

IN THE COURT OF APPEALS OF IOWA

No. 6-1008 / 05-1833
Filed February 28, 2007

JOHN BAKER,
Plaintiff-Appellant,

AND VALERIE BAKER,
Plaintiff,

vs.

**CITY OF IOWA CITY, IOWA AND
IOWA CITY HUMAN RIGHTS COMMISSION,**
Defendants-Appellees.

Appeal from the Iowa District Court for Johnson County, William L.
Thomas and L. Vern Robinson, Judges.

John Baker appeals from the dismissal of an action for declaratory
judgment, injunctive relief, damages, and a writ of certiorari. **AFFIRMED.**

Michael J. Pitton of Martinek & Pitton, Iowa City, for appellant.

Susan Dulek, Assistant City Attorney, Iowa City, for appellees.

Heard by Mahan, P.J., and Vaitheswaran and Eisenhauer, JJ.

VAITHESWARAN, J.

This is an appeal from the dismissal of an action for declaratory judgment, injunctive relief, damages, and a writ of certiorari. The district court concluded the action was moot. We agree.

I. Background Facts and Proceedings.

John and Valerie Baker were landlords of a house in Iowa City. They advertised for a resident manager to collect rent and perform maintenance. An applicant for the position, who was not hired, filed a complaint with the Iowa City Human Rights Commission. The applicant alleged that the Bakers engaged in housing and employment discrimination based on the applicant's race and marital status. The claimed violations were premised on Iowa City's Human Rights Ordinance.

While the administrative action was pending, the Bakers sued Iowa City (City) and the Iowa City Human Rights Commission (Commission). They sought: (1) a declaration that the human rights ordinance was in conflict with state law, was unconstitutional, and violated the City's home authority; (2) damages based on claimed civil rights violations; (3) the issuance of a writ of certiorari for claimed illegality by an inferior tribunal; and (4) an order staying or enjoining the administrative action.

The district court denied the Bakers' request for a stay or injunction. All parties subsequently filed cross-motions for summary judgment. While the motions were pending, the Bakers reached a settlement of the administrative action and that action was dismissed with prejudice.

In light of the settlement, the district court concluded the civil action was moot. The court granted summary judgment in favor of the defendants and dismissed the Bakers' claims. The court later denied the Bakers' motion for enlarged findings and conclusions. John Baker appealed.

II. Mootness

Summary judgment is properly granted when there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. Iowa R. Civ. P. 1.981(3).

Baker does not argue that factual issues precluded summary judgment. Instead, he contends the district court erred as a matter of law in concluding that the settlement and dismissal of the administrative action rendered his claims moot. He maintains the discrimination complaint was distinct from his claims against the City and the Commission or, in the alternative, the case falls within an exception to the mootness doctrine for issues that are likely to recur and will evade review.

Mootness "refers to cases which no longer present a justiciable controversy because the issues involved have become academic or nonexistent." *Junkins v. Branstad*, 421 N.W.2d 130, 133 (Iowa 1988). "The test is whether a judgment, if rendered, would have any practical legal effect upon the existing controversy." *Id.*; see also *Lewis Invs., Inc. v. City of Iowa City*, 703 N.W.2d 180, 183 (Iowa 2005).

The Bakers' entire lawsuit was premised on the discrimination complaint filed with the Commission. The ordinance provisions they challenged were ones invoked by the Commission in connection with that complaint. The civil rights

violations they raised were based on the Commission's "enforcement of said ordinances, the investigation undertaken and the commencement of administrative proceedings against" them. The certiorari claim they filed alleged that the defendants acted illegally in "conducting the investigation and commencing an administrative proceeding against plaintiffs based on the City ordinances in issue." With the dismissal of the discrimination complaint, the controversy that precipitated the Bakers' lawsuit was eliminated. For this reason, we agree with the district court that the case is moot. See *Toomer v. Iowa Dep't. of Job Serv.*, 340 N.W.2d 594, 598 (Iowa 1983) (holding claim of several plaintiffs became moot when they received relief in their respective contested cases, because claim became "purely 'academic' and 'non-existent,'" and holding that other plaintiffs' claims became moot for lack of a justiciable controversy). See also *Wengert v. Branstad*, 474 N.W.2d 576, 578 (Iowa 1991) ("Our lawgiving function is carefully designed to be an appendage to our task of resolving disputes. When a dispute ends, the lawgiving function ordinarily vanishes."); *Roth v. Reagen*, 422 N.W.2d 464, 466 (Iowa 1988) (holding constitutional challenge to statute became moot following expungement of records to which statute pertained); cf. *Alberhasky v. City of Iowa City*, 433 N.W.2d 693, 695-96 (Iowa 1988) (affirming denial of writ of certiorari where city's human rights commission had yet to hold hearing on complaint and resolution of complaint might be in favor of respondent); *Green v. Shama*, 217 N.W.2d 547, 556 (Iowa 1974) (stating "no one may question the constitutionality of a statute unless he can show he is injured by it").

This brings us to an exception to the mootness doctrine for issues capable of repetition yet evading review. See *State v. Hernandez-Lopez*, 639 N.W.2d 226, 234 (Iowa 2002). The Bakers' lawsuit does not raise an issue of this type. Whenever the Commission finds probable cause to support a complaint under the local human rights ordinance, an employer or landlord could defend by raising precisely the type of claims that the Bakers raised here. There is no indication in this record that the discrimination issues the Commission is charged with ferreting out and, conversely, the validity and constitutionality of the ordinance the Commission is charged with enforcing would, by virtue of time, evade review. See *Iowa Bankers Ass'n v. Iowa Credit Union Dep't.*, 335 N.W.2d 439, 442 (Iowa 1983) (noting challenge to agency's process of adopting rules might meet criteria of public interest exception, but issue could be raised in connection with challenges to other rules of agency); cf. *In re M.T.*, 625 N.W.2d 702, 705 (Iowa 2001) (stating appeals involving procedures used in civil commitment proceedings "will often be moot before the appeal can be decided"). Moreover, because the administrative action was settled before the body made findings of fact or conclusions of law, we do not have a record indicating that resolution of the issues is immediately necessary to remove "a cloud" on the ordinance. See *Catholic Charities v. Zalesky*, 232 N.W.2d 539, 543 (Iowa 1975) (addressing challenge to adoption statutes for this reason). We conclude the exception to the mootness doctrine does not apply and the district court did not err in concluding the lawsuit was moot.

III. Additional Issue

Baker also asserts that the district court abused its discretion in quashing his subpoena for records from the city attorney. In light of our disposition, we find it unnecessary to address this issue.

AFFIRMED.