STATE OF MICHIGAN

COURT OF APPEALS

WILLIAM G. WIZINSKY, d/b/a ALLIANCE GROUP,

Plaintiff-Appellant,

v

STATE OF MICHIGAN, HOUSING DEVELOPMENT AUTHORITY, DEPARTMENT OF ATTORNEY GENERAL, FRANK CIBOR, J. R. FLANIGAN, RICHARD PENNINGS, JAMES L. LOGUE, III, TERRANCE P. GRADY, JOINT COMMITTEE ON ADMINISTRATIVE RULES, LEGISLATIVE BUREAU, and OFFICE OF GOVERNOR,

Defendants-Appellees.

UNPUBLISHED
October 27, 1998

No. 190483
Ingham Circuit Court
LC No. 93-074758 CZ

WILLIAM G. WIZINSKY, d/b/a ALLIANCE GROUP,

Plaintiff-Appellant,

v

STATE OF MICHIGAN, HOUSING DEVELOPMENT AUTHORITY, DEPARTMENT OF ATTORNEY GENERAL, FRANK CIBOR, J. R. FLANIGAN, RICHARD PENNINGS, JAMES L. LOGUE, III, TERRANCE P. GRADY, JOINT COMMITTEE ON ADMINISTRATIVE RULES, LEGISLATIVE BUREAU, and OFFICE OF GOVERNOR,

Defendants-Appellees.

No. 190484
Court of Claims
LC No. 93-014866 CM

Before: Murphy, P.J., and Gribbs and Gage, JJ.

PER CURIAM.

Plaintiff appeals from judgments entered in favor of defendants in both the circuit court and the Court of Claims. We affirm.

Plaintiff argues on appeal that the trial court erred in granting defendants summary disposition and in ruling that the Michigan State Housing Development Authority (MSHDA) had no obligation to promulgate rules on its underwriting process and standards. There is no merit to this issue. The MSHDA has been expressly authorized by statute to make loans and to set standards for housing projects that receive loans in order to carry out its mission, but the granting of loans is not mandatory, it is a permissive activity within the discretion of the authority. MCL 125.1422; MSA 16.114(22). The Administrative Procedures Act does not require the promulgation of rules for the decision of an agency to exercise or not exercise a permissive statutory power. MCL 24.207(j); MSA 3.560(107)(j); *American Federation of State, County and Municipal Employees v Dep't of Mental Health*, 452 Mich 1, 12-13; 550 NW2d 190 (1996)*; Spear v Michigan Rehabilitation Services*, 202 Mich App 1, 4; 507 NW2d 761 (1993). In the instant case, however, the MSHDA has promulgated a rule mandating that it process loan applications according to "processing and underwriting procedures and guidelines developed by the authority staff under direction of the executive director." 1979 AC, R 125.132(1). The trial court did not err in granting summary disposition on this basis.

Plaintiff also argues that the MSHDA was exercising unbridled authority in passing on loan applications. We disagree. The MSHDA's intake manual provides sufficient guidelines to satisfy the requirements of Rule 125.132(1). The intake manual prescribes, among other requirements, various site selection criteria (including requirements that loan applications reflect projects of a residential character having no negative environmental influences, and that the projects satisfy certain frontage, surrounding use, utility, and community and commercial facility access requirements), environmental screening criteria (including a land use history, and review of sewer system capacity and radon levels), and market study guidelines. The intake manual also contains descriptions of the steps involved in the MSHDA's loan application process. Therefore, while the Legislature did not require that the MSHDA promulgate rules governing loan application processing, the MSHDA's own rule requiring adherence to processing guidelines and procedures is satisfied by the intake manual. The existence of the intake manual guidelines prevents the MSHDA from exercising the unbridled discretion feared by plaintiff.

Plaintiff argues that the MSHDA improperly reviewed his application for a housing permit. Plaintiff suggests that special criteria are required when evaluating applications for urban development. As defendants note in their brief, plaintiff did not request a hearing of the recommendation to deny his application as provided under the APA and the MSHDA's general rules. On appeal before this Court, plaintiff cites no authority in support of his position. A party may not announce a position and then leave it to this Court to discover and rationalize the basis for the claim and then search for authority to sustain or reject the position. *Goolsby v Detroit*, 419 Mich 651, 655 n1; 358 NW2d 856 (1984). Appellate review of this issue is precluded.

Next, plaintiff contends that the meetings held by the MSHDA underwriting committee were in violation of the Open Meetings Act (OMA), MCL 15.261 *et seq.;* MSA 4.1800(11) *et seq.* There is no merit to this issue. A public meeting is required for "all decisions of a public body." *Booth v U of M Board of Regents,* 444 Mich 211, 224; 507 NW2d 422 (1993). The uncontested evidence here reveals that the underwriting committee only makes recommendations on loan applications and that the final decision is made elsewhere. Summary disposition was properly granted on this issue because the underwriting committee does not make decisions within the meaning of the OMA.

Finally, plaintiff challenges the trial court's dismissal of defendants Logue, Pennings and Cibor. There is no merit to plaintiff's claim that the trial court erred in concluding that there was no evidence that defendants Logue and Pennings were acting outside the scope of their official capacity. Plaintiff's complaints largely concern alleged omissions to perform public duties rather than acts outside any official capacity. As to defendant Cibor, although plaintiff contests the trial court's decision, he has not discussed on appeal the elements of his claims against defendant Cibor or applied the evidence to those elements. We find this issue insufficiently briefed to warrant our consideration. Accordingly, we find no error in the trial court's order.

Affirmed.

William B. Murphy
Roman S. Gribbs
Hilda R. Gage