

NUMBER 04-173

COURT OF APPEAL, THIRD CIRCUIT

STATE OF LOUISIANA

DON M. BARRON CONTRACTOR, INC.

VERSUS

CITY OF NATCHITOCHES, LOUISIANA

AMY, J., concurring.

In my opinion, the proper focus in the matter on appeal is whether the construction contract at issue was awarded to CBC as a result of arbitrary conduct on the part of the City of Natchitoches. It is apparent from the face of the bid sheet that the portion of CBC's bid pertaining to topsoil totalled \$5,000 and that this figure was derived by multiplying \$20.00 by 250 cubic feet. It is likewise apparent that the City of Natchitoches readily understood what was intended in this portion of CBC's bid, and, as such, it did not act arbitrarily in awarding the contract to CBC.

The appellant cites *V.C. Nora, Jr. Building and Remodeling, Inc. v. State, through Department of Transportation & Development*, 93-1469 (La.App. 3 Cir. 3/30/94), 635 So.2d 466, for the proposition that the written words found on a bid sheet govern in situations in which written and numeric bids conflict. In reliance upon *Nora*, the appellant argues that the written portion of CBC's topsoil bid, "Five thousand dollars and zero cents," is, in fact, CBC's unit price for topsoil instead of the numeric "\$20.00" that appears therein. In my opinion, however, the present appeal does not implicate *Nora*. In *Nora*, a panel of this court commented that a proper interpretation of the ambiguous bid in dispute would necessitate reference to information outside the bid sheet's four corners; as such, the panel determined that the written figures on the bid sheet were to be used in calculation instead of the numeric

figures listed. However, in the present appeal, the bid at issue is not ambiguous. Moreover, the interpretation urged by the appellant would yield an obviously incorrect result.

Finally, it is worth remembering that an underlying purpose of the public bid law is to promote fair and responsible decision making by public entities. It is my opinion that in the instant matter, the City of Natchitoches' actions with respect to CBC's bid were not in contravention of these principles.

Accordingly, I respectfully concur in the result reached by the majority.