

STATE OF MICHIGAN
COURT OF APPEALS

CHARLES J. RYANT, JR.,

Plaintiff-Appellant,

V

LEELANAU COUNTY,

Defendant-Appellee.

UNPUBLISHED

June 28, 2002

No. 230429

Leelanau Circuit Court

LC No. 98-004493-CZ

Before: Hood, P.J., and Saad and E. M. Thomas,* JJ.

PER CURIAM.

Plaintiff appeals as of right the trial court's order granting defendant's motion for summary disposition. We affirm.

Defendant's board of commissioners established a task force to study the issue of relocating the county's jail and courthouse facilities versus expanding current facilities in their present locations. Two commissioners, Pat Yoder and Jean Watkoski, served on the task force. Commissioner Bernard Glettler attended and spoke at several public meetings of that body. On one occasion Yoder responded to Glettler's comments.

Plaintiff filed a complaint for declaratory and injunctive relief alleging that the appearance of three of the five commissioners at the task force meetings constituted a quorum of the board and that the gatherings violated the Open Meetings Act (OMA), MCL 15.261 *et seq.*, in that the commissioners deliberated toward a decision on the facilities question without posting public notice of a meeting of the board. Plaintiff also alleged that the task force exceeded the authority granted to it by the board of commissioners.

Defendant moved for summary disposition pursuant to MCR 2.116(C)(8) and (10), arguing that Glettler's appearance before the task force as a private citizen did not result in deliberations by the board of commissioners and did not require that a notice of a meeting of the board be posted. The trial court granted defendant's motion for summary disposition pursuant to MCR 2.116(C)(10), concluding that the interactions that occurred among the commissioners who attended the task force meetings as both members of the task force and private citizens did not constitute the type of deliberations that would trigger the requirements of the OMA.

* Circuit judge, sitting on the Court of Appeals by assignment.

We review a trial court's decision on a motion for summary disposition de novo. *Harrison v Olde Financial Corp*, 225 Mich App 601, 605; 572 NW2d 679 (1997).

The primary goal of statutory interpretation is to ascertain and give effect to the intent of the legislature. *Frankenmuth Mutual Ins Co v Marlette Homes, Inc*, 456 Mich 511, 515; 573 NW2d 611 (1998). The first criterion in determining legislative intent is the specific language used in the statute. *In re MCI Telecommunications Complaint*, 460 Mich 396, 411; 596 NW2d 164 (1999). The legislature is presumed to have intended the meaning it plainly expressed. *Nation v WDE Electric Co*, 454 Mich 489, 494; 563 NW2d 233 (1997). Statutory interpretation is a question of law that we review de novo on appeal. *Oakland Co Bd of Co Rd Comm'rs v Michigan Property & Casualty Guaranty Ass'n*, 456 Mich 590, 610; 575 NW2d 751 (1998).

Under the OMA, a "meeting" is the convening of a public body at which a quorum is present for the purpose of deliberating or rendering a decision on a public policy. MCL 15.262(b). A "decision" is a determination or disposition of a matter on which a vote by a public body is required and by which a public body effectuates or formulates public policy. MCL 15.262(d). All deliberations of a public body constituting a quorum of its members must occur at a meeting open to the public. MCL 15.263(3).

Issues similar to that raised in the instant case were addressed in *Ryant v Cleveland Twp*, 239 Mich App 430; 608 NW2d 101 (2000), and *Nicholas v Meridian Charter Twp Bd*, 239 Mich App 525; 609 NW2d 574 (2000). In *Ryant, supra*, the township supervisor, a member of the township board, addressed a meeting of the planning commission regarding a zoning issue. Two other members of the township board were present. The plaintiff, a member of the planning commission, brought suit alleging that the gathering of three members of the township board constituted a meeting of that body that occurred in violation of the OMA because proper notice was not posted. The trial court granted summary disposition in favor of the plaintiff. This Court reversed, holding that as long as the township board members did not engage in deliberations or render decisions, the gathering did not qualify as a meeting of the board for which notice was required. *Id.*, 435-436.

In *Nicholas, supra*, several of the defendant's committees held properly noticed meetings at which quorums of the defendant's township board were present. Township board members participated in discussions of township business during these meetings. The plaintiffs filed suit alleging that the meetings at which a quorum of the township board gathered constituted meetings of that board that occurred in violation of the OMA because notices were not posted. The trial court found that a violation of the OMA occurred, but concluded that the plaintiffs had not established they were entitled to invalidation of decisions made at the challenged meetings, and granted summary disposition in favor of the defendants. This Court held the trial court properly found the meetings at which quorums of the township board gathered and discussed township business constituted meetings of the township board within the meaning of the OMA. *Id.*, 531. The *Nicholas* Court distinguished *Ryant, supra*, on the ground that in that case it was undisputed that members of the township board who were not members of the planning commission did not participate in the deliberative process. *Id.*, 531 n 2.

We agree with the trial court that the facts of this case more closely resemble those in *Ryant, supra*, than those in *Nicholas, supra*, and affirm the trial court's decision granting summary disposition in favor of defendant. Commissioners Yoder and Watkoski were duly

appointed members of the task force, and had the right to make comments and to deliberate and vote on matters before that body. *Ryant, supra*, 436. Glettler attended the meetings as a private citizen. In that capacity, he had the right to comment on matters before the task force, but not to join task force deliberations on matters, or to vote on any matters before the task force. The record shows that at one meeting Yoder responded to remarks made by Glettler, principally for the purpose of clarifying remarks made by Glettler. The record does not indicate that Watkoski made any remarks that could be construed as being responsive to remarks made by Glettler. Glettler did not engage in active debate with Yoder.

The trial court correctly found that any exchange that actually occurred between Yoder and Glettler did not rise to the level of deliberations. *Id.*, 434. The commissioners present at these meetings did not engage in deliberations regarding matters before the board so as to trigger the requirements of the OMA. *Nicholas, supra*, 531. The trial court correctly determined that the attendance of a quorum of defendant's board of commissioners at the task force meetings did not trigger application of the OMA. MCL 15.263(3); *Ryant, supra*, 435-436. The trial court's interpretation and application of the pertinent provisions of the OMA was correct. *Oakland Co, supra*.

Affirmed.

/s/ Harold Hood
/s/ Henry William Saad
/s/ Edward M. Thomas