

STATE OF MICHIGAN
COURT OF APPEALS

EAST LANSING CITIZENS FOR A PUBLIC
SERVANT CITY ATTORNEY,

UNPUBLISHED
February 24, 2015

Plaintiff-Appellant,

v

EAST LANSING CITY CLERK,

No. 323981
Ingham Circuit Court
LC No. 14-001001-AW

Defendant-Appellee.

Before: RIORDAN, P.J., and MURPHY and BOONSTRA, JJ.

PER CURIAM.

Plaintiff appeals as of right the trial court's order that denied its request for a writ of mandamus and dismissed its case with prejudice. We dismiss the appeal, as the case has been rendered moot.

Under the exercise of the right of initiative, plaintiff proposed to reform the East Lansing City Charter to have it establish an in-house legal department and city attorney's office. Pursuant to the Home Rule City Act (HRCA), MCL 117.1 *et seq.*, plaintiff obtained petition signatures in an effort to place its proposal on the November 2014 ballot. The parties agreed below that the signatures of 1,322 qualified and registered electors of the municipality were required to place the matter on the ballot. After plaintiff submitted signed petition sheets, defendant struck several groups of signatures and determined that there were only 1,055 valid signatures, 267 short of the number required to place the issue on the ballot. Plaintiff then filed the present action seeking a writ of mandamus to place the proposal on the November 2014 ballot, arguing that defendant had incorrectly stricken a number of signatures.

The trial court did conclude that several groups of signatures that defendant rejected should have been counted, adding 229 signatures for a total of 1,284, still short of the required number for placement of the proposal on the November 2014 ballot. The trial court ruled that two groups of signatures were properly rejected, 110 signatures on petition sheets that were not notarized and 87 signatures that were duplicated or even triplicated elsewhere. Accordingly, the trial court denied plaintiff's request for a writ of mandamus. Plaintiff challenges the ruling on appeal.

“To obtain a writ of mandamus, the plaintiff must show that he or she has a clear legal right to the performance of the specific duty sought to be compelled and that the defendant has a clear legal duty to perform that duty.” *Younkin v Zimmer*, 497 Mich 7, 9; 857 NW2d 244 (2014).

“As a general rule, an appellate court will not decide moot issues.” *B P 7 v Bureau of State Lottery*, 231 Mich App 356, 359; 586 NW2d 117 (1998). “An issue is deemed moot when an event occurs that renders it impossible for a reviewing court to grant relief.” *Id.*; see also *In re Contempt of Dudzinski*, 257 Mich App 96, 112; 667 NW2d 68 (2003) (when a subsequent event makes it impossible for this Court to fashion a remedy on an issue, the issue is rendered moot). “[T]his Court does not reach moot questions or declare principles or rules of law that have no practical legal effect in the case before us unless the issue is one of public significance that is likely to recur, yet evade judicial review.” *Federated Publications, Inc v Lansing*, 467 Mich 98, 112; 649 NW2d 383 (2002), overruled in part on other grounds *Herald Co, Inc v Eastern Mich Univ Bd of Regents*, 475 Mich 463; 719 NW2d 19 (2006).

Here, in plaintiff’s complaint, it requested “an order of mandamus compelling defendant to certify the petitions as valid and for the clerk to proceed with placing the initiative on the November 4th ballot.” Plaintiff also stated that “[i]mmediate action is necessary so that the voters are not deprived of their right to vote on plaintiff’s ballot question at the November 4, 2014 general election.” Even were we to agree with plaintiff’s arguments on appeal, it is impossible for us at this time to fashion a remedy that places the proposal on the November 2014 ballot, as specifically requested in plaintiff’s complaint. Moreover, while the appellate issues might concern a matter of public significance, we cannot conclude that the issues are likely to recur, yet evade judicial review. Plaintiff filed its claim of appeal less than a month before the election, so the danger of mootness was evident, yet plaintiff supplied no authority and analysis in its appellate brief suggesting that the appellate issues would not be moot and that the proposal could legally be placed on a ballot for a vote at a future election. Given this briefing failure and the specific relief sought in the complaint, i.e., placement of the proposal on the November 2014 ballot, we dismiss this appeal as moot.

Dismissed as moot. We decline to award taxable costs under MCR 7.219.

/s/ Michael J. Riordan
/s/ William B. Murphy
/s/ Mark T. Boonstra