

STATE OF MICHIGAN
COURT OF APPEALS

LIGHTHOUSE PLACE DEVELOPMENT,
L.L.C.,

UNPUBLISHED
April 28, 2009

Plaintiff/Counter-Defendant-
Appellee,

v

No. 280863
Berrien Circuit Court
LC No. 2005-003263-CH

MOORINGS ASSOCIATION, d/b/a MOORINGS
CONDOMINIUM ASSOCIATION,

Defendant/Counter-Plaintiff/Third-
Party-Plaintiff-Appellant,

v

HARBOR GRAND, L.L.C., and LIGHT HARBOR
MOORINGS CONDOMINIUM ASSOCIATION,

Third-Party-Defendants,

and

LIGHT HARBOR MOORINGS CONDOMINIUM
ASSOCIATION,

Cross-Plaintiff,

v

HARBOR GRAND, L.L.C.,

Cross-Defendant.

Before: Murray, P.J., and Markey and Wilder, JJ.

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

I concur in the majority opinion affirming the trial court's opinion and orders. I write separately to merely indicate an additional reason for affirming the trial court's ruling on the standing issue. In my view, the trial court correctly denied defendants' "motion to dismiss" on

the basis of standing because the motion was not filed in accordance with the court rules, and even if it was, it was properly denied under the appropriate court rules.

Specifically, the Michigan Court Rules recognize motions for summary disposition, not motions to dismiss, and those dispositive motions must be based upon one of the grounds set forth in MCR 2.116(C)(1)-(10), and must comply with the time requirement set forth within MCR 2.116(G)(1)(a), unless the court directs otherwise which did not happen in this case. Here, defendant's "motion to dismiss" was not filed 21 days prior to the motion hearing, but instead only 13 days prior to the hearing. It therefore was not in compliance with MCR 2.116(G)(1)(a)(i), and could have been properly denied for that reason alone.

Additionally, because there was no documentary evidence attached to defendant's "motion to dismiss," it would not have been properly brought under MCR 2.116(C)(10). See MCR 2.116(G)(4). And, as the trial court noted, the allegations in plaintiff's complaint, when viewed in the light most favorable to plaintiff, are sufficient to establish standing. These procedural reasons are an independent basis upon which to affirm the trial court's order.

/s/ Christopher M. Murray