STATE OF MICHIGAN

COURT OF APPEALS

CITIZENS FOR FAIR HOUSING, WELLS GOODSIR INVESTMENT, SARNIA INVESTMENT GROUP, MICHAEL J. MORSE, JAMES C. MULHOLLAND, JR., GREGORY SPIRIDAKOS, EFFI SPIRIDAKOS, CHARLES W. CROUCH, CELESTE M. CROUCH, DJH REALTY COMPANY, JOHN A. CLAUCHERTY, F. OWEN IRVINE, MELINDA N. IRVINE, JIM HAGAN, L.L.C., and CHRISTA ROBINSON,

Plaintiffs-Appellants,

v

CITY OF EAST LANSING,

Defendant-Appellee.

UNPUBLISHED
April 20, 2001

No. 219767
Ingham Circuit Court
LC No. 94-079225-CH

Before: Cavanagh, P.J., and Markey and Collins, JJ.

PER CURIAM.

Plaintiffs appeal as of right from the trial court's grant of defendant's motion for summary disposition under MCR 2.116(C)(10), and denying plaintiffs' cross-motion. The court found that there was no genuine issue of material fact regarding whether defendant's zoning ordinances violated plaintiffs' rights under the Michigan Constitution, the City Charter of East Lansing, or the state zoning and civil rights statutes. Plaintiffs appeal the charter and constitutional issues only. We affirm.

First, plaintiffs allege that defendant's ordinances limiting the number of unrelated persons who may reside in certain single- and family-zoned dwellings to two violate the city charter's prohibition of discrimination based on "marital or family status." This Court reviews decisions on motions for summary disposition de novo. *Spiek v Dep't of Transportation*, 456 Mich 331, 337; 572 NW2d 201 (1998). A motion under MCR 2.116(C)(10) tests whether there is factual support for a claim and is reviewed to determine whether the affidavits, pleadings, depositions, or any other documentary evidence establish a genuine issue of material fact to warrant a trial. *Spiek, supra* at 337. This Court will give the nonmoving party the benefit of all

reasonable inferences when determining whether summary disposition is appropriate. *Betrand v Alan Ford, Inc*, 449 Mich 606, 618; 537 NW2d 185 (1995). Likewise, statutory interpretation is considered de novo on appeal, as a question of law. *Oakland Co Bd of Rd Comm'rs v Michigan Property & Casualty Guaranty Ass'n*, 456 Mich 590, 610; 575 NW2d 751 (1998).

The rules of statutory construction apply to ordinances and city charters. See *Gora v Ferndale*, 456 Mich 704, 711; 576 NW2d 141 (1998); *Detroit v Walker*, 445 Mich 682, 691; 520 NW2d 135 (1994). The primary goal of judicial interpretation of statutes is to ascertain and give effect to the intent of the Legislature. *Frankenmuth Mutual Ins v Marlette Homes, Inc*, 456 Mich 511, 515; 573 NW2d 611 (1998). Consequently, the first criterion in determining intent is the specific statutory language – here, our focus is primarily on the city charter's use of the phrase "family status" as it relates to defendant's ordinance definition of "family." See *In re MCI Telecommunications Complaint*, 460 Mich 396, 411; 596 NW2d 164 (1999). Each term in the challenged provision should be given its plain and ordinary meaning unless a contextual or technical meaning applies. MCL 8.3(a); MSA 2.212(1); *Western Michigan Univ Bd of Control v Michigan*, 455 Mich 531, 539; 565 NW2d 828 (1997). Defendant's ordinance § 5.5(19) defines "family" as: "one person, two unrelated persons," or persons within the first or second degree of consanguinity, including stepchildren, adopted children, and those related by marriage. This definition complies with our Supreme Court's holding in *McCready v Hoffius*, 459 Mich 131, 145; 586 NW2d 723 (1998), partially vacated and remanded on other grounds 459 Mich 1235 (1999) (definition of "marital status" protected unmarried couple's right to live together). Defendant also provides a "domestic unit" category of family in § 5.5(19), in compliance with *Delta Charter Twp v Dinolfo*, 419 Mich 253; 351 NW2d 831 (1984) ("functional family"): "[I]ndividuals . . . whose relationship is . . . regular and permanent[,] domestic[,] or [has] a demonstrable and recognizable bond where each party is responsible for . . . the other and all are living . . . as a single housekeeping unit."

A legislative body is deemed to know of other existing legislation on the same subject. *Walen v Dep't of Corrections*, 443 Mich 240, 248; 505 NW2d 519 (1993). Enactments that have the same subject or a common purpose must be read together as one law, even if they contain no reference to one another and were enacted on different dates. *State Treasurer v Schuster*, 456 Mich 408, 417; 572 NW2d 628 (1998), quoting *Detroit v Michigan Bell Telephone Co*, 374 Mich 543, 558; 132 NW2d 660 (1965). This would include the civil rights act's definition of "familial status" in MCL 37.2103(e); MSA 3.548(100)(e). While it may appear that the intent of the city charter was to preclude the specific type of discrimination allegedly promulgated by defendant's ordinances, "general language in a charter must yield to specific language." *Bivens v Grand Rapids*, 443 Mich 391, 398; 505 NW2d 239 (1993) (construing a municipal corporation city's charter). Therefore, a reasonable interpretation of the city charter's definition of "family status" and defendant's ordinance definition of "family," results in a finding that the specific ordinances do not violate the charter's general terms. Stated simply, defendant's ordinances merely limit the *number* of unrelated persons who may live together; they do not prevent landlords from renting to "families," including "domestic units." See *Stegeman v Ann Arbor*, 213 Mich App 487, 493; 540 NW2d 724 (1995). Therefore, the trial court properly granted summary disposition on this issue.

With respect to plaintiffs' second claim of error, we review de novo a due process challenge to a zoning ordinance. *English v Augusta Twp*, 204 Mich App 33, 37; 514 NW2d 172 (1994). The standard used in considering plaintiffs' claim regarding the constitutionality of these zoning ordinances is the familiar rational relation test. *Stegeman, supra* at 492. The right to live with one's family is constitutionally protected, *Moore v East Cleveland*, 431 US 494; 97 S Ct 1932; 52 L Ed 2d 531 (1977), but the right to live with any number of individuals who are not one's "family" is not. *Village of Belle Terre v Boraas*, 416 US 1, 8; 94 S Ct 1536; 39 L Ed 2d 797 (1974). *Belle Terre* held that an ordinance like that challenged in *Delta Charter Twp* did not require heightened scrutiny, nor did it violate federal due process concerning the eight college students who illegally leased one house. A factually similar case to the one at issue, our Supreme Court held in *Delta Charter Twp* that the zoning ordinance's goals – "preservation of traditional family values, maintenance of property values, and population and density control" – were "rational" and "laudable" under the Michigan Constitution. *Delta Charter Twp*, *supra* at 270-271. Nevertheless, the *Delta Charter Twp* Court struck down the ordinance because it would even allow a restriction on a "functional family." *Id*. at 272-273. However, as previously stated, defendant's ordinance contains a "domestic unit" designation, comporting with *Delta Charter Twp*'s "functional family" category.

In *Stegeman*, *supra* at 489-490, we upheld a similar Ann Arbor ordinance that precluded more than six unrelated individuals from living in a single-family house, in part because the Ann Arbor ordinance did not attempt to regulate functional or biological families. Neither do defendant's. In *Stegeman*, we echoed *Dinolfo*'s reasoning that unrelated college students living together are not protected by the "functional family" category of an ordinance. *Id*. at 491. Because of this, and because defendant's ordinances leave untouched other residential zones for unrelated groups of persons, there is no due process violation.

Plaintiffs' third claim, based on equal protection, also fails under the same rational relation test. *Stegeman, supra* at 492. We rely on the reasoning set forth in *Stegeman*, in particular, the following:

> Arguably, the Ann Arbor ordinance's restriction of functional family to no more than six individuals plus their offspring may run afoul of the decision in *Delta Twp*. This, however, depends upon the *Delta Twp* Court's meaning of "a rational limitation to the numbers of persons that may occupy a dwelling." [*Dinolfo, supra*] at 277 . . . . *However, we need not interpret that phrase here because there is no serious contention that the groups of students to whom plaintiffs rent constitute the functional equivalent of families under the zoning ordinance* without regard to the number of such individuals that may constitute a functional family. [*Stegeman, supra* at 491 n 1.]

Affirmed.

/s/ Mark J. Cavanagh
/s/ Jane E. Markey
/s/ Jeffrey G. Collins