

STATE OF MICHIGAN
COURT OF APPEALS

CITY OF BIRMINGHAM, CITY OF
HUNTINGTON WOODS, CITY OF OAK PARK,
CITY OF BERKLEY, CITY OF CLAWSON,
CITY OF LATHRUP VILLAGE, and CITY OF
PLEASANT RIDGE,

Plaintiffs-Appellants,

v

CITY OF MADISON HEIGHTS,

Defendant-Appellee.

UNPUBLISHED

January 10, 2006

No. 255225

Oakland Circuit Court

LC No. 2003-052767-CZ

Before: Owens, P.J., and Saad and Fort Hood, JJ.

PER CURIAM.

Plaintiffs appeal as of right from a circuit court order granting defendant's motion for summary disposition. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Plaintiffs are seven of twelve members of the Southeastern Oakland County Resource Recovery Authority (SOCRRA). Defendant, a former member, withdrew and/or was expelled from the authority. Defendant contends that it is entitled to payment or a bond from SOCRRA for its share of the equity in the authority. MCL 123.311(5). After defendant sued SOCRRA to compel payment or issuance of a bond, plaintiffs filed this action, contending that MCL 123.311 was unconstitutional. Plaintiffs sought to enjoin defendant from withdrawing from the authority and recovering payment of its equity therein, and also sought damages for defendant's failure to pay its share of SOCRRA expenses. The trial court ruled that plaintiffs lacked standing to sue.

We review the trial court's ruling on a motion for summary disposition de novo. *Kefgen v Davidson*, 241 Mich App 611, 616; 617 NW2d 351 (2000). Whether a party has standing to bring an action is a question of law that is also reviewed de novo on appeal. *Franklin Historic Dist Study Committee v Village of Franklin*, 241 Mich App 184, 187; 614 NW2d 703 (2000).

Legal actions must be prosecuted in the name of the real party in interest. MCL 600.2041; MCR 2.201(B). A real party in interest is one who is vested with a right of action in a given claim, although the beneficial interest may be with another. *Blue Cross & Blue Shield of Michigan v Eaton Rapids Community Hosp*, 221 Mich App 301, 311; 561 NW2d 488 (1997).

The purpose of the standing doctrine is to require that litigation be brought “only by a party having an interest that will assure sincere and vigorous advocacy.” *Kalamazoo v Richland Twp*, 221 Mich App 531, 534; 562 NW2d 237 (1997). To have standing, a plaintiff must “have a legally protected interest that is in jeopardy of being adversely affected.” *Wortelboer v Benzie Co*, 212 Mich App 208, 214; 537 NW2d 603 (1995). The “irreducible constitutional minimum of standing” contains three elements: (1) an injury in fact, i.e., an invasion of a legally protected interest that is concrete and particularized and actual or imminent, not conjectural or hypothetical, (2) a causal connection between the injury and the conduct complained of such that the injury is fairly traceable to the challenged action of the defendant rather than some third party, and (3) likelihood and not merely speculation that the injury will be redressed by a favorable decision. *Lee v Macomb County Board of Comm’rs*, 464 Mich 726, 739-740; 629 NW2d 900 (2001).

We affirm. The trial court did not err in concluding that plaintiffs lacked standing to sue. There is no case or controversy between plaintiffs and defendant establishing an actual or imminent injury to plaintiffs caused by a challenged action of defendant. It is a given that defendant withdrew from SOCRRA before plaintiffs filed suit. Therefore, it is impossible for the trial court to enjoin defendant from withdrawing from the authority, and plaintiffs cannot be harmed by an anticipated withdrawal. The only harm alleged by plaintiffs is the loss of SOCRRA’s money or other property should SOCRRA be required to pay defendant its equity in the authority and the loss of fees defendant allegedly owes to SOCRRA. Apart from the fact that any harm resulting from the payout would be caused by SOCRRA, that harm, as well as the loss of fees inures to SOCRRA, which can sue in its own name to protect its legal rights. MCL 123.303. Further, defendant’s right to payment of equity is not actual or imminent, but is being litigated in another case. Therefore, the trial court did not err in determining that plaintiffs did not meet two of the three criteria conferring standing to sue.

Affirmed.

/s/ Donald S. Owens
/s/ Henry William Saad
/s/ Karen M. Fort Hood