

community watch

MONITORING LEGAL ISSUES THAT AFFECT MICHIGAN MUNICIPALITIES

12.03.12

Demolition - An Appealing Decision

By Nancy Cooper Green

A property owner loses the right to challenge a city's decision to demolish a dangerous structure if the property owner does not appeal the decision within 20 days of its adoption, *Glenn v City of Lansing*, unpublished opinion per curiam of the Court of Appeals, issued November 15, 2012 (Docket No. 305072).

On April 22, 2004, the City of Lansing sent Mr. Glenn, Plaintiff and owner of a dangerous structure, a correction notice requiring several code violations be rectified by May 22, 2004. The City conducted a second inspection of the structure on January 25, 2010 and found that the repairs made were unsatisfactory and noted additional code violations. Plaintiff allowed the City an interior inspection of the structure on February 19, 2010. The City again found additional code and safety violations. Plaintiff was notified that the structure was being referred to the City's "Make Safe or Demolish" board as a dangerous structure subject to abatement. The "Make Safe or Demolish" board heard arguments on April 22, 2010, found the structure to be unsafe, and ordered the structure to be made safe or demolished by June 27, 2010. The City adopted a resolution ordering the structure to be demolished or made safe within 60 days. Included in the resolution, pursuant to MCL 125.542, Plaintiff was notified to appeal the order within 20 days. Plaintiff failed to appeal within that time period and petitioned the circuit court for a stay on December 2, 2010. The circuit court found in favor of the City and held that Plaintiff failed to timely appeal the demolition order. The City was entitled to summary disposition, the preliminary injunction was dissolved, and the case was dismissed.

On appeal, in a unanimous unpublished opinion, the Court of Appeals affirmed the circuit court's ruling. The Court found that the circuit court's jurisdiction to hear appeals on final decisions made by a legislative body,

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The Court of Appeals has upheld the 20 day statutory time limit that a property owner has to file a petition with the Circuit Court challenging a City's order to demolish a structure. However, in *Glenn v City of Lansing*, the Court alluded to the idea that a homeowner may be able to challenge a City's decision beyond the 20 day appeal period, if a property owner makes a request for a delayed leave. The decision to grant leave is then at the discretion of a Circuit Court. Here, the 7 month delay in filing the appeal probably weighed against Plaintiff. However, a shorter delay may be treated differently by the lower courts.

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under MCL 125.542, is limited by the 20 day appeal period. Here, the Court found that Plaintiff's appeal was not timely filed resulting in the loss of the ability to appeal by right. Hence, the Court upheld the 20 day appeal period affirming the municipality's efforts to protect the public's health, safety, and welfare. The Court also recognized that there may be cases in which the circuit court has jurisdiction and discretion on whether or not to hear a late appeal. However, the Court declined to decide this issue because Plaintiff did not make the request in his complaint.

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