declaratory relief and a preliminary injunction on the basis that he lacked standing. We affirm.

This case arises out of the Board's sale of Eagle Elementary School (Eagle) to the Islamic Cultural Association (ICA). Sternfeld alleged that the sale was legally invalid for a variety of reasons. The Board had initially decided to demolish Eagle, but later changed course and sold it to ICA. Sternfeld maintains that the trial court erred in granting defendants' motion for summary disposition, arguing that he has standing to challenge the sale, where he holds an "adverse interest" for purposes of MCR 2.605 given his status as a real estate professional, who, on behalf of potential buyers, made phone calls to defendants in rejected attempts to discuss a possible sale of Eagle. Sternfeld also contends that he has standing to challenge the sale of Eagle to the ICA, considering that he lives in the neighborhood wherein Eagle is located and that the disposition of Eagle is unique and particular to its immediate neighborhood, as the original demolition plans contemplated the use of surviving playgrounds and ball fields by the local community.

Whether a party has legal standing to assert a claim is a question of law that this Court reviews de novo. *Prentis Family Foundation, Inc v Barbara Ann Karmanos Cancer Inst*, 266 Mich App 39, 56; 698 NW2d 900 (2005). This Court also reviews de novo a trial court's grant of summary disposition. *Latham v Barton Marlow Co*, 480 Mich 105, 111; 746 NW2d 868 (2008). With respect to a motion for summary disposition grounded on standing and brought under MCR 2.116(C)(5), this Court reviews and considers all of the pleadings, depositions, admissions, affidavits, and other documentary evidence to determine whether the party lacked the legal capacity to bring the action. *Aichele v Hodge*, 259 Mich App 146, 152; 673 NW2d 452 (2003).

When a litigant seeks declaratory relief under MCR 2.605, standing is established simply by meeting the requirements therein. *Lansing Sch Educ Ass'n v Lansing Bd of Educ*, 487 Mich 349, 372; 792 NW2d 686 (2010). MCR 2.605(A) provides, "(1) In a case of actual controversy within its jurisdiction, a Michigan court of record may declare the rights and other legal relations of an interested party seeking a declaratory judgment, whether or not other relief is or could be sought or granted." To establish standing under MCR 2.605, the litigant must therefore assert "a case of actual controversy." *Lansing Sch Educ Ass'n*, 487 Mich at 372 n 20.

The "essential requirement of the term 'actual controversy' under the rule is that plaintiffs plead and prove facts which indicate an adverse interest necessitating the sharpening of the issues raised." *Id.* (internal quotations and citations omitted). A plaintiff otherwise "has standing whenever there is a legal cause of action." *Id.* at 372. "Where a cause of action is not provided at law, . . . [a] litigant may have standing . . . if the litigant has a special injury or right, or substantial interest, that will be detrimentally affected in a manner different from the citizenry at large or if the statutory scheme implies that the Legislature intended to confer standing on the litigant." *Id.*

With respect to Sternfeld's standing argument predicated on his position as a "real estate professional," he averred in his affidavit that he "represents potential purchasers of real property in the metropolitan Detroit area, including Oakland County." He further stated that "[i]n 2010, and in 2011, [he] became interested in exploring the potential purchase of . . . Eagle[.]" Sternfeld additionally averred that he made phone calls to defendants "in an attempt to initiate discussions on the potential sale of Eagle[.]" In response to Sternfeld's inquiries, he was, according to his affidavit, informed by defendants that the school was to be demolished and "was not for sale or lease." Assuming that the law required the Board to entertain other offers for the sale of Eagle, that the process used by the Board was legally flawed, and that Sternfeld could be involved in brokering a sale and receive compensation, Sternfeld's vague and speculative affidavit does not establish his standing to pursue declaratory and injunctive relief. There is no indication whatsoever in the affidavit that a person or entity represented by Sternfeld actually wished or sought to purchase or make an offer to purchase Eagle. Sternfeld did not aver that he himself was interested in purchasing the school, and any interest in a fee or commission from a sale absent a real-life client with an ability, let alone a desire, to make an offer renders the interest purely theoretical. In such circumstances, there is no "adverse interest" that necessitates the sharpening of the issues raised. There is no injury, other than a hypothetical one, nor is there any interest that is detrimentally affected in a manner different from the citizenry at large.

With respect to Sternfeld's standing argument based on the location of his home, he averred, "I live in very close proximity to Eagle . . . and I view Eagle . . . as part of my immediate neighborhood." That is the full extent of the averments on the issue. Sternfeld did not assert that he actually used or hoped to use Eagle's ball fields or playgrounds, nor did he aver that the sale to ICA would have an impact, negative or otherwise, on his home, life, or activities because of the close proximity of his home to Eagle. In such circumstances, there is no "adverse interest" that necessitates the sharpening of the issues raised; any interest is purely theoretical. There is no injury, other than a hypothetical one, nor is there any interest that is detrimentally affected in a manner different from the citizenry at large. Indeed, given Sternfeld's first argument on standing and the hope to find a client who would make an offer to purchase the school, he evidently has no problem, generally speaking, with Eagle being sold despite his home's location near the school.

On the basis of the existing record, Sternfeld lacks standing to pursue the counts in the complaint seeking declaratory and injunctive relief.

Affirmed.

/s/ William B. Murphy
/s/ Jane E. Markey
/s/ William C. Whitbeck