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DISTRICT IV

November 2, 2023

To:

Hon. Michael P. Screnock
Circuit Court Judge
Electronic Notice

Carrie Wastlick
Clerk of Circuit Court
Sauk County Courthouse
Electronic Notice

Andrew Adams
Electronic Notice

Richard W. Cross
Electronic Notice

Eleanor Urban

Alan Ray Ward

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

2021AP2217

Village of Lake Delton v. Eleanor Urban and Alan Ray Ward
(L.C. # 2020CV171)

Before Blanchard, Graham, and Nashold, JJ.

Summary disposition orders may not be cited in any court of this state as precedent or authority, except for the limited purposes specified in WIS. STAT. Rule 809.23(3).

Alan Ray Ward, pro se, appeals a circuit court order allowing the Village of Lake Delton to take certain actions to abate Ward's ongoing municipal ordinance violations. Ward argues that the order failed to "specify the relief granted," contrary to WIS. STAT. § 806.01(1)(b) (2021-22).¹ Based on our review of the briefs and the record, we conclude at conference that this case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21(1). We affirm.

¹ All references to the Wisconsin Statutes are to the 2021-22 version unless otherwise noted.

The Village filed a complaint against Ward and Eleanor Urban,² alleging that they were in violation of the Village's zoning and building codes in connection with their operation of a bicycle business on property at 270 West Lake Avenue. The Village further alleged that Ward and Urban's conduct on the property was a public nuisance. According to the Village's complaint, the activities on the property that violated municipal code included bicycle rentals, storage of several hundred bicycles, unsightly accumulation of debris and rubbish, and installation of fencing in the front yard without a permit and at a prohibited height.

The circuit court granted summary judgment to the Village and permanently enjoined Ward and Urban from operating any business on the property, including any business offering bicycle rentals, except as expressly permitted by municipal code. The court's summary judgment order also enjoined them from constructing or maintaining fencing on the property, except as expressly permitted by code, and from storing bicycles on the exterior of the property. Additionally, the court required them to remove all fencing that did not comply with municipal code and to also comply with the code by preventing the unsightly accumulation of debris and rubbish on the property.

Subsequently, after the Village contended that Ward and Urban had failed to comply with the circuit court's order, the court issued an additional order allowing the Village to abate the ongoing municipal code violations on the property. The order allowed the Village to remove "rubbish and debris, including bicycles," to remove "items used in connection with the operation

² Urban is not a party to this appeal.

of the impermissible business,” and to remove or bring into compliance “the fencing around the perimeter of the property.” Ward appeals this abatement order.

The brief that Ward has filed contains little in the way of legal citations or cognizable legal arguments. Construing his brief liberally, we conclude that his central argument is that the circuit court’s abatement order failed to “specify the relief granted,” contrary to WIS. STAT. § 806.01(1)(b). Under this statute, “[e]ach judgment shall specify the relief granted or other determination of the action.” Sec. 806.01(1)(b). Ward cites the statute repeatedly, asserts that the abatement order is vague and misleading, and raises questions such as: “What kind of Rubbish? What kind of Debris? What kind of Fence? What kind of Bicycles? What Items?”

The Village argues that the abatement order complies with the statute. It argues that the terms of the order are sufficiently specific and can be readily understood based on the broader context of the events in this case, the common meaning of terms such as “rubbish” and “debris,” and the use of those terms or similar terms in the municipal code. We agree with the Village’s argument. Moreover, Ward has not filed a reply brief addressing this argument and, therefore, he has conceded it. See *United Coop. v. Frontier FS Coop.*, 2007 WI App 197, ¶39, 304 Wis. 2d 750, 738 N.W.2d 578 (concluding that appellant’s failure to reply to an argument in respondent’s brief was a concession of the argument).

To the extent that Ward raises other arguments, we decline to address them because they lack supporting legal and record citations and are not otherwise developed. See *State v. Pettit*, 171 Wis. 2d 627, 646-47, 492 N.W.2d 633 (Ct. App. 1992) (discussing the requirements for developed legal arguments). Although we make some allowances for deficiencies in a pro se litigant’s brief, “[o]ur obligation does not extend to creating an issue and making an argument for

the litigant.” *State ex rel. Harris v. Smith*, 220 Wis. 2d 158, 165, 582 N.W.2d 131 (Ct. App. 1998). “We cannot serve as both advocate and judge.” *Id.*³

Therefore,

IT IS ORDERED that the circuit court’s order is summarily affirmed pursuant to WIS. STAT. RULE 809.21(1).

IT IS FURTHER ORDERED that this summary disposition order will not be published.

Samuel A. Christensen
Clerk of Court of Appeals

³ Ward’s brief contains arguments that appear to relate to a previous order of this court denying his request for relief pending appeal. To the extent that these arguments could be construed as a renewed request for relief pending appeal, we deny the request. The request is moot now that we have decided the merits of this appeal.