

Order

Michigan Supreme Court
Lansing, Michigan

May 18, 2011

140679

LAURENCE G. WOLF, d/b/a
LAURENCE WOLF PROPERTIES,
Plaintiff-Appellant,

v

CITY OF DETROIT,
Defendant-Appellee.

SC: 140679
COA: 279853

Robert P. Young, Jr.,
Chief Justice

Michael F. Cavanagh
Marilyn Kelly
Stephen J. Markman
Diane M. Hathaway
Mary Beth Kelly
Brian K. Zahra,
Justices

On order of the Court, leave to appeal having been granted and the briefs and oral arguments of the parties having been considered by the Court, we VACATE the January 21, 2010 opinion and order of the Court of Appeals. At this time, a material question of fact exists concerning the direct and indirect costs of the services for which the solid waste inspection fee is charged. Such a finding is necessary to determine whether the City of Detroit's solid waste inspection fee is proportionate to the necessary costs of the inspection service, and may also impact whether the fee serves a revenue-raising or a regulatory purpose. See *Bolt v City of Lansing*, 459 Mich 152, 161-162 (1998). Accordingly, summary disposition in favor of the defendant was improper. We therefore REMAND this case to the Court of Appeals. Because substantial fact-finding may be necessary, the Court of Appeals should consider a further remand to the circuit court for this purpose. See MCL 600.308a(5).

MARILYN KELLY, J. (*concurring in part, dissenting in part*).

I concur in the Court's order vacating the January 21, 2010 opinion and order of the Court of Appeals. However, I dissent from the Court's decision to remand this case to the Court of Appeals. I would instead remand the case to the Wayne Circuit Court for further findings of fact because trial courts are better equipped to make such findings. I would also retain jurisdiction over the case so that the Supreme Court can rule on its merits once the trial court makes its findings of fact.



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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.

May 18, 2011

Corbin R. Davis

Clerk