

**STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND
BUSINESS COURT**

**CHARTER TOWNSHIP OF COMMERCE,
Plaintiff,**

v.

**Case No. 16-154041-CB
Hon. James M. Alexander**

**HUNTER PASTEUR HOMES – AUGUSTA
WOODS DEVELOPER LLC,
Defendant.**

OPINION AND ORDER REMOVING CASE FROM BUSINESS COURT

On July 18, 2016, Plaintiff filed the present Complaint, alleging that Defendant has not complied with certain landscape and construction plans, which were approved by Plaintiff, due to its failure to construct sidewalks along Wise Road and Carroll Lake Road. Contemporaneous with the filing of the Complaint, Plaintiff filed a Notice of Assignment to the Business Court – claiming that this is a business or commercial dispute because all of the parties are business enterprises. See MCL 600.8031(1)(c)(i).

This Court has an obligation to question sua sponte its jurisdiction over the subject matter of an action. *Yee v Shiawassee Co Bd of Comm'rs*, 251 Mich App 379, 399; 651 NW2d 756 (2002). Subject matter jurisdiction is determined by the allegations in the pleadings. *Trost v Buckstop Lure Co, Inc*, 249 Mich App 580, 587-588; 644 NW2d 54 (2002).

Business court jurisdiction is limited to actions involving a “business or commercial dispute.” MCL 600.8035(3). The statute defines a business or commercial dispute as:

- (i) An action in which all of the parties are business enterprises.
- (ii) An action in which 1 or more of the parties is a business enterprise and the other parties are its or their present or former owners, managers, shareholders, members, directors, officers, agents, employees, suppliers, or competitors, and the claims arise out of those relationships.

- (iii) An action in which 1 of the parties is a nonprofit organization, and the claims arise out of that party's organizational structure, governance, or finances.
- (iv) An action involving the sale, merger, purchase, combination, dissolution, liquidation, organizational structure, governance, or finances of a business enterprise. [MCL 600.8031(1)(c)].

MCL 600.8031(1)(b) defines a business enterprise as “a sole proprietorship, partnership, limited partnership, joint venture, limited liability company, limited liability partnership, for-profit and not-for-profit corporation or professional corporation, business trust, real estate investment trust, or any entity in which a business may lawfully be conducted in the jurisdiction in which the business is being conducted.”

In the present action, Plaintiff identifies itself as a Michigan municipal corporation. However, a charter township is a form of local government and cannot be classified as any type of business entity set forth within the definition of a business enterprise under MCL 600.8031(1)(b). The Court finds that Defendant does not qualify as a business enterprise within the language and/or meaning of the statute.

As a result, this action does not constitute a business or commercial dispute as defined by MCL 600.8035(1) or as claimed by Plaintiff under MCL 600.8031(1)(c)(i). Moreover, there are no allegations in the Complaint from which the Court could conclude that jurisdiction is proper under § 8031(1)(c)(ii), (iii) or (iv).

For all of these reasons, this action is excluded from business court jurisdiction and the Court orders the case reassigned to the general civil docket.

This case will be coded CZ unless counsel files a stipulated order to change it otherwise.

IT IS SO ORDERED.

July 27, 2016
Date

/s/ James M. Alexander
Hon. James M. Alexander, Circuit Court Judge