STATE OF MICHIGAN

COURT OF APPEALS

PHIL FORNER,

Petitioner-Appellant,

v

ROBINSON TOWNSHIP BUILDING DEPARTMENT,

Respondent-Appellee.

UNPUBLISHED
March 17, 2009

No. 282007
Michigan Construction Code Commission
LC No. 07-000003

Before: Murphy, P.J., and Fitzgerald and Markey, JJ.

PER CURIAM.

Petitioner appeals as of right, pursuant to MCL 125.1518, a decision of the Michigan Construction Code Commission (CCC). We affirm.

This is the second time that this Court has entertained an appeal from petitioner regarding similar essential underlying facts. The prior appeal arose from an appeal submitted by petitioner to the Robinson Township Construction Board of Appeals (CBA), where he argued that the true intent of the Michigan Residential Code (MRC) has been incorrectly interpreted and that respondent's building official has not enforced that code. *Forner v Robinson Twp*, unpublished opinion per curiam of the Michigan Court of Appeals, issued August 23, 2007 (Docket No. 269127), slip op at 1. Petitioner later filed two amendments to the CBA appeal, asserting that a temporary occupancy permit issued by the building official to a resident on Limberlost Lane was defective and submitting specific questions relating to the applicability of the MRC. *Id.* We concluded in that prior appeal that petitioner was not an interested person, and therefore not entitled to bring an appeal before the CCC pursuant to MCL 125.1516(1), and that petitioner could not prevail under our Supreme Court's articulated standard to establish standing. *Id.*, slip op at 3.

The instant case arises from an unrelated appeal submitted to the Robinson Township Construction Board of Appeals on November 9, 2005, wherein petitioner asserted that the building official improperly issued a certificate of occupancy permit to a resident on Van Lopik

Avenue.[1] The CBA took no immediate action, and petitioner filed an appeal with the CCC on December 15, 2005. On January 11, 2006, the CCC adjourned the matter until May 3, 2006, because the resident, to whom the permit was issued, was in Florida for the winter. At the subsequent hearing, the CCC remanded the case to the CBA in order to fully develop the record. Petitioner then filed a claim of appeal with this Court, which was dismissed for lack of jurisdiction, because petitioner failed to exhaust his administrative remedies. *Forner v Robinson Twp Bldg Dep't*, unpublished order of the Michigan Court of Appeals, entered December 13, 2006 (Docket No. 270597).

The remand hearing to the CBA was set for March 21, 2007, and the record demonstrates that notice regarding that hearing was sent to petitioner on or around March 13, 2007. Rather than attend the remand hearing, petitioner sent an email to respondent's counsel on March 21, 2007, indicating that he filed an application for leave to appeal this Court's December 13, 2006, order to our Supreme Court. The CBA rejected petitioner's request for a stay and concluded that petitioner did not have standing to bring an appeal. The CBA also rejected petitioner's appeal on the merits, concluding that there were no violations of the MRC related to the subject property. On April 5, 2007, petitioner filed another appeal to the CCC, claiming that the CBA's ruling was improper in light of his application for leave to appeal to our Supreme Court, among other issues. The CCC held the matter in abeyance pending a ruling by our Supreme Court, which later denied petitioner's application. *Forner v Robinson Twp Bldg Dep't*, 478 Mich 929; 733 NW2d 55 (2007). The CCC subsequently ruled that petitioner lacked standing to appeal the CBA's March 21, 2007, ruling.

Petitioner again appealed to this Court. In this current appeal, petitioner raises a number of arguments, seeking this Court's interpretation of provisions contained in the Stille-DeRossett-Hale Single State Construction Code Act, MCL 125.1501 *et seq.*, as well as the MRC. Two of those issues necessarily relate to an argument raised by respondent on appeal that petitioner lacks standing. Petitioner asserts that he is an "interested person" pursuant to MCL 125.1514(1) and MCL 125.1516(1), and therefore, entitled to bring appeals on issues unrelated to his own property before the CBA and CCC under those respective sections. We disagree.[2]

Whether a party has standing is a question of law that this Court reviews de novo. *Nat'l Wildlife Federation v Cleveland Cliffs Iron Co*, 471 Mich 608, 612; 684 NW2d 800 (2004). Statutory interpretation is also a question of law that this Court reviews de novo. *Paige v City of Sterling Heights*, 476 Mich 495, 504; 720 NW2d 219 (2006).

MCL 125.1514(1) provides in relevant part:

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[1] Petitioner had previously been employed by the township, and he determined that the resident, following flooding that damaged the resident's home, was required to use flood-resistant materials in making repairs. The resident appealed to the CBA, which found in favor of the resident, thereby setting in motion petitioner's litigation efforts.

[2] We need not review petitioner's substantive questions on appeal based on our determination that he is not an "interested person" and therefore not entitled to bring appeals under the relevant statutory provisions.

> If an enforcing agency refuses to grant an application for a building permit, or if the enforcing agency makes any other decision pursuant or related to this act, or the code, an interested person, or the person's authorized agent, may appeal in writing to the [construction] board of appeals.

MCL 125.1516(1) provides in relevant part:

> An interested person, or the interested person's authorized agent, may appeal a decision of a [construction] board of appeals to the [CCC] within 10 business days after filing of the decision with the enforcing agency or, in case of an appeal because of failure of a board of appeals to act within the prescribed time, at any time before filing of the decision.

Thus, only an "interested person" or his agent may appeal a building official's decision to a board of appeals under MCL 125.1514(1), or appeal a decision of a board of appeals to the CCC under MCL 125.1516(1). The statutes do not define "interested person." A lay dictionary may be consulted to define a common word or phrase that lacks a unique legal meaning; however, a legal term of art must be construed in accordance with its peculiar and appropriate legal meaning. *Brackett v Focus Hope, Inc*, 482 Mich 269, 276; 753 NW2d 207 (2008). Black's Law Dictionary (7th ed) defines "interested party" as "[a] party who has a recognizable stake (and therefore standing) in a matter." We find the terms "recognizable stake" and "standing" in that definition significant. A "stake" is defined as "a personal interest or involvement." *Random House Webster's College Dictionary* (2000). We conclude that to satisfy the "interested person" requirement under MCL 125.1514(1) or MCL 125.1516(1), a party must have a recognizable, personal interest; he must demonstrate standing. "To have standing, a party must demonstrate more than the ability to vigorously advocate; the party must also demonstrate it has a substantial interest that will be detrimentally affected in a manner different from the interests of the public at large." *Moses, Inc v Southeast Mich Council of Gov'ts*, 270 Mich App 401, 412; 716 NW2d 278 (2006).

Additionally, the definition of "aggrieved party" should be equated to the term "interested party" in this area. In *Ypsilanti Twp v Edward Rose Bldg Co*, 112 Mich App 64, 69; 315 NW2d 196 (1981), this Court provided that "[a] person aggrieved by the local board of appeals's decision may then appeal to the State Construction Code Commission pursuant to MCL 125.1516." "'To be aggrieved, one must have some interest of a pecuniary nature in the outcome of the case, and not a mere possibility arising from some unknown and future contingency.'" *Federated Ins Co v Oakland Co Rd Comm*, 475 Mich 286, 291; 715 NW2d 846 (2006), quoting *In re Estate of Trankla*, 321 Mich 478, 482; 32 NW2d 715 (1948).

In the instant case, petitioner filed his appeal to the CBA on November 9, 2005, regarding the building official's issuance of the certificate of occupancy permit to a resident on Van Lopik Avenue. It is undisputed that petitioner no longer worked for respondent at that time, that he never resided in Robinson Township, that he never owned property in Robinson Township, and that he never held a security interest in any property in Robinson Township, much less the subject property. Petitioner simply has no legally recognizable stake in this matter. Petitioner has had no legal right invaded by respondent's action, and he has no interest, pecuniary or otherwise, directly or adversely affected by the original ruling, i.e., the issuance of the certificate of occupancy permit. See *Rymal v Baergen*, 262 Mich App 274, 318-319; 686 NW2d 241

(2004). Ultimately, we hold that petitioner is not an "interested person" under MCL 125.1514(1) or MCL 125.1516(1) because he has not demonstrated that he has a substantial interest that will be detrimentally affected in a manner different from the interests of the public at large. *Moses, Inc, supra* at 412. In reaching our conclusion, we note that defendant's claims that he has substantial interests that will be detrimentally affected are speculative, far fetched, and tenuous. We have carefully contemplated and scrutinized each one of petitioner's arguments in this appeal and find that none of them merit reversal.

Affirmed.

/s/ William B. Murphy
/s/ E. Thomas Fitzgerald
/s/ Jane E. Markey