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STATE OF MICHIGAN

COURT OF APPEALS

TUSCOLA AREA AIRPORT AUTHORITY,

Appellant,

v

PEGASUS WIND, LLC, MICHIGAN AERONAUTICS COMMISSION, and DEPARTMENT OF TRANSPORTATION,

Appellees.

FOR PUBLICATION
November 23, 2026
10:00 AM

No. 373184
Ingham Circuit Court
LC No. 20-000206-AA

Before: MARIANI, P.J., and FEENEY and TREBILCOCK, JJ.

FEENEY, J.

Tuscola Area Airport Authority (appellant) appeals as of right the circuit court order affirming the Michigan Department of Transportation's (MDOT's) issuance of Tall Structure Permits to Pegasus Wind, LLC (Pegasus). The circuit court concluded that MDOT and the Michigan Aeronautics Commission (MAC) complied with the requirements of the Tall Structure Act (the Act), MCL 259.493 *et seq*., in granting the permits, such that the issuance of the permits was authorized by law. We affirm.

I. FACTS

Pegasus applied to build a wind turbine farm in the general vicinity of the Tuscola Area Airport. This project required multiple permits from different agencies, including Tall Structure Permits from MAC, which delegated its authority for airspace reviews and approvals to MDOT. In early 2018, Pegasus submitted applications to MDOT and the Federal Aviation Administration (FAA) to build 62 wind turbines.

Given the proposed height of the turbines, the FAA automatically issued a "Notice of Presumed Hazard" for each proposed turbine and held a notice and comment period. The FAA then conducted an "aeronautical study" on the proposed turbines' impact on the surrounding airspace. Pegasus also hired Capitol Airspace Group to study the proposed turbines' potential impact on aviation and airspace. Capitol Airspace's study concluded that the proposed locations of 46 turbines would exceed certain height limits but suggested several options to avoid

substantially impacting air navigation. The FAA subsequently issued a "Determination of No Hazard to Air Navigation" for each of the proposed turbines because it found that the project would have "no substantial adverse effect on the safe and efficient utilization of the navigable airspace by aircraft or on the operation of air navigation facilities."[1]

In June 2019, the MDOT Airspace Review Team met to discuss its recommendations for the Pegasus project.[2] At the meeting, the Airspace Review Team and its in-house experts reviewed Pegasus's application, the FAA study, the Capitol Airspace study, and a presentation explaining the proposed project. Following that meeting, MDOT released a decision noting that, after considering Pegasus's application, MDOT "concur[red] with the FAA's determination of no hazard." MDOT subsequently issued 17 Tall Structure Permits in June 2019, and 33 additional permits in April 2020.

Shortly after the last of the permits were issued, appellant appealed MDOT's final decision to the circuit court. The circuit court initially dismissed the appeal upon finding that appellant lacked standing because it was not an aggrieved party. Appellant appealed the circuit court's dismissal, and this Court affirmed the circuit court's finding that appellant lacked standing. *Tuscola Area Airport Zoning Bd of Appeals v Mich Aeronautics Comm*, 340 Mich App 760; 987 NW2d 898 (2022), rev'd in part 511 Mich 1024 (2023). Our Supreme Court subsequently reversed that aspect of this Court's decision and remanded the case to the circuit court because it determined that appellant was an aggrieved party. *Tuscola Area Airport Auth v Mich Aeronautics Comm*, 511 Mich 1024; 991 NW2d 581 (2023).

Following our Supreme Court's order to remand, the parties submitted briefs to the circuit court. Appellant argued that MDOT violated the Act when it issued the permits without first conducting an independent airspace study and making a finding of noninterference. In response, MAC and MDOT acknowledged that they did not prepare a written airspace study but argued that they complied with the Act by performing a "comprehensive review" of the proposed project. MAC and MDOT also asserted that MDOT necessarily made a finding of noninterference when it granted the permits. Pegasus's brief raised similar arguments. In reply, appellant argued that MDOT's review of Pegasus's application and the FAA record did not satisfy the Act's requirements that MDOT conduct an "airspace study" or that the requisite airspace study result in a finding of noninterference.

In January 2024, the circuit court held a hearing. Notably, appellant's attorney conceded that MDOT "probably" would have satisfied the "study" requirement if it had prepared a written

[1] Thereafter, appellant challenged the FAA's no-hazard determination in the federal court. The federal court rejected appellant's challenge, reasoning that "[t]he FAA reasonably concluded that the turbines would not have a substantial adverse effect on aeronautical safety . . . ." *Tuscola Area Airport Authority v Dickson*, 831 F Appx 511, 512 (DC, 2020).

[2] MDOT did not hold a public meeting, but it compiled a 955-page document with evidence related to Pegasus's application.

document describing the steps it took in reaching its decision. In a written order and opinion, the circuit court affirmed MDOT's decision, reasoning as follows:

> MDOT's final decision to issue the permits to Pegasus is authorized by law. MCL 259.482a(l) and (2) requires the MDOT to conduct a study in order to make a determination as to whether the proposed structure interferes with airspace navigation. The statutes do not require the MDOT to conduct a certain kind of study or to issue a certain report. . . . [Appellant's] argument asks this Court to read requirements into the statutory language that are simply not present—that the MDOT or commission conduct an independent technical study, that the MDOT may not rely on third-party agency or expert studies, and that the MDOT make a written report of its finding of interference or noninterference with stated reasons for those findings. The Legislature lays out such procedures and requirements in other areas of the law, but did not do so here; the Court therefore declines to read additional requirements into the plain language of MCL 259.4[82]a.

This appeal followed.

II. THE TALL STRUCTURE ACT

On appeal, appellant argues that MDOT's issuance of permits was not authorized by law because MDOT failed to conduct an airspace study or make a finding of noninterference as required under the Act. We consider as a matter of first impression the requirements for an airspace study and noninterference finding under the Act. We conclude that the circuit court did not err by determining that MDOT and MAC complied with the requirements of the Act in granting the permits, such that the permits' issuance was authorized by law.

A. STANDARD OF REVIEW

"When reviewing a lower court's review of agency action, this Court must determine whether the lower court applied correct legal principles and whether it misapprehended or grossly misapplied the substantial evidence test to the agency's factual findings." *Henderson v Civil Serv Comm*, 321 Mich App 25, 37; 913 NW2d 665 (2017) (quotation marks, alteration marks, and citation omitted). In cases where a hearing was not required,[3] a circuit court reviews an agency decision only under the "authorized by law" standard, and "the substantial-evidence test does not apply." *Id.* at 39-40. The "authorized by law" standard "focuses on the agency's power and authority to act rather than on the objective correctness of its decision." *Id*. at 44 (quotation marks and citation omitted). "An agency decision in violation of a statute, in excess of the statutory authority or jurisdiction of the agency, made upon unlawful procedures resulting in material prejudice, or that is arbitrary and capricious is not authorized by law." *Id*. (quotation marks and citation omitted). An agency's "ruling is arbitrary and capricious when it lacks an adequate determining principle, when it reflects an absence of consideration or adjustment with reference

[3] This case did not require a hearing because MDOT did not deny the permit application. See MCL 259.487(2).

to principles, circumstances, or significance, or when it is freakish or whimsical." *Id*. (quotation marks and citation omitted).

B. AIRSPACE STUDY

MDOT[4] may not issue a Tall Structure Permit "unless . . . *an airspace study has been conducted by the commission* resulting in a finding of noninterference to air navigation." MCL 259.482a(1) (emphasis added). Additionally, when the proposed project meets certain criteria[5], MDOT "shall not" issue a permit "*[u]nless an airspace study has been made by the commission* resulting in a finding of noninterference to air navigation . . . ." MCL 259.482a(2) (emphasis added). In this case, the parties dispute whether MDOT's review of the FAA's airspace study and Pegasus's application materials, which included the Capitol Airspace study, met the statutory requirement of making or conducting an "airspace study."

The primary goal of statutory interpretation "is to give effect to the intent of the Legislature." *Grand Rapids v Brookstone Capital, LLC*, 334 Mich App 452, 458; 965 NW2d 232 (2020) (quotation marks and citation omitted). The plain language of the statute itself is the most reliable evidence of the Legislature's intent, and courts must give that language its plain and ordinary meaning "unless the Legislature has provided specific definitions or has used technical terms that have acquired a peculiar and appropriate meaning in the law." *Id.* (quotation marks and citation omitted). We "may not speculate regarding legislative intent beyond the words expressed in the statute." *Id.* (quotation marks and citation omitted).

The Act states that an airspace study must be "made by," MCL 259.482a(2), or "conducted by," MCL 259.482a(1), MDOT; however, the Act does not define "airspace study." See MCL 259.481. In our view, MDOT's collective actions—reviewing Pegasus's application, evaluating the studies by the FAA and Capitol Airspace, holding a meeting of its airspace review team, and compiling a 955-page document of evidence it relied on when it granted the application—constitute making or conducting a study as required by the Act.

Appellant resists this conclusion, suggesting the Act requires a written summary of these actions. In the circuit court, appellant conceded that MDOT "probably" would have satisfied the "study" requirement if it had prepared a written document describing the steps it took in reaching its decision. But the Act does not specify that the airspace study must be in writing. See MCL 259.482a(1) and (2).

Although the provisions at issue are silent as to what form the airspace study should take, the Legislature did specify that "the commission shall notify the applicant *in writing*" of its decision to *deny* a permit. MCL 259.487(2) (emphasis added). "Statutes that relate to the same subject matter or share a common purpose are *in pari materia* and must be read together as one

[4] The statute refers to "the commission," MCL 259.482a(1), but the MAC delegated its authority for airspace reviews and approvals to MDOT.

[5] The parties do not dispute that MCL 259.482a(1) and (2) apply to this case.

law to effectuate the legislative purpose as found in harmonious statutes." *Grand Rapids*, 334 Mich App at 459 (quotation marks and citations omitted). Accordingly, the Legislature's clear intent to require writing in one portion of the Act, MCL 259.487(2), but not another, see MCL 259.482a(1) and (2), suggests that the Legislature did not intend to require that MDOT make, prepare, or create a written airspace study. See *id*. Courts "may not read into the statute what is not within the Legislature's intent as derived from the language of the statute." *Robinson v Lansing*, 486 Mich 1, 15; 782 NW2d 171 (2010) (quotation marks and citation omitted). Although MDOT did not describe its findings in writing, it did compile a 955-page document of the evidence it relied on when granting Pegasus's application. We also note that when the Legislature seeks to define what must be contained in a study or in the form that a study is to take, it knows how to do so by setting forth those requirements in the statute. See, e.g., MCL 460.6u (governing the study and review of performance-based regulation systems for public utilities overseen by the MPSC); MCL 324.19107 (addressing recycling and composting feasibility studies under the Natural Resources and Environmental Protection Act). It did not do so here. Therefore, the circuit court correctly noted that the statute does "not require the MDOT to conduct a certain kind of study or to issue a certain report." See MCL 259.482a(1) and (2).

In summary, the Act does not specify the format that the study must take and MDOT satisfied the airspace study requirement by reviewing the aforementioned evidence at the MDOT Airspace Review Team's June 2019 meeting. See MCL 259.482a(1) and (2). Therefore, we see no reversible error in the circuit court's conclusion that MDOT's decision to grant the permits was authorized by law in this respect. See *Henderson*, 321 Mich App at 37, 39-40.

C. NONINTERFERENCE FINDING

As previously stated, the Act provides that MDOT may not issue a Tall Structure Permit "unless . . . an airspace study has been conducted by the commission *resulting in a finding of noninterference to air navigation*." MCL 259.482a(1) (emphasis added). Additionally, when the proposed project meets certain criteria, MDOT "shall not" issue a permit "[u]nless an airspace study has been made by the commission *resulting in a finding of noninterference to air navigation* . . . ." MCL 259.482a(2) (emphasis added).

In this case, appellant argues that "MDOT never independently determined that Pegasus's project would not interfere with air navigation." In making this argument, appellant asserts that an agency must explicitly state its factual findings "on the record in nearly every context." But that argument is misplaced because courts "may not read into the statute what is not within the Legislature's intent as derived from the language of the statute." *Id*. (quotation marks and citation omitted). The Act does not define what constitutes "a finding of noninterference to air navigation," see MCL 259.481, nor does it specify what form that finding must take, see MCL 259.482a(1) and (2). Generally, noninterference is defined as "a lack of interference." Merriam-Webster Online Dictionary, *noninterference* <https://www.merriam-webster.com/dictionary/noninterference> (accessed August 17, 2026). Interference is "something that interferes," and to interfere is to "impose in a way that hinders or impedes; come into collision or be in opposition." *Merriam-Webster's Collegiate Dictionary* (11th ed), p 652. Therefore, the plain language of the Act requires MDOT to find that a proposed project would not interfere with air navigation before issuing Tall Structure Permits. See MCL 259.482a(1) and (2).

Indeed, MDOT never issued any written finding expressly stating that Pegasus's proposed project would not interfere with air navigation; however, the FAA determined that the wind turbines "would not be a hazard to air navigation" and "would have no substantial adverse effect on the safe and efficient utilization of the navigable airspace by aircraft or on the operation of air navigation facilities." After reviewing the FAA and Capitol Airspace studies, MDOT expressly agreed with the FAA's determination of no hazard and specifically stated that "the team concurs with the FAA's determination of no hazard." Accordingly, MDOT made a finding of noninterference when it agreed with the FAA's determination of no hazard. Given that the Tall Structures Act neither defined how MDOT must make a noninterference finding, see MCL 259.481, nor stated that such a finding must be in writing, MCL 259.482a(1) and (2), we see no reversible error in the circuit court's conclusion that MDOT's noninterference finding and decision to issue the permits was authorized by law. See MCL 259.482a(1) and (2); see also *Henderson*, 321 Mich App at 37, 39-40.

Affirmed.

/s/ Kathleen A. Feeney
/s/ Philip P. Mariani
/s/ Christopher M. Trebilcock