STATE OF MICHIGAN

COURT OF APPEALS

JOSEPH M. PELLERITO and LAWRENCE P. ZATKOFF,

Plaintiffs-Appellants,

v

INGLESIDE-GROSSEDALE PARK ASSOCIATION, LAKE BOULEVARD RELIEF DRAINAGE DISTRICT, JOHN DOE, MARY ROE, and DEAN BIRCHILL,

Defendants-Appellees.

UNPUBLISHED
December 27, 2002

No. 231109
Macomb Circuit Court
LC No. 99-001325-CZ

Before: Talbot, P.J., and Neff and Fitzgerald, JJ.

PER CURIAM.

In this nuisance action, plaintiffs appeal as of right from the trial court order dismissing their claims. We affirm.

The dispute in this case arises from the application of two city ordinances to Ingleside-Grossedale Park (the park) located on the waterfront of Lake St. Clair in the city of St. Clair Shores. Plaintiffs live near the park, which is owned by defendant Ingleside-Grossedale Park Association. Plaintiffs brought this nuisance action complaining of activities occurring in the park. Plaintiffs alleged that the St. Clair Shores Waterfront Parks Ordinance, 20.150 *et seq.*, sets the park hours of operation from sunrise to sunset, and that defendants are not abiding by the ordinance. Defendants asserted that another ordinance, the Private Parks Ordinance, 20.350 *et seq.*, also applies and allows for the issuance of permits for use of the park after regular hours. The trial court determined that both ordinances can be read together and applied to Ingleside-Grossedale Park, providing park hours from sunrise to sunset, as provided by the Waterfront Parks Ordinance, and the issuance of permits for after-hours use, as provided by the Private Parks Ordinance.[1]

[1] The parties entered into a settlement agreement which resolved all issues except the application of the two ordinances as they concern the Ingleside-Grossedale Park hours.

Plaintiffs argue that the trial court erred in applying the Private Parks Ordinance to Ingleside-Grossedale Park. Plaintiffs contend that (1) the trial court ignored legislative intent, (2) the trial court's interpretation renders most of the ordinance nugatory, (3) the ordinance is inconsistent with zoning restrictions on the surrounding property, (4) application of the ordinance to similarly situated parks would yield incongruous results, and (5) the ordinance is inconsistent with the park hours sign.

Issues concerning the interpretation and application of statutes are questions of law that this Court decides de novo. *Danse Corp v Madison Heights*, 466 Mich 175, 177-178; 644 NW2d 721 (2002); *Lincoln v General Motors Corp*, 461 Mich 483, 489-490; 607 NW2d 73 (2000). If the language of the statute is clear, no further analysis is necessary or allowed to expand what the Legislature clearly intended to cover. *Miller v Mercy Memorial Hosp Corp*, 466 Mich 196, 201; 644 NW2d 730 (2002). The primary goal of judicial interpretation of statutes is to ascertain and give effect to the Legislature's intent. *Nicholas v Meridian Charter Tp Bd*, 239 Mich App 525, 530; 609 NW2d 574 (2000). "The first criterion in determining intent is the language of the statute." *Id.* The Legislature is presumed to have intended the meaning plainly expressed. *Id.* If the language of a statute is clear and unambiguous, judicial construction is generally not necessary or permitted. *Id.*

"The rules governing the construction of statutes apply with equal force to the interpretation of municipal ordinances." *Gora v Ferndale*, 456 Mich 704, 711; 576 NW2d 141 (1998). Two statutes that relate to the same subject or share a common purpose are in pari materia and must be read together as one law, even if they contain no reference to one another and were enacted on different dates. *Jackson Community College v Dept of Treasury*, 241 Mich App 673, 681; 621 NW2d 707 (2000). If the statutes lend themselves to a construction that avoids conflict, that construction should control. *Id.*. The construction should give effect to each without repugnancy, absurdity or unreasonableness. *Michigan Humane Society v Natural Resources Comm*, 158 Mich App 393, 401; 404 NW2d 757 (1987). The rules of statutory construction also provide that a more recently enacted law has precedence over the older statute. *Malcolm v East Detroit*, 437 Mich 132, 139; 468 NW2d 479 (1991); *Travelers Ins v U-Haul of Michigan, Inc*, 235 Mich App 273, 280; 597 NW2d 235 (1999).

The parties do not appear to dispute that Ingleside-Grossedale Park is both a waterfront park and a private park. According to the plain language of § 1(a) of the Waterfront Parks Ordinance, waterfront parks are open from sunrise to sunset. Section thirty of the subsequently-enacted Private Parks Ordinance states plainly that "[n]o person shall enter, be, or remain in any private park after park closing hours unless a permit has been obtained." The plain language of both ordinances can be applied in conjunction without any need for judicial construction. The Waterfront Parks Ordinance sets park hours and does not expressly prohibit after-hours permits. The after-hours permit provision of the Private Parks Ordinance acknowledges that park hours exist and does not attempt to change them. We conclude that the trial court's construction of the

ordinances avoids conflict and gives effect to each ordinance "without repugnancy, absurdity or unreasonableness." *Michigan Humane Society, supra* at 401.[2]

Affirmed.

/s/ Michael J. Talbot
/s/ Janet T. Neff
/s/ E. Thomas Fitzgerald

[2] Contrary to plaintiffs' argument, it is neither necessary nor proper to examine the legislative history of the Private Parks Ordinance because the language of the ordinance clearly states that it applies to all private parks in the city of St. Clair Shores. We find no merit to plaintiffs' argument that applying the ordinance to Ingleside-Grossedale Park renders the rest of the ordinance nugatory because, despite the provisions that do not practically apply to Ingleside-Grossedale Park, the ordinance is still applicable to other private parks in the city. The question whether any portion of the Private Parks Ordinance, other than the after-hours permit provision, is applicable to Ingleside-Grossedale Park is beyond the scope of this appeal. Similarly, plaintiffs' argument that other provisions of the Private Parks Ordinance conflict with zoning restrictions is not persuasive because only the after-hours permits provision is at issue. Plaintiffs' discussion of the effects of the Private Parks Ordinance on other similarly situated parks is not germane. We confine our consideration to the question whether the portion of the Private Parks Ordinance which provides for after-hours permits is applicable despite the Waterfront Parks Ordinance's provision of park hours. Resolution of this issue does not require us to consider whether other portions of the Private Parks Ordinance are applicable to Ingleside-Grossedale Park or other similarly situated parks. Lastly, the placement of signs displaying park hours consistent with the Waterfront Parks Ordinance does not render the Private Parks Ordinance inapplicable to Ingleside-Grossedale Park.