

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

CITY OF SOUTHFIELD, MICHIGAN,

Plaintiff,

v

Case No. 2019-175286-CB
Hon. James M. Alexander

**SHEFA, LLC, ELBAZ/BUILDING LLC,
D/B/A ELBAZ BUILDING AND
ELBAZ BUILDING, LLC,**

Defendants.

OPINION AND ORDER REMOVING CASE FROM BUSINESS COURT

On July 17, 2019, Plaintiff filed the present Complaint for Declaratory Relief, Abatement of Nuisance, Appointment of Receiver and Foreclosure on allegations that Defendants have failed to pay taxes assessed against Defendant Shefa, LLC’s property, commonly known as 16400 J.L. Hudson Drive, Southfield, Michigan, and have failed, neglected, and refused to comply with applicable city ordinances.

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 “one or more of the parties is a business enterprise and the other parties are its or their present or former owners, managers, shareholders, members of a limited liability company or a similar business organization, directors, officers, agents, employees, suppliers, guarantors of a commercial loan, or competitors, and the claims arise out of those relationships.” See MCL 600.8031(1)(c)(ii).

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 one or more of the parties is a business enterprise and the other parties are its or their present or former owners, managers, shareholders, members of a limited liability company or a similar business organization, directors, officers, agents, employees, suppliers, guarantors of a commercial loan, 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.
MCL 600.8031(1)(c).

In this matter, Plaintiff has not provided any factual allegations within the Complaint to support the premise that Plaintiff or either Defendant is a present or former owner, manager, shareholder, member of a limited liability company or a similar business organization, director, officer, agent, employee, supplier, guarantor of a commercial loan, or competitor of either Defendant or Plaintiff, respectively, for this case to qualify for business court jurisdiction under MCL 600.8031(1)(c)(ii).

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 or not-for-profit corporation or professional corporation, business trust, real estate investment trust, or any other entity in which a business may lawfully be conducted in the jurisdiction in which the business is being conducted.”

In the present action, Plaintiff City of Southfield, Michigan characterizes itself as a municipal corporation, which is not identified as a business enterprise in the afore-mentioned statute. The Court

observes that the Honorable Shalina D. Kumar, Chief Judge of the Oakland County Circuit Court, removed a case, namely Coeus, LLC v City of Walled Lake, et al. Case Number 2018-170030-CZ, from Business Court on the grounds that: (1) municipal corporations are not typically contemplated to be a part of the Business Court with some exceptions; and, (2) the case at hand does not involve a true business dispute.¹

Likewise, this Court finds that the present lawsuit does not involve a true business dispute in light of the fact that the case strictly deals with the collection of taxes and the alleged violation of applicable city ordinances. Since this matter involves municipal government issues, the Court will not consider the City of Southfield, Michigan as a business enterprise within the language and/or meaning of MCL 600.8031(1)(b). As a result, this action does not constitute a business or commercial dispute as defined by MCL 600.8031(1)(c)(i). Additionally, there are no allegations in the Complaint from which the Court could conclude that jurisdiction is proper under § 8031(1)(c)(iii).

Accordingly, Plaintiff's Complaint does not qualify as a business or commercial dispute as defined by MCL 600.8031(1)(c) or MCL 600.8035(1). For these reasons, the lawsuit is excluded from business court jurisdiction and the Court orders the case to be coded CZ and reassigned to the general civil docket.

IT IS SO ORDERED.

July 24, 2019
Date

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

¹ On March 28, 2019, Judge Kumar entered the Order Granting Motion for Determination of Walled Lake Defendants, which granted the motion for the reasons stated by the Court on the record of March 27, 2019.