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DISTRICT IV

April 23, 2014

To:

Hon. Amy Smith
Circuit Court Judge
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Madison, WI 53703

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You are hereby notified that the Court has entered the following opinion and order:

2013AP292

KNK Properties, LLC v. Beechwood Development, LLC, Thomas
D. Arnot and Darrel M. Hanson (L.C. #2009CV3342)

Before Blanchard, P.J., Lundsten and Kloppenburg, JJ.

KNK Properties, LLC, appeals an order of the circuit court, which dismissed this action after granting the respondents' motion for reconsideration of a prior oral ruling. In granting the motion for reconsideration, the court ruled that a settlement agreement between the parties was enforceable. Based upon our review of the briefs and record, we conclude at conference that this case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21(1) (2011-12).¹ We summarily affirm.

¹ All references to the Wisconsin Statutes are to the 2011-12 version unless otherwise noted.

KNK Properties and Kjell Kaashagen entered into an agreement with Beechwood Development, LLC, Thomas Arnot, and Darrel Hanson (collectively, the Beechwood Respondents) to settle a commercial dispute. At issue on appeal is a provision of the agreement that states, in pertinent part,

3. ARNOT, HANSON and BEECHWOOD shall pay KAASHAGEN the total of \$240,000. \$25,000 shall be payable to KAASHAGEN on or before October 7, 2011, and the balance of \$215,000 on or before November 30, 2011.

On appeal, KNK Properties argues that the circuit court erred in its interpretation of the settlement agreement. KNK Properties argues that it, and not Kaashagen individually, is the proper payee of the \$240,000 sum under the settlement agreement. The interpretation of a contract presents a question of law that we review independently. *Town Bank v. City Real Estate Dev., LLC*, 2010 WI 134, ¶32, 330 Wis. 2d 340, 793 N.W.2d 476.

The introductory paragraph of the settlement agreement makes clear the distinction between Kaashagen, an individual, and KNK Properties, LLC, a limited liability company in which Kaashagen was the sole member. “Kaashagen” is defined unambiguously in the agreement as Kjell A. Kaashagen and “KNK” is defined unambiguously as “KNK Properties, LLC.” The language in paragraph three of the agreement is also unambiguous in directing that the Beechwood Respondents pay \$240,000 to Kaashagen. The settlement agreement does not include any language directing any payment to KNK Properties. Thus, we conclude that, under the terms of the settlement agreement, Kaashagen, and not KNK Properties, is the proper payee of the \$240,000 sum.

The circuit court reached the same conclusion, but employed a different analysis. The circuit court determined that the contract was ambiguous and, thus, considered extrinsic

evidence. However, even if we were to agree with the circuit court that the agreement was ambiguous, we would conclude, as did the circuit court, that the extrinsic evidence resolved the ambiguity in favor of the Beechwood Respondents.

IT IS ORDERED that the order is summarily affirmed under WIS. STAT. RULE 809.21(1).

Diane M. Fremgen
Clerk of Court of Appeals