2014 IL App (3d) 121058-U

Order filed January 8, 2014

IN THE

APPELLATE COURT OF ILLINOIS

THIRD DISTRICT

A.D., 2014

MICHAEL T. IMHOF, individually, and SHERYL L. PURACCHIO, individually,	)	Appeal from the Circuit Court of the 12th Judicial Circuit,
Plaintiffs-Appellants/ Cross-Appellees,	)	Will County, Illinois,
v.	)	Appeal Nos. 3-12-1058, 3-13-0024 cons. Circuit No. 09-L-515
CITY OF WILMINGTON, an Illinois Municipal corporation,	)	
Defendant-Appellee/ Cross-Appellant.	)	The Honorable Bobbi Pentrungaro, Judge, Presiding.

JUSTICE McDADE delivered the judgment of the court.
Justice Holdridge and Justice Wright concurred in the judgment.

ORDER

¶ 1 *Held*: The amendments to plaintiffs' employment agreements with municipality granting each plaintiff one year's salary as severance pay were null and void for lack of a prior appropriation. The trial court's award of severance pay to plaintiffs as called for by the unamended employment agreements was not void for lack of subject matter jurisdiction.

¶ 2 Plaintiffs Michael Imhof and Sheryl Puracchio were both employed by defendant City of Wilmington pursuant to separate employment agreements, which were scheduled to terminate on May 31, 2009. Following the election of a new mayor, these employment agreements were amended: the termination dates were changed to May 5, 2009, and new severance provisions were added, stating that plaintiffs would receive one year's salary if employed on the agreement's termination date. The City's new mayor chose not to continue the employment of either plaintiff, and the city did not pay any severance to plaintiffs. Plaintiffs filed a lawsuit alleging that they were entitled to severance pay under the amended agreements. The trial court ruled that plaintiffs were not entitled to one year's salary as severance pay under the amended agreements, concluding the amendments were not valid contracts because they were not supported by consideration. However, the court ruled that plaintiffs were entitled to a smaller amount of severance pay for being terminated without cause, as called for by a severance provision contained in the original employment agreements.

¶ 3 Plaintiffs appealed, and argue that the amendments were valid contracts and therefore they are entitled to one year's salary as severance. The City cross-appealed, and asserts that the trial court did not have jurisdiction to grant relief based on the original employment agreements, because the only issue before it was amended agreements. We affirm.

¶ 4 FACTS

¶ 5 I. Original Contracts and Proposed Amendments

¶ 6 Plaintiff Michael Imhof worked as a police officer for defendant City of Wilmington since 1997, and in 2008 was hired to be the City's chief of police. On April 15, 2008, he entered into an employment agreement with the City, which provided that the City would pay Imhof an

annual salary of $75,000. The agreement had a termination date of May 31, 2009. The agreement provided that if Imhof was terminated without cause during the term of the agreement, the City would pay Imhof the equivalent of three months' salary as severance pay, along with any earned but unpaid salary and the monetary equivalent of unused vacation and sick days.

¶ 7 In 2008, the City hired plaintiff Sheryl Puracchio to serve as the city administrator. On June 1, 2008, Puracchio entered into an employment agreement with the City, which provided that the City would pay her an annual salary of $75,600, with a 5% increase per year. Puracchio's employment agreement was also set to terminate on May 31, 2009. The agreement provided that if she was terminated without cause during the term of the agreement, the City would pay Puracchio the equivalent of two months' salary as severance pay, along with any earned but unpaid salary and the monetary equivalent of unused vacation and sick days.

¶ 8 Both Imhof and Puracchio were appointed to their positions by the City's mayor at the time, Roy Strong. In April 2009, Mayor Strong lost the mayoral election to J. Marty Orr, who was then a city alderman. As an alderman, Orr had voted against employing Puracchio as city administrator. Orr was slated to be sworn in as mayor on May 5, 2009.

¶ 9 After Mayor Strong lost the election, two ordinances were proposed in the City Council. Ordinance 09-04-21-10 contained an amendment to the city administrator employment agreement with Puracchio. The amendment to Puracchio's employment agreement provided, in the relevant part:

> "**SECTION 1**.
>
> That Section 3 **Term** of the CITY and PURACCHIO's Employment Agreement dated June 1, 2008 (Exhibit A), is hereby amended to read as

follows:

'SECTION 3. TERM

This Agreement shall commence on the 1st day of June, 2008, and terminate at the end of the term of the Mayor holding office at the time this Agreement is executed.'

SECTION 2. SEVERANCE COMPENSATION

That the Agreement dated June 1, 2008 (Exhibit A), between the CITY and PURACCHIO is amended to add a Section 12 A, Severance[,] which Section shall read as follows:

'SECTION 12. A. SEVERANCE

That if PURACCHIO is employed by the City of Wilmington on the termination date of this Agreement as enumerated in Section 3 hereof, and in lieu of any and all other forms or claims for compensation or remuneration, including under this Agreement, the CITY shall pay PURACCHIO at the termination of this Agreement:

1. All earned but unpaid base salary;

2. The monetary equivalent of all earned but unused vacation/sick and personal days and all other compensatory time;

3. The monetary equivalent of one (1) year of her then current base salary;

In addition, the CITY shall pay all PURACHHIO's benefit costs through termination of the Contract.'

SECTION 3.

> Except as amended herein, the other terms, conditions, and provisions of the Parties' June 1, 2008 Agreement attached as Exhibit A are ratified and reaffirmed."

Ordinance 09-04-21-11 contained similar language, proposing an identical amendment to Imhof's chief of police employment agreement. The amendment changed the termination date of Imhof's agreement to the "end of the term of the Mayor holding office at the time this Agreement is executed," and added the provision stating that if he was employed on the termination date, he would be paid one year of his current salary as severance pay.

¶ 10 The amendments contained language stating that these changes were made to reduce the term of the original employment agreements and to "induce" Puracchio and Imhof to stay in their existing positions "through the expiration of the Agreement as amended." The amendments did not otherwise change the duties that Imhof or Puracchio were required to perform under their employment agreements; the sole changes were to add the provisions regarding severance pay, and to alter the term of their employment agreements from May 31 to the last day of Mayor Strong's term in office, which was May 5, 2009. Both Puracchio and Imhof testified at trial that, prior to the amendments being proposed, they had not negotiated for a change in their severance pay.

¶ 11 In a deposition (later admitted at trial), Alderman Joseph Hermes explained the reason the ordinances amending the contracts were proposed: some members of the City Council hoped that the prospect of paying severance would pressure incoming Mayor Orr to retain both Imhof and Puracchio in their current positions. These council members believed Imhof and Puracchio were the best fits for their respective jobs, and did not want Mayor Orr to appoint new people to those

positions. Alderman Hermes stated: "Our intent was that the mayor would extend their contracts for another year under this agreement. That was our plan. That was our hope, that we had a leverage that that's what he would do. Give them both an opportunity to prove themselves for another year of employment, yes, exactly."

¶ 12 II. City Council Meetings and Approval of Amendments

¶ 13 The ordinances amending Imhof's and Puracchio's employment agreements were scheduled to be voted on at a City Council meeting on April 21, 2009. The official minutes for the Council meeting reveal that several citizens voiced concerns about the ordinance amending the employment agreements, specifically objecting to the severance provisions. Alderman Orr also expressed concerns about the ordinances. Prior to the ordinances coming to a vote in the personnel committee, Alderman Orr made a motion to defer final action of the committee reports until the next meeting; this motion was joined by another alderman. The city attorney determined that this motion did not defer voting on the ordinances, stating that the proper method to defer an ordinance was to make a motion to table the ordinance. Voting proceeded, and both ordinances passed by a 5-3 vote. Following the vote, Imhof stated on the record that he had just returned from vacation, had nothing to do with the ordinance, and that he did not want severance; instead, he wanted to continue to be the chief of police for the City.

¶ 14 Each ordinance authorizing the amendments states that it "shall be effective after its passage, approval and publication in pamphlet form as provided by law." Jolynn Ziller, the city clerk, testified that it was her duty to publish the ordinances. She did not publish the ordinances in pamphlet form, although she did place the ordinances in the City's "Ordinance Book," which is maintained for the public to come and view approved ordinances.

¶ 15 Following the approval of the ordinances, neither Puracchio nor Imhof immediately signed the amendments to their employment agreements. Instead, they spoke to Orr about whether they could continue in their positions once Orr became mayor. Imhof believed he would be able to continue as police chief. Orr told Puracchio that he would not reappoint her as city administrator, but that she could continue to work in the position until a replacement was found. Puracchio responded that she would not work without a contract. Puracchio then signed the amendment to her employment agreement prior to the City Council meeting on May 5, 2009.

¶ 16 At the City Council meeting on May 5, Mayor Strong gave a farewell speech and Orr was sworn in as the new mayor. Puracchio spoke before the council, saying that she understood the amended employment agreement granting a year of severance was a "gesture" from the City Council but that she could not, in good conscience, accept a full year of severance. Because she would not continue to work without a contract and Mayor Orr was searching for a new city administrator, she informed the council that this would be her last meeting. She later offered to help the City with ongoing projects.

¶ 17 Imhof continued to serve as police chief after May 5; however, on May 29, 2009, Imhof learned that Mayor Orr planned to appoint a new police chief. At that time, Imhof signed the amendment to his employment agreement.[1] Imhof testified that he did not sign the agreement before this time because Orr kept saying he would retain Imhof as police chief, then changing his

[1]The certification on the signature page of the amendment to Imhof's employment agreement reads that it was signed on April 21, 2009. Ziller, the city clerk, clarified at trial that while she notarized the document for April 21, Imhof did not actually sign the amendment until May 29.

mind, and Imhof felt strung along by Orr. At the City Council meeting on June 2, 2009, Mayor Orr appointed a new police chief, who was confirmed by a divided vote of the City Council.

¶ 18 III. Proceedings in Trial Court

¶ 19 In early June of 2009, Puracchio and Imhof sent letters to the City, requesting that the City pay them severance due under their employment agreements. No severance was paid, and both Puracchio and Imhof filed suit in the circuit court of Will County on June 19, 2009. The complaint attached both the original employment agreements and the amended employment agreements, and requested that the court award plaintiffs the sums due under the terms of the amended agreements.

¶ 20 In response to the suit, the City filed a motion to dismiss, alleging the following affirmative defenses: (1) that the amendments were void *ab intio*; (2) that the amendments authorizing increased severance pay were unenforceable the City failed to appropriate funds; (3) that the amendments were void because the City never published the authorizing ordinances; (4) that the amendments were not properly passed because the authorizing vote should have been deferred; (5) that the amendments were not a valid contract because they were not supported by consideration; and (6) that the contracts were unconscionable. The trial court denied the motion to dismiss, ruling that there were issues of fact which precluded dismissal. The City later moved for summary judgment, but the motion was stricken for failure to comply with local court rules.

¶ 21 The case proceeded to trial on October 27, 2011, during which the foregoing facts were elicited. In addition, Robin Theobold, the City's director of finance, testified at trial regarding the City's budget. Her testimony is relevant to the determinative issue on appeal. The City passed its original budget for fiscal year 2009 in May of 2008. The City's original budget contained a line

item reflecting employees' salaries. Imhof's salary was paid from the line item appropriation for police department salaries. Puracchio's salary was paid from the salary appropriations from three separate departments: 80% of her salary was paid from the salary line item appropriation for the finance and administration department, 10% from water, and 10% from sewer. Other forms of employee compensation outside of salary—such as employee health insurance, overtime wages, and employee dues, subscriptions, and memberships—had their own individual line item appropriations for the individual departments. The original budget did not include separate line item appropriations for severance payments to the police chief or city administrator. Theobold also testified that the salary line items for both the finance and administration department and the police department did not contain amounts for severance.

¶ 22 In its original budget, the City appropriates up to 25% more than its anticipated expenditures. At the close of the fiscal year 2009, the City filed an amended budget, reflecting its actual expenditures for fiscal year 2009. This amended budget also did not include a separate appropriation for a year's severance payments for the police chief or city administrator, although Theobold stated that if the money was actually spent, it could have been included in the amended appropriation. Theobold further testified that on May 5, 2009, she had a discussion with Purrachio about the budget, and stated that on that date there were sufficient funds to pay severance equivalent to one year's salary to both Imhof and Puracchio. However, based on her recollection, by the end of fiscal year 2009 the budget did not have sufficient appropriated funds to pay the severance. Theobold also testified that just because there was money in the City's treasury did not mean that it was appropriated.

¶ 23 The trial judge issued a written decision on December 27, 2011. The court ruled that

while the original employment agreements contained valid severance provisions, the amendments were invalid because they were not supported by consideration. In so ruling, the court relied on the fact that Imhof and Puracchio were not required to provide additional services and that the terms of their employment agreements were shortened, yet they received an increase in severance pay from two and three months' salary, respectively, to one year's salary.

¶ 24 Although the amendments were invalid, the court found that the original employment agreements still applied. The court concluded that both Puracchio and Imhof were discharged prior to agreements' termination date of May 31, 2009, because they both wanted to continue in their positions but were not retained by Mayor Orr. The court found that the severance provisions of the original employment agreements applied because plaintiffs were terminated without cause, and ruled that under those provisions, Imhof was entitled to three months' salary and Puracchio was entitled to two months' salary as severance.

¶ 25 Proceedings continued on plaintiffs' request for attorney fees. On July 18, 2012, the trial court entered a judgment order, awarding severance, attorneys fees, and statutory interest to Imhof and Puracchio. Both plaintiffs and the City filed motions to reconsider and motions for a new trial. The court entered a final judgment, denying each party's post-trial motions on December 4, 2012. Imhof and Puracchio filed their notice of appeal on December 19, 2012, challenging the trial court's ruling that the amended employment agreements are invalid. The City filed a notice of appeal on December 20, 2012, challenging the award of severance, attorney fees, and interest.

¶ 26 ANALYSIS

¶ 27 I. Imhof and Puracchio's Appeal, No. 3-12-1058

¶ 28 On appeal, Imhof and Puracchio contend that the amendments to their employment agreements were valid, and that under the terms of the amended agreements, the trial court should have awarded them the monetary equivalent of one year's salary as severance. They advance two arguments in support of this contention. First, they argue that the trial court erred by concluding that the amendments were not supported by consideration. Second, they argue that even if the amendments lacked consideration, they could still be enforced because they were fully executed.

¶29 In response, the City contends that the trial court properly concluded that the amendments lacked consideration. In addition, the City has raised a number of alternative arguments to support the trial court's conclusion that the amendments were invalid. The arguments advanced by the City are: (1) that the amendments are unenforceable based on public policy considerations; (2) that the amendments authorizing increased severance pay were unenforceable because of a lack of appropriated funds; (3) that the amendments were void because the authorizing ordinance never became law through publication; (4) that the amendments were not properly passed because the authorizing vote should have been deferred; and (5) under the terms of his amended employment agreement, Imhof did not qualify for severance. Although the trial court did not rule on any of these issues, an appellee may urge any point in support of the judgment on appeal, so long as the factual basis for such a point was before the trial court. *Beahringer v. Page*, 204 Ill. 2d 363, 370 (2003).

¶ 30 We review the arguments of the parties *de novo*. Construction of a contract is a question of law which the appellate court reviews *de novo*. *Amalgamated Bank of Chicago v. Kalmus & Associates, Inc.*, 318 Ill. App. 3d 648, 655 (2000). To the extent that this appeal requires us to

determine whether the contracts complied with applicable statutory provisions, that also presents a question of law we review *de novo*. *Behl v. Gingerich*, 396 Ill. App. 3d 1078, 1086 (2009).

¶ 31 We agree with the City's argument that the amendments are invalid, but not for a lack of consideration as found by the trial court. For a modification of an existing contract to be valid and enforceable, the modification must be supported by consideration. *Doyle v. Holy Cross Hospital*, 186 Ill. 2d 104, 112 (1999). "Consideration consists of some detriment to the offeror, some benefit to the offeree, or some bargained-for exchange between them." *Doyle*, 186 Ill. 2d at 112. "Any act or promise which is of benefit to one party or disadvantage to the other is a sufficient consideration to support a contract." (Internal quotation marks omitted.) *Carter v. SSC Odin Operating Co., LLC*, 2012 IL 113204, ¶ 23. In the employment context, where an employee continues to work for her employer, her continued employment is sufficient consideration to support the employment agreement. See *Melena v. Anheuser-Busch, Inc.*, 219 Ill. 2d 135, 151 (2006) ("[U]nder Illinois law, continued employment is sufficient consideration for the enforcement of employment agreements.").

¶ 32 Here, the amendments to Imhof and Puracchio's employment agreements did not call for Imhof and Puracchio to perform any extra duties, and it effectively shortened the term of their employment agreements from May 31 to May 5, Mayor Strong's last day in office. In exchange, they would receive one year's salary as severance pay if they were employed on May 5. Imhof and Puracchio were not obligated to keep working until May 5, and could have resigned prior to that date. Under these circumstances, the amendments granting plaintiffs a year's severance could be seen as an inducement to keep them in their positions until May 5, 2009, and their decision to keep working in those positions is sufficient consideration to support the

amendments. While that may seem like a bad bargain for the City, courts generally will not inquire into the adequacy of consideration for a contract. *Gallagher v. Lenart*, 226 Ill. 2d 208, 243 (2007). Therefore, the trial court's ruling that the amendments were invalid cannot be affirmed based on a lack of consideration.

¶ 33 Next, we turn to the City's argument that the amendments granting one year's salary to each plaintiff as severance are void because the funds to pay for the severance were never appropriated. To support its argument, the City points to the Illinois Municipal Code, which provides:

> "Except as provided otherwise in this Section, no contract shall be made by the corporate authorities, or by any committee or member thereof, and no expense shall be incurred by any of the officers or departments of any municipality, whether the object of the expenditure has been ordered by the corporate authorities or not, unless an appropriation has been previously made concerning that contract or expense. Any contract made, or any expense otherwise incurred, in violation of the provisions of this section shall be null and void as to the municipality, and no money belonging thereto shall be paid on account thereof." 65 ILCS 5/8-1-7(a) (West 2010).

This provision has been interpreted to mean that any municipal contract entered into without a prior appropriation is null and void. *Lindahl v. City of Des Plaines*, 210 Ill. App. 3d 281, 290 (1991); *Klekamp v. City of Burbank*, 266 Ill. App. 3d 81, 84 (1994). A plaintiff seeking

compensation from a municipality bears the burden of proving that a relevant appropriation was made for the contract. *Lindahl*, 210 Ill. App. 3d at 293-94.

¶ 34 Our analysis of Illinois law indicates that it is not required that every expenditure relating to an employee's compensation have a specific appropriation, so long as the expenditure can be fit under the appropriated expenditure for the employee's salary or compensation. In *Aiardo v. Village of Libertyville*, the plaintiffs sought compensation for unpaid roll-call overtime, and the trial court granted summary judgment for the defendant village on the basis that there was no specific appropriation in the village's budget for roll-call overtime. *Aiardo v. Village of Libertyville*, 184 Ill. App. 3d 653, 658-59 (1989). The appellate court reversed, ruling that even though there was no specific line item appropriation for roll-call overtime pay, the village contemplated that payment of any overtime compensation would come out of the general line item appropriation for salaries and compensation. *Aiardo*, 184 Ill. App. 3d at 659. See also *Cannella v. Village of Bridgeview*, 284 Ill. App. 3d 1065, 1074 (1996). But in *Koudelka v. Village of Woodridge*, the court ruled that the plaintiff employee's claim for compensatory time off was an "extraordinary expense" that did not fit under the village's customary line item appropriation for salary or overtime compensation. *Koudelka v. Village of Woodridge*, 91 Ill. App. 3d 884, 887 (1980). Because there was no specific appropriation for compensatory time off, and such a claim did not fit under the general line item for salary or overtime, the court concluded that any contract for compensatory time off was void for lack of prior appropriation. See *Koudelka*, 91 Ill. App. 3d at 888.

¶ 35 For two reasons, we conclude that Imhof and Puracchio have failed to prove that there was a prior appropriation for severance payments equivalent to one year's salary. First, it is clear

from the record that the City made no specific appropriation for severance payments to Imhof and Puracchio before the ordinances amending their employment agreements were passed. In addition, no specific appropriation was made in the City's amended budget after the amendments were executed. Plaintiffs rely on the fact that Theobold told Puracchio that there were sufficient funds to pay for the severance. But merely because there were funds available does not mean the funds were appropriated, and here the record is clear that there was no specific appropriation made for severance payments to Puracchio or Imhof.

¶ 36 Second, Imhof and Puracchio have not pointed to any provision of the City's budget from which we could conclude that severance pay of one year's salary, as provided by the amended agreements, fits under the already appropriated expenditures for the police chief and city administrator salaries. There is nothing in the record to indicate that the City contemplated that severance pay of one year's salary would be paid out the line item appropriation for employee salary for fiscal year 2009. In fact, Theobold testified that the salary line items for the finance and administration department and the police department did not contain appropriated funds for severance. Additionally, the City's budget does not contemplate that all forms of employee compensation will be paid out of the line item appropriation for employee salaries, because other forms of employee compensation have their own separate line item appropriations. This distinguishes the present case from *Aiardo* and *Cannella*, in which the city budgets contemplated that the compensation those plaintiffs sought would be paid out of the general line item for employee salary. Instead, the contracts providing for one year's salary of severance pay is more analagous to the plaintiff's claim for an "extraordinary expense" in *Koudelka*—this is an expense that would not customarily be paid by the municipality, and thus, without evidence to the

contrary, we cannot conclude it would be paid for out of the general line item for employee salary.

¶ 37 Quite simply, the burden was on plaintiffs to prove that the City made a prior appropriation for the severance pay they sought (see *Lindahl*, 210 Ill. App. 3d at 293-94) and that burden was not met here. We conclude there was no prior appropriation for the provisions in the amendments providing for one year's salary as severance pay, and accordingly those provisions are null and void. See *Lindahl*, 210 Ill. App. 3d at 290; *Klekamp*, 266 Ill. App. 3d at 84.

¶ 38 II. The City's Cross-Appeal, No. 3-13-0024

¶ 39 In its cross-appeal, the City has challenged the trial court's order awarding severance under the provisions of the original agreements. The original employment agreements provided that if terminated without cause during the agreement's term, the City would pay Puracchio two months' salary and Imhof three months' salary as severance. The amendments added new sections regarding severance to each agreement, which provided that if plaintiffs were employed on Mayor Strong's last day in office, they would each receive one year's salary as severance. These severance provisions applied in lieu of all other claims for compensation under the agreements, but the amendments otherwise ratified and reaffirmed all the other provisions in the original agreements.

¶ 40 In their complaint filed with the circuit court, Puracchio and Imhof requested relief based on the provisions of the amended agreements; they did not specifically request any relief based on the original agreements, although they did attach the original employment agreements to the complaints as exhibits. Nevertheless, after finding the amendments were invalid, the trial court determined that the provisions in the original agreements providing severance for termination

without cause applied. Apparently concluding that both Imhof and Puracchio were terminated without cause, the court awarded severance based on the provisions of the original employment agreements.

¶ 41 The sole argument the City has raised in its cross-appeal is that because plaintiffs did not request relief based on the original employment agreements in their complaint, the circuit court lacked subject matter jurisdiction to award severance based on the severance provisions contained in the original agreements. The City contends the circuit court's order is therefore void. This argument requires us to examine the relevant law regarding the scope of a circuit court's subject matter jurisdiction.

¶ 42 Subject matter jurisdiction is the power of a court to hear and determine cases of the general class to which the proceeding in question belongs. *Belleville Toyota, Inc. v. Toyota Motor Sales, U.S.A., Inc.*, 199 Ill. 2d 325, 334 (2002). Our state constitution grants circuit courts jurisdiction over all justiciable matters. *Belleville*, 199 Ill. 2d at 334 (citing Ill. Const.1970, art. VI, § 9). "Generally, a 'justiciable matter' is a controversy appropriate for review by the court, in that it is definite and concrete, as opposed to hypothetical or moot, touching upon the legal relations of parties having adverse legal interests." *Belleville*, 199 Ill. 2d at 335. To invoke a court's subject matter jurisdiction, the plaintiff's complaint must present a justiciable matter, and "if a complaint states a case belonging to a general class over which the authority of the court extends, subject matter jurisdiction attaches." *Belleville*, 199 Ill. 2d at 335 (citing *People ex rel. Scott v. Janson*, 57 Ill.2d 451, 459 (1974)). See also *In re Luis R.*, 239 Ill. 2d 295, 301 (2010) ("[T]he *only* consideration is whether the alleged claim falls within the general class of cases that the court has the inherent power to hear and determine. If it does, then subject matter jurisdiction

is present." (Emphasis in original.)).

¶ 43 Whether the circuit court has valid subject matter jurisdiction is a question of law, which we review *de novo*. *In re Marriage of Engelkens*, 354 Ill. App. 3d 790, 792 (2004).

¶ 44 Based on our supreme court's discussion of the issue in *Belleville*, we reject the City's argument that the circuit court was without subject matter jurisdiction to order relief based on the original agreements. The plaintiff's complaint sought to enforce plaintiffs' employment agreements with the city; this presented the court with a contract dispute, which is unquestionably a matter within the general class of cases the circuit court has the power to adjudicate. The complaint also presented the court with a definite, concrete dispute, as opposed to a hypothetical or moot dispute. Accordingly, the complaint presented a justiciable matter to the court, and the court possessed valid subject matter jurisdiction.

¶ 45 We note that the City has relied on *Ligon v. Williams*, 264 Ill. App. 3d 701 (1994), which addressed whether a court has jurisdiction to adjudicate an issue when no pleading has placed that issue before the court. In *Ligon*, the petitioner-mother filed a petition under the Parentage Act to have the respondent declared to be the father of her child and to order respondent to pay child support. *Ligon*, 264 Ill. App. 3d at 703. At an initial hearing, respondent admitted he was the father and stated that the child was living with him, and the court *sua sponte* awarded custody to respondent because it believed he was the "more fit individual." *Ligon*, 264 Ill. App. 3d at 703. The appellate court found that the court's order regarding custody was void for lack of subject matter jurisdiction, because custody was not a justiciable matter before the court. *Ligon*, 264 Ill. App. 3d at 708. The court stated:

> "The court's authority to exercise its jurisdiction and resolve a

> justiciable question is invoked through the filing of a complaint or petition. [Citations]. These pleadings function to frame the issues for the trial court and to circumscribe the relief the court is empowered to order; a party cannot be granted relief in the absence of corresponding pleadings. [Citations]. Thus, the circuit court's jurisdiction, while plenary, is not boundless, and where no justiciable issue is presented to the court through proper pleadings, the court cannot adjudicate an issue *sua sponte*. Orders entered in the absence of a justiciable question properly presented to the court by the parties are void since they result from court action exceeding its jurisdiction. [Citation]." *Ligon*, 264 Ill. App. 3d at 707.

The court found that the trial court's jurisdiction to decide issues as to custody was "not activated through the proper procedural mechanism," because the issue of custody was not invoked by petitioner and respondent did not file a petition seeking custody. *Ligon*, 264 Ill. App. 3d at 708.

¶ 46 We do not find *Ligon* determines the outcome of the case at bar. Unlike *Ligon*, where the court *sua sponte* entered relief on an issue which had not been placed before the court through a valid complaint, here the complaint filed by Imhof and Puracchio placed their employment agreements before the court. Their complaint attached both the original employment agreements and the amendments to the agreements. Thus the entire employment agreement, containing the severance provision in the original agreement and the severance provision in the amendment, was before the court. Plaintiffs' complaint presented a claim that the City had violated their

employment agreement, placing before the court a justiciable matter which incorporated both the original agreement and the amendments to the agreements. The severance provisions of the amendments purported to take the place of the original severance provisions, but once the court found that the amendments were null and void, the original agreements, containing the original severance provisions, would automatically be reinstated and be before the court.

¶ 47 While it is true that in their prayer for relief, plaintiffs only requested relief due under the terms of the amendments, we cannot construe the prayer for relief as a limit on the court's subject matter jurisdiction, because ordinarily the prayer for relief does not limit the relief the court may award. See 735 ILCS 5/2-604 (West 2012).

¶ 48 We find several other cases cited by the City are not applicable to the case at bar. First, the City cites *Tembrina v. Simos* for the proposition that "[a] party cannot be afforded relief despite the presence of evidence supporting such relief, absent a corresponding pleading." *Tembrina v. Simos*, 208 Ill. App. 3d 652, 656 (1991). However, this case did not address subject matter jurisdiction; instead, the court ruled that a defendant could not prevail on a claim against plaintiff for contribution because the defendant never filed a cross-complaint seeking affirmative relief on the claim. *Tembrina*, 208 Ill. App. 3d at 656. Another case cited by the City found that the trial court was correct to reject a decision by a special master who ruled on a basis not supported by the pleadings, but it also does not address subject matter jurisdiction. See *Markman v. City of Harvey*, 52 Ill. App. 3d 933, 939 (1977).

¶ 49 We conclude that the court's award of severance was done pursuant to valid subject matter jurisdiction. Because this is the only argument the City has raised regarding the award of

severance to Imhof and Puracchio,[2] we affirm the court's order awarding severance.

¶ 50 CONCLUSION

¶ 51 For the foregoing reasons, the judgment of the circuit court of Will County is affirmed.

¶ 52 3-12-1058, affirmed.

¶ 53 3-13-0024, affirmed.

[2]The City has not argued on appeal that there was no prior appropriation for an award of two months' salary as severance to Puracchio and three months' salary to Imhof, so any argument in that regard is forfeited. Additionally, because the original employment agreements containing these ordinary severance provisions existed at the time the City appropriated its fiscal year 2009 budget, it is reasonable to conclude that the money to pay for the severance was appropriated.