

STATE OF MICHIGAN
COURT OF APPEALS

CHARTER TOWNSHIP OF HARING,

Plaintiff-Appellant,

v

CITY OF CADILLAC,

Defendant-Appellee.

UNPUBLISHED

October 12, 2010

No. 292122

Wexford Circuit Court

LC No. 08-020967-CK

TOWNSHIP OF SELMA,

Plaintiff-Appellant,

and

TOWNSHIP OF CLAM LAKE,

Plaintiff,

v

CITY OF CADILLAC,

Defendant-Appellee.

No. 292164

Wexford Circuit Court

LC No. 08-021381-CK

Before: BORRELLO, P.J., and JANSEN and BANDSTRA, JJ.

JANSEN, J. (*dissenting*).

Because I would dismiss these consolidated matters as unripe for adjudication, I respectfully dissent. Defendant City of Cadillac executed contracts with plaintiff townships for the provision of wastewater treatment services. By their express terms, these contracts were not set to expire until May 12, 2017. The contracts provided that “[e]ither party may terminate this agreement at the end of the initial term or subsequent terms upon a two (2) year written notice to the other party.” In November 2006, defendant provided written notice to plaintiffs that it did not intend to renew the contracts upon their expiration in May 2017. Thereafter, plaintiffs brought the instant actions in the Wexford Circuit Court, alleging that defendant had a legal obligation to continue providing wastewater treatment services to them beyond that date. With

respect to this issue, the circuit court ultimately granted summary disposition for defendant, ruling that defendant was entitled to abide by the express termination date of May 12, 2017, and that defendant could accordingly terminate its services to plaintiffs at that time.

In my opinion, these consolidated matters are unripe for adjudication. At the time of the circuit court's ruling, the termination date of the parties' contracts remained years away. Indeed, defendant was not contractually required to provide written notice of its intent to terminate the contracts until two years before May 2017—in other words, May 2015, still almost five years in the future. Although defendant notified plaintiffs in November 2006 that it did not intend to renew the contracts or continue providing wastewater treatment services beyond May 2017, it does not necessarily follow that defendant *will actually* terminate its services to plaintiffs at that time. While Cadillac's current city council and city administrators may fully intend to terminate the wastewater treatment services to plaintiffs on May 12, 2017, it is axiomatic that one city council may not bind its successors in office. See *Hazel Park v Potter*, 169 Mich App 714, 722-723; 426 NW2d 789 (1988); see also *Malcolm v East Detroit*, 437 Mich 132, 139; 468 NW2d 479 (1991). In fact, future Cadillac city councils and city administrators may view the situation completely differently, and might, for reasons unknowable at this time, determine that the contracts should be renewed and that the services should be continued. The point is that we simply do not know what will happen in the future, and therefore the present controversy strikes me as entirely unripe for judicial consideration. See *Citizens Protecting Michigan's Constitution v Secretary of State*, 280 Mich App 273, 282; 761 NW2d 210 (2008) (stating that “[a] claim is not ripe if it rests upon contingent future events that may not occur as anticipated, or may not occur at all”); *Huntington Woods v Detroit*, 279 Mich App 603, 615-616; 761 NW2d 127 (2008) (observing that “[t]he doctrine of ripeness is designed to prevent the adjudication of hypothetical or contingent claims before an actual injury has been sustained” and that “[a] claim is not ripe if it rests upon contingent future events that may not occur as anticipated, or indeed may not occur at all”). It is well settled that “[t]he ripeness doctrine requires the judiciary to refrain from giving advisory opinions on hypothetical issues.” 1A CJS, Actions, § 75, p 287.

Because these consolidated matters are not yet ripe for adjudication, the circuit court should have dismissed plaintiffs' claims on the ground of ripeness. I would dismiss the present consolidated appeals for this same reason.

/s/ Kathleen Jansen