

STATE OF MICHIGAN
COURT OF APPEALS

ALBERT GARRETT, GREGORY DOCKERY
and DAN SHEARD,

Plaintiffs-Appellees,

v

CITY OF DETROIT, DETROIT CITY COUNCIL
and DETROIT BUILDING AUTHORITY,

Defendants-Appellants.

UNPUBLISHED
August 19, 2008

Nos. 269809; 273463
Wayne Circuit Court
LC No. 05-521567-CL

Before: White, P.J., and Zahra and Fort Hood, JJ.

WHITE, P.J. (*concurring.*)

I agree that the action is not for breach of contract, that *Mack v City of Detroit*, 467 Mich 186; 649 NW2d 47 (2002), holds that defendant cannot create a cause of action against itself in contravention of governmental immunity unless authorized by the Legislature, and that plaintiffs do not seek recovery under MCL 123.501. I do not understand the instant case as presenting the questions whether defendant has authority under the Constitution and the Home Rule Act to establish procedures for privatization, or whether contracts entered into without following that procedure are subject to challenge. The only issue we decide today is whether plaintiffs' private right of action for damages under the ordinance is barred by governmental immunity.

/s/ Helene N. White