

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

PROGRESSIVE IRRIGATION, INC.,

Plaintiff,

v

Case No. 20-180955-CB

Hon. Martha D. Anderson

SOUTHFIELD PUBLIC SCHOOLS,

Defendant.

OPINION AND ORDER REMOVING CASE FROM BUSINESS COURT

On April 27, 2020, Plaintiff filed the present Complaint, alleging that Defendant breached the parties' contract for landscape and snow removal services. The matter was originally assigned to the Honorable Nanci J. Grant. On August 13, 2020, Judge Grant entered a Stipulated Order Transferring Case to Business Court.

The 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).

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, no factual allegations have been presented to support the contention that the Southfield Public Schools can be classified as any type of business entity set forth within the definition of a business enterprise under MCL 600.8031(1)(b). Moreover, there are no allegations in the Complaint from which the Court could conclude that jurisdiction is proper under either MCL 600.8031(1)(c)(ii) or (iii). While James Simpkins, the alleged resident agent of Plaintiff, has been named as a Third-Party Defendant in Defendant Southfield Public Schools’ Third-Party Complaint, the claims in this matter do not arise out of a dispute between Plaintiff and Mr. Simpkins. The claims in this case arise out of a dispute between Plaintiff and Defendant. As a result, the Court finds that this action does not qualify as a business or commercial dispute as defined by MCL 600.8035(1).

For these reasons, this action is excluded from business court jurisdiction and the Court respectfully orders that the case be reassigned back to the general civil docket of the Honorable Nanci J. Grant.

IT IS SO ORDERED.

8/24/2020
Date

/s/ Martha Anderson
Hon. Martha D. Anderson
Business Court Judge