

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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CITY OF HIGHLAND PARK,

Plaintiff-Counterdefendant-Appellant,

v

WAYNE COUNTY LAND BANK AUTHORITY  
CORPORATION,

Defendant-Counterplaintiff-Appellee.

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UNPUBLISHED

April 22, 2021

No. 354434

Wayne Circuit Court

LC No. 19-010949-CZ

Before: TUKEL, P.J., and SERVITTO and RICK, JJ.

PER CURIAM.

The City of Highland Park (“plaintiff”) appeals as of right the trial court’s denial of its motion for partial summary disposition, grant of Wayne County Land Bank Authority Corporation’s (“defendant”) motion for partial summary disposition, and its order sua sponte dismissing the remainder of plaintiff’s claims and closing the case. We vacate that part of the trial court’s order closing the case and remand this case to the trial court to issue a written opinion and order setting forth a thorough and detailed analysis of each of the issues presented in the parties’ motions for partial summary disposition.

Plaintiff owns and operates a “combined” sewer system, meaning that both stormwater runoff and sanitary sewage are transported in the same pipes. All of the combined sewage is transported to a regional wastewater treatment facility. Defendant was formed in 2006 through an agreement between the Wayne County treasurer and the Michigan Land Bank Fast Track Authority (LBFTA) and owns hundreds of parcels of property in Highland Park, some of which have structures, and some of which are vacant land. Defendant receives drainage and stormwater runoff conveyance and treatment services from plaintiff with respect to properties it owns in Highland Park. In July 2016, plaintiff enacted a drainage and stormwater billing ordinance. The ordinance requires owners of property in Highland Park to be charged and pay for the drainage and stormwater runoff conveyance and treatment services attributable to their property. Consistent with the ordinance, plaintiff began billing Highland Park property owners, including defendant, for these services in August 2016. Defendant has never paid its bills. Plaintiff thus filed its

complaint against defendant on August 12, 2019, for violation of the drainage and stormwater billing ordinance.

Defendant answered the complaint and asserted various affirmative defenses, including that the charges for drainage and stormwater runoff conveyance and treatment services constitute unconstitutional taxes under the Headlee Amendment, Const. 1963, art. 9, §§ 25 to 34. Defendant also filed a countercomplaint asserting that pursuant to Tax Reverted Clean Title Act (specifically MCL 211.1025), once it has conveyed title of a property to a third party, defendant is entitled to receive 50% of all taxes collected on the conveyed properties for a period of five years. According to defendant, it has conveyed many, many properties to third parties since January 2016 but has yet to receive its 50% share of the taxes collected on those properties. Defendant asserted that plaintiff owes it \$15,407.37 for 2017, \$37,405.93 for 2018, and \$86,157.86 for 2019.

Plaintiff filed a motion for partial summary disposition, citing MCR 2.116(C)(9) and (10). Plaintiff asserted that defendant's affirmative defense relying on the Headlee Amendment is subject to a one-year statute of limitations pursuant to MCL 600.308(a)(3), such that defendant is barred from challenging any drainage and runoff fees imposed prior to September 16, 2018 (one year prior to its filing of the affirmative defense). Plaintiff also asserted that the 50% tax fee defendant asserts is payable to it requires that defendant file a list of the properties sold in each calendar year to the Highland park assessor under MCL 211.1024(1). Defendant provided no list to the assessor until December 18, 2018, and is thus not entitled to its 50% of taxes for the 2017 and 2018 calendar years. Plaintiff thus sought dismissal of defendant's counterclaim with respect to its claim for 2017 and 2018 tax years. Plaintiff also sought dismissal of defendant's claim for the 2019 tax year without prejudice, as the claim was not yet ripe for adjudication. Finally, plaintiff sought partial summary disposition in its favor with respect to defendant's attempt to challenge plaintiff's charges for drainage and stormwater runoff conveyance and treatment services as a tax to the extent that such charges became due prior to September 16, 2018.

Defendant asserted that it did not pay the charged fees because the fee is actually a tax and defendant is exempted from paying taxes and because defendant, as an involuntary property owner, is not required to pay the stormwater drainage fee charged by plaintiff. Defendant also asserted that the fee constitutes an unconstitutional tax in violation of the Headlee Amendment and the statute of limitations imposed as to a Headlee claim has not begun to run in this case given that defendant did not bring an action under the Headlee Amendment. In addition, defendant asserted that it sold 417 parcels of property in Highland Park since 2017 and even if it did not provide a list of the properties sold to the assessor, the Tax Reverted Clean Title Act does not state that failure to provide a list excuses plaintiff from its obligation to provide defendant with its share of the tax money collected on those properties.

Defendant also filed its own motion for partial summary disposition pursuant to MCR 2.116(C)(10). According to defendant, it involuntarily obtained title to vast majority of the properties in Highland Park (except for seven of them) due to plaintiff's refusal to accept title to the properties (at no cost) following tax foreclosure. Defendant asserted that MCL 124.764(4) excuses involuntary property owners from plaintiff's imposed fees such that defendant was not subject to the fees for all but seven of the properties it sold.

On July 15, 2020, without a hearing and without issuing a written opinion, the trial court denied plaintiff's motion for partial summary disposition and granted defendant's partial motion for summary disposition. It simply issued an order that stated "Highland Parks motion denied—Wayne County Land Banks motion granted." However, the trial court issued a second order that day indicating that the case was closed. That order stated that defendant's motion was granted and "no attorney fees-case closed." This appeal followed.

Unfortunately, the trial court's cursory treatment of all of the issues placed before it renders it impossible for this Court to engage in any meaningful analysis. Plaintiff presented two arguments in its motion for *partial* summary disposition, one that addressed defendant's counterclaim with respect to taxes it sought prior to the 2019 tax year, and one that addressed the statute of limitations applicable to defendant's affirmative defense based upon the Headlee Amendment. Again, the trial court simply denied the motion with no analysis or explanation. Thus, we cannot determine what the trial court's rulings with respect to plaintiff's partial motion actually are.

Defendant asserted only one argument in its *partial* motion for summary disposition: that it was an involuntary property owner and was thus not subject to plaintiff's drainage and stormwater charges pursuant to the LBFTA at MCL 124.764(4). Defendant's motion did not address the Headlee Amendment or the one-year statute of limitations applicable to Headlee claims. Defendant's motion also did not address its counterclaim. Thus, when the trial court granted defendant's motion for partial summary disposition, it implicitly found that defendant was an involuntary property owner and pursuant to MCL 124.764, was thus not required to pay the charges plaintiff imposed. However, the trial court also issued an order closing the case. This is confusing because both parties only moved for partial summary disposition. Defendant's counterclaim was never resolved. And defendant admitted that MCL 124.764(4) applied only to involuntary property owners and that it was not an involuntary owner of seven of the 417 properties it sold. Thus, both plaintiff and defendant agree that MCL 124.764(4) did not apply to those seven properties. The trial court dismissed the entire case without addressing the seven properties.

In sum, because the trial court dispensed with hearings and provided no analysis of the issues presented or provide any rationale for its decision, we are unable to review the merits of plaintiff's claims on appeal. We therefore vacate that part of the trial court's order closing the case and remand this case to the trial court to issue a written opinion and order setting forth a thorough and detailed analysis of each of the issues presented in the parties' motions for partial summary disposition. The trial court may do so with or without conducting a hearing, as it deems necessary, but in no way may it submit a written opinion to this court that closes the case or does not completely address the arguments of the parties.

Vacated and remanded for proceedings consistent with this opinion. We do not retain jurisdiction.

/s/ Jonathan Tukel  
/s/ Deborah A. Servitto  
/s/ Michelle M. Rick