

STATE OF MICHIGAN
COURT OF APPEALS

JOSEPH DeJULIANNIE and MICHAEL JAKUBOWSKI,

Plaintiff-Appellants,

v

TOWNSHIP BOARD OF FORSYTH TOWNSHIP and
PENINSULA SANITATION, INC.,

Defendant-Appellees.

UNPUBLISHED

December 1, 2000

No. 218829

Marquette Circuit Court

LC No. 98-035113-CZ

Before: Gribbs, P.J., and Kelly and Hoekstra, JJ.

PER CURIAM.

Plaintiffs appeal as of right from orders granting summary disposition in favor of defendants pursuant to MCR 2.116(C)(8). We affirm.

This case arises out of defendant Forsyth Township contract with Peninsula Sanitation, Inc., for refuse collection services and Peninsula subsequently charging citizens of Forsyth \$11.25 a month for those services. Plaintiff argues that the trial court erred in granting summary disposition in favor of defendants pursuant to MCR 2.116(C)(8). We review a trial court's decision to grant or deny summary disposition de novo. *Shields v Shell Oil Co*, 237 Mich App 682, 687; 604 NW2d 719 (1999). This case also requires statutory interpretation, which is subject to de novo review. *Id.* at 688.

Plaintiffs argue that the trial court erred in determining that they failed to establish a private cause of action against Peninsula under the Natural Resources and Environmental Protection Act, MCL 324.11902(b); MSA 13A.11902(b). We disagree.

The primary goal of statutory interpretation is to ascertain and give effect to the intent of the Legislature when it enacted the provision. *Lane v Kindercare*, 231 Mich App 689, 695; 588 NW2d 715 (1998). If the statutory language is clear and unambiguous in which reasonable minds could not differ, judicial construction is inappropriate. *Id.* When a court construes a particular statute, it "must look to the object of the statute, the harm which it is designed to remedy, and apply a reasonable construction which best accomplishes the statute's purpose." *In re Forfeiture of \$5,264*, 432 Mich 242, 248; 439 NW2d 246 (1989). If the common law provides no right to relief, but a statute creates a new right or imposes a new duty, a plaintiff has a private cause of action if (1) the statute expressly creates a private cause of action, or (2) a private cause of action can be inferred from the fact that the statute provides no adequate means of enforcement of its provisions. *Lane, supra* at 695-696.

Judicial construction is inappropriate in this case because § 11902(b) is clear and unambiguous. *Id.* at 695. Accordingly, we conclude that the trial court correctly determined that plaintiffs failed to establish a private cause of action against Peninsula under § 11902(b). The statute is merely an enabling statute that authorizes a municipality to contract with a person for refuse collection services and authorizes the parties to negotiate the rates for those services. Contrary to plaintiffs' argument, the statute does not create a right or impose a duty on either the municipality or the person contracting with the municipality for refuse collection services. In other words, Peninsula did not violate the statute. Consequently, it is unnecessary for this Court to decide whether the statute provides adequate means of enforcement of its provisions.

Plaintiffs next argue that the trial court erred in determining that the NREPA, MCL 324.11903(1); MSA 13A.11903(1), did not require Forsyth to have competitive bidding before contracting with Peninsula. We disagree. Section 11903(1) is also clear and unambiguous. *Id.* The statute merely authorizes a municipality to negotiate with one or more persons who have taken the initiative to submit a bid or proposal regarding a contract for refuse collection services. There is no competitive bidding requirement. Accordingly, we conclude that the trial court correctly determined that § 11903(1) did not require Forsyth to engage in competitive bidding before contracting with Peninsula.

Plaintiffs finally argue that the trial court erred in determining that they did not have a “taxpayer” cause of action against Peninsula. Plaintiffs request that this Court extend the principle that a plaintiff has a “taxpayer” cause of action against the government when there has been a substantial injury due to increased taxation to the facts in this case. We decline that invitation. Plaintiffs have not provided any logical reasoning why we should extend that principle to the facts in this case.

Affirmed.

/s/ Roman S. Gribbs
/s/ Michael J. Kelly
/s/ Joel P. Hoekstra