

OHIO COURT OF APPEALS, NINTH JUDICIAL DISTRICT

Testa Ent., Inc. v. Hudson

2026-Ohio-1950 · No. 31498 · Decided May 27, 2026

SUMMARY

The Ninth District Court of Appeals of Ohio reversed a summary judgment entered in favor of the City of Hudson in a dispute concerning a memorandum of understanding with Testa Enterprises. The court held that the trial court was required to determine whether the memorandum as a whole manifested an intent to be bound and, if necessary, consider the parties’ actions and extrinsic evidence. The matter was remanded for further proceedings, including consideration of unresolved issues concerning statutory endorsement and certification requirements.

CASE DETAILS

COURT	Ohio Court of Appeals, Ninth Judicial District
WRITING FOR THE COURT	Jennifer Hensal; Sutton, J.; Carr, P.J.
JURISDICTION	Ohio Court of Appeals, Ninth Judicial District
DECIDED	May 27, 2026
DOCKET	31498
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Testa Enterprises appealed the Summit County Court of Common Pleas' order granting the City of Hudson summary judgment in an action concerning the enforceability of a memorandum of understanding and its termination provision.
STANDARD OF REVIEW	Summary judgment and legal determinations in declaratory-judgment actions are reviewed de novo. Summary judgment is proper only when no genuine issue of material fact remains and, construing the evidence most strongly in favor of the nonmoving party, reasonable minds can reach only the conclusion that the moving party is entitled to judgment as a matter of law.
PRECEDENTIAL VALUE	Published Ohio Court of Appeals opinion
PARTIES	Testa Enterprises, Inc. v. City of Hudson, et al.

TOPICS

contract formation

summary judgment

standard of review

municipal law

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QUESTIONS PRESENTED

1. Whether the trial court properly granted summary judgment by treating the termination clause, rather than the memorandum of understanding as a whole, as dispositive of whether an enforceable agreement existed.
2. Whether the trial court was required, if the memorandum did not unambiguously resolve the parties' intent, to consider the parties' actions and appropriate extrinsic evidence concerning whether they intended to be bound.
3. Whether Testa's remaining arguments concerning city solicitor endorsement and finance-director certification were properly before the Court of Appeals or were premature for appellate resolution.

HOLDINGS

1. An agreement to agree is not per se unenforceable; enforceability depends on whether the parties manifested an intent to be bound and whether that intent is sufficiently definite to be specifically enforced.
2. The trial court erred by failing to determine whether the memorandum of understanding as a whole unambiguously expressed an intent not to be bound and, if not, whether the parties' actions and appropriate evidence outside the document demonstrated an intent to be bound.
3. Summary judgment for Hudson was improper on the trial court's existing analysis, and the judgment had to be reversed and the matter remanded.

KEY QUOTATIONS

“Agreements to agree are not per se unenforceable.” (¶ 8)

“Fundamentally, however, the question in this case did not relate to contract interpretation but to the question of whether a contract existed in the first place.” (¶ 10)

FACTUAL BACKGROUND

Hudson City Council authorized the city manager to enter into a letter of intent with Testa concerning public engagement and conceptual plans for a downtown retail-area redevelopment. The parties later signed a memorandum of understanding expressing their desire to work toward a definitive development agreement and containing a provision requiring good-faith negotiation of a commercially reasonable termination if the project proved infeasible before finalization. After voters rejected a ballot issue and city council membership changed, Hudson abandoned the project, prompting Testa's lawsuit.

PROCEDURAL HISTORY

Testa sued Hudson, alleging that a memorandum of understanding was a binding contract, that Hudson breached duties to negotiate in good faith, and that Hudson terminated the agreement improperly. Hudson moved for summary judgment, arguing that the memorandum was an unenforceable preliminary agreement. The trial court granted summary judgment to Hudson, and the Court of Appeals reversed and remanded because the trial court had not properly analyzed the memorandum as a whole or, if appropriate, the parties' actions and extrinsic evidence concerning intent.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The trial court must determine whether the memorandum of understanding as a whole unambiguously expressed the parties' intent not to be bound and, if not, whether the parties' actions and appropriate evidence outside the document demonstrate an intent to be bound. The trial court should also address the arguments concerning city solicitor endorsement and city finance-director certification as appropriate.

CASES CITED

- Grafton v. Ohio Edison Co., 77 Ohio St.3d 102, 105 (1996)
- Byrd v. Smith, 2006-Ohio-3455, ¶ 10
- Arnott v. Arnott, 2012-Ohio-3208, ¶¶ 14, 17
- Martin v. Steiner, 2018-Ohio-3928, ¶ 10 (9th Dist.)
- Normandy Place Assocs. v. Beyer, 2 Ohio St.3d 102, 105-106 (1982)
- M.J. DiCorpo, Inc. v. Sweeney, 69 Ohio St.3d 497, 503 (1994)
- Padula v. Wagner, 2015-Ohio-2374, ¶ 18 (9th Dist.)
- Oglebay Norton Co. v. Amco, Inc., 52 Ohio St.3d 232, 236-237 (1990)

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