

IN THE SUPREME COURT OF THE STATE OF DELAWARE

PLUMBERS & PIPEFITTERS	§	
LOCAL UNION 74	§	No. 251, 1999
	§	
Plaintiff Below,	§	
Appellant,	§	
	§	
v.	§	Court Below: Superior Court
	§	of the State of Delaware
THOMAS P. GORDON, New Castle	§	in and for New Castle County
County Executive, NEW CASTLE	§	C.A. No. 98-M-06-074
COUNTY DEPARTMENT OF	§	
INSPECTIONS and NEW CASTLE	§	
COUNTY,	§	
	§	
Defendants Below,	§	
Appellees.	§	

Submitted: July 25, 2000

Decided: July 26, 2000

Before **WALSH, HOLLAND** and **BERGER**, Justices.

O R D E R

This 26th day of July, 2000, upon consideration of the briefs of the parties, it appears to the Court that:

1) Plumbers & Pipefitters Local Union 74 filed an action to compel New Castle County, the County Executive, and the County Department of Inspections (collectively, the County) to enforce an ordinance that prohibits non-licensed workers from making outside utility connections on commercial property. The Superior Court granted the County's motion to dismiss on the ground that the Union lacks standing to maintain this action.

2) The Union argues on appeal, as it did in the trial court, that it has “organizational standing” because: “(1) the interests to be protected by the suit are germane to the [Union’s] purpose; and (2) neither the claim asserted nor the relief requested requires the participation of individual members; and (3) the [Union’s] members would otherwise have standing.”¹

3) The Superior Court correctly held that, although the Union satisfied the first two organizational standing requirements, it did not establish the Union members’ standing. To satisfy the third requirement, there must be injury in fact and the interest sought to be protected arguably must be within the zone of interests to be protected by the statute.² The Union argues that the County’s failure to enforce its ordinance creates a real threat to the health and safety of the public, including Union members. In addition, the Union says that its members are suffering an economic loss because work they should be doing is being diverted to non-licensed workers. We agree with the Superior Court’s conclusion that: (i) the Union has not alleged any injury in fact with respect to health and public safety; and (ii) economic loss is not an interest that the ordinance was intended to protect.

¹*Oceanport Industries, Inc. v. Wilmington Stevedores, Inc.*, Del. Supr., 636 A.2d 892, 902 (1994). See also: *Assoc. of Data Processing Serv. Org. v. Camp*, 397 U.S.150 (1970).

² *Id.* at 903.

4) Although the Union, as an organization, lacks standing to pursue this action, it does not necessarily follow that its members, in their capacity as citizens and taxpayers, also lack standing. Citizens have an interest in the enforcement of our laws and the writ of mandamus may be used “to procure the enforcement of public duties.”³

It appears that the Superior Court, in denying the Union the opportunity to replead, also foreclosed a substitution of parties. We offer no view as to whether Union members, as citizens and taxpayers, would be entitled to a writ of mandamus to force compliance with the County ordinance. We are satisfied, however, that they should be allowed the opportunity to assert such a claim.

NOW, THEREFORE, IT IS ORDERED that the decision of the Superior Court is AFFIRMED IN PART and REVERSED IN PART and this matter is REMANDED to the Superior Court. Jurisdiction is not retained.

BY THE COURT:

/s/ Carolyn Berger
Justice

³*State ex rel Biggs v. Corley*, Del. Supr., 172 A. 415, 417 (1934).