

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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CITY OF EAST GRAND RAPIDS,

Plaintiff-Appellant,

v

CITY OF GRAND RAPIDS, MICHIGAN STATE  
TREASURER, MICHIGAN CONSOLIDATED  
GAS COMPANY, MICHIGAN BELL  
TELEPHONE, CONSUMERS POWER  
COMPANY, RICHARD D. BROOKS,  
MOHAMMAD RIAHI, BETSY VANDERMEER,  
JAMES VERMEULEN, KURT E. LACKS  
RESIDENTIAL TRUST, ST. JOHN'S HOME,  
MATTHEW J. MISSAD, TRUSTEE, LINDA G.  
HOWLAND, DEBORAH L. MEYER, TRUSTEE,  
MARY JEAN BROOKS, DOROTHY D. DAVIS,  
MARGARET M. DEWEY, ROBERT S. SMITH, III,  
SUSANNE P. SMITH, JOHN L. WIESE, JUNE N.  
WIESE, JEANNA RIAHI, ROBERT W. STOKES,  
PATRICIA L. STOKES, DOUGLAS  
VERMEULEN, DIANA VERMEULEN a/k/a  
DIANA COOK, and DAVID VERMEULEN, JR.,

Defendants-Appellees,

and

KURT E. LACKS, TRUSTEE, PETER F.  
SECCHIA RESIDENTIAL TRUST NO. 1,  
JOAN M. SECCHIA RESIDENTIAL TRUST  
NO. 1 and DEBORAH L. MEYER TRUST,

Other Connection.

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UNPUBLISHED

July 30, 1999

No. 208898

Kent Circuit Court

LC No. 96-003044 CH

Before: Cavanagh, P.J., and Hoekstra and Gage, JJ.

PER CURIAM.

Plaintiff appeals as of right the trial court order denying its complaint to vacate a portion of Reeds Lake Boulevard pursuant to the Subdivision Control Act of 1967, MCL 560.221 *et seq.*; MSA 26.430(221) *et seq.* We affirm.

Plaintiff first contends that the trial court failed to consider all the circumstances of the case in determining whether a reasonable objection had been made to the proposed vacation. Plaintiff implicitly is arguing that a court should weigh the public benefit from the proposed vacation against the objections of the property owners.<sup>1</sup> The act does not require such a balancing; however, the predecessor statutory scheme required a court to consider “the health, welfare, comfort or safety of the public.” *In re Oak Street, Pleasant View Subdivision*, 2 Mich App 654, 657; 141 NW2d 380 (1966), quoting CLS 1961, § 560.62. This Court has concluded that although the term “reasonable objection” no longer appears in the statute, the Legislature intended to retain such a requirement. See *In re Gondek*, 69 Mich App 73, 76-77; 244 NW2d 361 (1976). However, assuming without deciding that the Legislature similarly intended to retain the requirement that a court give due consideration to the public interest, we perceive no basis for concluding that the trial court failed to consider all the evidence presented or to take into account “the weightiness of [plaintiff’s] municipal concerns.” After noting that it had listened attentively to the testimony and arguments, the trial court stated that it did not “think it’s a close call.” The fact that the trial court concluded that defendants had raised reasonable objections to the proposed vacation which outweighed plaintiff’s interests does not establish that the court did not give due consideration to plaintiff’s concerns.

Moreover, plaintiff has failed to present a compelling reason to conclude that the trial court improperly weighed the parties’ interests. Although plaintiff contends that “Reeds Lake Boulevard, in its present condition, poses a significant risk to the public,” it provides no record citation to support this assertion.<sup>2</sup> Plaintiff does not explain why the fact that it will have to continue to open and close the gates will impose a significant burden on it. Plaintiff contends that “the road is essentially a private one;” however, the fact that it is primarily used by property owners to gain access to their lots does not alter its status as a public road. Finally, even if, as plaintiff claims, the petition was opposed by only the owners of one and one-fifth properties adjacent to the road, the trial court properly found that those owners’ property rights cannot be ignored.

Plaintiff next contends that the trial court erred in concluding that reasonable objections had been raised to the proposed vacation. Vacation of a roadway shall be allowed, as long as the statutory procedural requirements have been met, unless there is a “reasonable objection” to the vacation. See *Gondek, supra* at 76-77. Whether a reasonable objection has been made turns on the facts of the case. See *id.* at 74-75.

Plaintiff challenges several of the trial court’s findings. However, the trial court’s finding that the property owners would be faced with increased liability and additional maintenance costs if the petition to vacate were granted is not clearly erroneous. See MCR 2.613(C); *Ridley v Detroit*, 231 Mich App

381, 388; 590 NW2d 69 (1998). Likewise, the trial court did not clearly err in finding that leaving the opening and closing of the gates to the property owners would lead to further litigation, as there was no consensus on when the gates should be opened and closed.

Furthermore, several property owners objected to the proposed vacation on the basis that it would deny them access to their lots. In *Vander Meer v Ottawa Co*, 12 Mich App 494, 497; 163 NW2d 227 (1968), this Court stated that “access to one’s property as it existed under a recorded plat at the time of purchase forms the basis of a reasonable objection to impairment of that access by vacation.”

Our Supreme Court has stated: “It is a reasonable objection to vacation of the plat that it is proposed to take from the lot owners the conditions they prize as advantages and for which they have paid . . . .” *Westveer v Ainsworth*, 279 Mich 580, 585; 273 NW 275 (1937). Viewing the present case in light of this standard, we conclude that the trial court did not err in finding that defendants presented reasonable objections to the proposed vacation.

Affirmed.

/s/ Mark J. Cavanagh

/s/ Joel P. Hoekstra

/s/ Hilda R. Gage

<sup>1</sup> Plaintiff relies on *Abbey Homes of Michigan, Inc v Wilcox*, 89 Mich App 574; 280 NW2d 878 (1979). However, because *Abbey Homes* was decided under MCL 247.44; MSA 9.54, it is not controlling. The *Abbey Homes* Court specifically declined to analogize MCL 560.62; MSA 26.492 and MCL 247.44; MSA 9.54, noting that the statutes are different in both language and intent. See *Abbey Homes, supra* at 584, n 3.

<sup>2</sup> In fact, plaintiff’s director of city services testified that, although Reeds Lake Boulevard is slowly deteriorating, it is not yet substandard in terms of unimproved roads.