

**COURT OF APPEALS  
DECISION  
DATED AND RELEASED**

**JULY 8, 1997**

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See § 808.10 and RULE 809.62, STATS.

**NOTICE**

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

**No. 96-3108**

**STATE OF WISCONSIN**

**IN COURT OF APPEALS  
DISTRICT III**

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**ROBERT J. PULS AND MARY PULS,**

**PLAINTIFFS-APPELLANTS,**

**V.**

**HARLAN AND NANCY CHRISTIANSON, WILLIAM AND  
KATHY KRAUS,**

**DEFENDANTS-  
THIRD PARTY PLAINTIFFS-RESPONDENTS,**

**V.**

**TOWN OF BERGEN, A MUNICIPAL CORPORATION,**

**THIRD PARTY DEFENDANT-  
RESPONDENT.**

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APPEAL from a judgment of the circuit court for Marathon County:  
RAYMOND F. THUMS, Judge. *Affirmed.*

Before Cane, P.J., LaRocque and Myse, JJ.

PER CURIAM. Robert and Mary Puls appeal a judgment dismissing their action against the Christiansons and the Krauses in which they sought imposition of daily forfeitures and punitive damages for a zoning violation. Because the trial court correctly concluded that Wisconsin law does not allow private citizens to impose forfeitures on behalf of a town and the zoning violation does not entitle the Puls to punitive damages, we affirm the judgment.

In an earlier appeal, this court concluded that the Christiansons and Krauses violated a zoning ordinance by placing mobile homes on their land. We remanded the case to the trial court for further proceedings. The Town of Bergen declined to pursue a forfeiture action for these violations. The Puls then filed this action seeking imposition of daily forfeitures, compensatory and punitive damages for the zoning ordinance violation. The parties reached a settlement on compensatory damages. The trial court then dismissed the remaining claims for daily forfeitures and punitive damages.

The law does not allow a private citizen to commence a forfeiture action on behalf of the town. Sections 60.61(6), 66.12 and 778.10, STATS., allow a property owner to seek a court order to compel compliance with a zoning ordinance and allow a private citizen to ask the court to use its contempt powers to enforce its orders. These statutes do not allow a private citizen to seek a daily forfeiture for zoning violations.<sup>1</sup> A right of private action is created only when the

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<sup>1</sup> The Puls also cite §§ 62.23(7)(f) and (8), STATS., which allow a private citizen to seek an injunction in cases involving city planning as well as §§ 19.97 (opening meetings) and 814.04 (recovery of costs for lawsuits). These statutes are not applicable on their face. None of these statutes expressly provides authority for a private action to impose daily forfeitures in the name of the town.

legislature's intent to create such a right is clear from the language of the statute or when the statute creates private civil liability. See *Grube v. Daun*, No. 95-2353, slip op. at 6-7 (June 13, 1997). No statute creates a private right of action for imposition of daily forfeitures.

Punitive damages are not warranted for the zoning violations that occurred in this case. The Puls would have presented evidence that they contend shows malicious or willful behavior or reckless disregard of their rights. See *Wangen v. Ford Motor Co.*, 97 Wis.2d 260, 275, 294 N.W.2d 437, 446 (1980). As the trial court noted, most of the incidents described by the Puls occurred after this lawsuit was filed or were unrelated to the zoning ordinance violation. Punitive damages must arise out of the same transaction or occurrence. *Id.* at 266, 294 N.W.2d at 441. The violation of the zoning ordinance by placing mobile homes on their property is not sufficiently egregious to justify punitive damages as a matter of law.

*By the Court.*—Judgment affirmed.

This opinion will not be published. See RULE 809.23(1)(b)5, STATS.

