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STATE OF MICHIGAN

COURT OF APPEALS

KATHRYN TEETS, LISA BECK, and MELISSA WAARA,

Plaintiffs-Appellants,

v

WYANDOTTE PUBLIC SCHOOLS, CITY OF WYANDOTTE, WYANDOTTE BOARD OF EDUCATION, WYANDOTTE CITY COUNCIL, ROBERT A. DESANA, T-MOBILE CENTRAL LLC, CATHERINE M. COST, KENNETH LAUB, JESUS PLASENCIA, GREGORY J. MAYHEW, MICHAEL SWIECKI, CYNTHIA KINNEY, STEPHANIE MIELLO, KATHRYN BEDIKIAN, DANA BROWNING, ROBERT KIRBY, PATRICK SUTKA, THERESA CRNKOVICH, KATHLEEN KANE, CAROLYN MARTINEZ, FRANK TARNOWSKI, and KELLY WEBBER,

Defendants-Appellees.

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January 09, 2026
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No. 367742
Wayne Circuit Court
LC No. 23-006960-AW

Before: GADOLA, C.J., and CAMERON and RICK, JJ.

PER CURIAM.

Plaintiffs appeal the trial court's orders granting summary disposition to defendants under MCR 2.116(C)(7) (governmental immunity) and (C)(8) (failure to state a claim). We affirm.

I. FACTUAL AND PROCEDURAL BACKGROUND

This case involves plaintiffs' challenge to a contract between T-Mobile Central LLC and the Wyandotte School District. The contract allowed T-Mobile to lease space on the Washington Elementary School building and install a wireless communications facility. Plaintiffs, who live near the school, objected to the installation. They believed exposure to wireless radiation could cause or exacerbate medical problems and diseases, and alleged that the equipment interfered with

their quiet enjoyment of their properties and decreased the values of their homes. Plaintiffs eventually filed suit alleging nuisance per se and private nuisance. After an unsuccessful attempt to move the matter to federal court, various defendants moved for summary disposition in the trial court, which it granted. Plaintiff now appeals.

II. JURISDICTION

As a preliminary matter, while the parties do not challenge this Court's jurisdiction in this case, "[t]he question of jurisdiction is always within the scope of this Court's review[.]" *Walsh v Taylor*, 263 Mich App 618, 622; 689 NW2d 506 (2004). Plaintiffs filed an appeal as of right in this case from the trial court's two orders granting the two motions for summary disposition filed in this case. But not all of the defendants in this case were represented in the two motions for summary disposition brought before the trial court. Defendants the city of Wyandotte, the Wyandotte City Council, Robert Desana, Jesus Plasencia, and Gregory Mayhew did not move for summary disposition. Thus, while the trial court's order indicates it dismissed plaintiff's claims "as to all matters" and is a final order that closes the case, plaintiffs' claims against the above defendants have not been specifically addressed or resolved by the trial court.

This Court has "jurisdiction of an appeal of right filed by an aggrieved party from" a final judgment or order "as defined in MCR 7.202(6)[.]" MCR 7.203(A)(1). A final judgment or order includes "the first judgment or order that disposes of *all* the claims and adjudicates the rights and liabilities of *all* the parties[.]" MCR 7.202(6)(a)(*i*). Because neither order granting summary disposition directly provides for the dismissal of the above defendants, and "[t]rial courts speak through their written judgments and orders[,]" *Seifeddine v Jaber*, 327 Mich App 514, 523; 934 NW2d 64 (2019), neither order is a final order, and this Court does not have jurisdiction over this claim of appeal. But, in the interest of judicial economy, this Court chooses to exercise its discretion to treat this appeal as being on leave granted. *Wardell v Hincka*, 297 Mich App 127, 133 n 1; 822 NW2d 278 (2012).

III. STANDARD OF REVIEW

"This Court reviews de novo a trial court's determination on a motion for summary disposition as well as the legal question of whether a party has standing to sue." *UAW v Central Mich Univ Trustees*, 295 Mich App 486, 493; 815 NW2d 132 (2012). "In reviewing a motion for summary disposition pursuant to MCR 2.116(C)(5), this Court must consider the pleadings, depositions, admissions, affidavits, and other documentary evidence submitted by the parties." *Id.* (quotation marks and citation omitted).[1]

[1] We recognize that the motions for summary disposition in this case invoked MCR 2.116(C)(7) and (C)(8), while dismissal on the basis of standing falls under MCR 2.116(C)(5). But "[a] trial court is not necessarily constrained by the subrule under which a party moves for summary disposition. It is well settled that, where a party brings a motion for summary disposition under the wrong subrule, a trial court may proceed under the appropriate subrule if neither party is misled." *Computer Network, Inc v AM Gen Corp*, 265 Mich App 309, 312; 696 NW2d 49 (2005).

IV. ANALYSIS

Plaintiffs argue that the trial court erred in determining they did not have standing. We disagree.

Generally, "a litigant has standing whenever there is a legal cause of action." *Lansing Sch Ed Ass'n v Lansing Bd of Ed*, 487 Mich 349, 372; 792 NW3d 686 (2010). Plaintiffs allege the wireless communications facility is a nuisance per se because it violates Wyandotte's zoning code. A building's use in violation of a zoning ordinance constitutes a nuisance per se under the Michigan Zoning Enabling Act (MZEA), MCL 125.3101 *et seq*. MCL 125.3407. But the statute requires the legislative body to designate a *public official* who will enforce the ordinance. *Id*. See also *Sakorafos v Charter Twp of Lyon*, ___ Mich App ___, ___; ___ NW3d ___ (2023) (Docket No. 362192); slip op at 5-6. The designated public official would have standing to enforce the purported public nuisance. An individual, on the other hand, typically lacks standing to enforce an ordinance involving an alleged public nuisance. *Towne v Harr*, 185 Mich App 230, 232; 460 NW2d 596 (1990). Thus, to the extent plaintiffs claim they have standing because of any alleged zoning ordinance violations, their argument fails.

However, a private citizen may bring an action to abate a nuisance arising from the violation of a zoning ordinance if they show "damages of a special character distinct and different from the injury suffered by the public generally." *Ansell v Delta Co Planning Comm*, 332 Mich App 451, 461; 957 NW2d 47 (2020).

To demonstrate that they can show damages of a special character, *id*., plaintiffs focus on the alleged health risks caused by radio frequency radiation. In this respect, they rely on an affidavit from their expert attesting that radio frequency radiation causes serious health risks, and that the Federal Communication Commission's (FCC) wireless radiation exposure emission limit was too low. But plaintiffs, on appeal, "stress that they do not challenge the adequacy of the FCC emission guidelines for wireless radiation[.]" Plaintiffs cannot concede that the FCC guidelines are adequate while simultaneously claiming special damages by way of radio frequency radiation from a facility that adheres to those same guidelines. As for the other alleged damages plaintiffs raised below regarding aesthetics and property value depreciation, they make no arguments relating to either of these points on appeal. Consequently, plaintiffs have abandoned these arguments. See, e.g., *Chen v Wayne State Univ*, 284 Mich App 172, 206-207; 771 NW2d 820 (2009) (a party who fails to argue an issue on appeal abandons it). Plaintiffs have not identified

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Moreover, while the trial court did not correct the parties by granting summary disposition on the basis of standing under the correct subrule, "[a]n order granting summary disposition under the wrong subrule may be reviewed under the correct one." *Energy Reserves, Inc v Consumers Power Co*, 221 Mich App 210, 216; 561 NW2d 854 (1997). Despite the parties and trial court using the wrong court rule, as will be addressed below, summary disposition was warranted under MCR 2.116(C)(5).

any other "damages of a special character" that would endow them with standing. *Ansell*, 332 Mich App at 461. Because plaintiffs lacked standing, the trial court correctly dismissed the case.[2]

Affirmed. But because the trial court's orders did not properly address some of the defendants addressed above, we remand for the trial court to do so. We do not retain jurisdiction.

/s/ Michael F. Gadola
/s/ Thomas C. Cameron
/s/ Michelle M. Rick

[2] Because plaintiffs lacked standing to sue, we need not consider the other issues they raise on appeal.