

STATE OF MICHIGAN
COURT OF APPEALS

DOROTHY A. ESTEP, LARRY ESTEP, DIANE R.
LASKER, MICHAEL LASKER, SHIELA
MARENTETTE, THOMAS F. NOTHAFT,
MARVIN PHILLIPS, PHILLIP SOLAK, MARY
SOLAK, LAWRENCE J. WRIGHT and KENNETH
A. ZUCHLEWSKI,

UNPUBLISHED
April 21, 2000

Plaintiffs-Appellants,

v

CITY OF ROSEVILLE,

No. 208764
Macomb Circuit Court
LC No. 97-001745-CZ

Defendant-Appellee.

Before: Gribbs, P.J., and Doctoroff and T.L. Ludington*, JJ.

MEMORANDUM.

Plaintiffs appeal as of right the order granting summary disposition to defendant under MCR 2.116(C)(4) and (8). We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Plaintiffs are owners of single family homes on a residential street that was rezoned for business use. Plaintiffs acquiesced in the zoning change, and optioned their properties to a developer. The project did not materialize, and plaintiffs state that they are unable to sell their homes. They brought this inverse condemnation action, asserting that the city's zoning changes to their property and adjacent property have caused a taking of their property without compensation.

Summary disposition of the claim was proper where plaintiffs failed to exhaust their administrative remedies and obtain a final ruling from the city on the zoning. If a reduction in property value is caused by a rezoning, plaintiffs were required to seek a variance or another rezoning before they could establish a taking. *Paragon Properties Co v Novi*, 452 Mich 568; 550 NW2d 772 (1996).

* Circuit judge, sitting on the Court of Appeals by assignment.

Plaintiffs failed to obtain a final, reviewable decision, and the court properly found that it lacked jurisdiction. MCR 2.116(C)(4).

Plaintiffs failed to state a claim for confiscatory taking. An unconstitutional regulatory taking occurs when a challenged ordinance denies the owners economically viable use of their land. *Bevan v Brandon Twp*, 438 Mich 385, 398; 475 NW2d 37 (1991). To show such confiscatory taking, the plaintiffs must show that the ordinance precludes the use of the property for any purpose to which it is reasonably adapted. *Kropf v Sterling Heights*, 391 Mich 139; 215 NW2d 179 (1974). Mere diminution of value is not confiscation. *Selective Group, Inc v Farmington Hills*, 180 Mich App 595, 604; 447 NW2d 817 (1989). Here, plaintiffs only showed a diminution of value. The trial court properly granted summary disposition under MCR 2.116(C)(8).

Affirmed.

/s/ Roman S. Gibbs

/s/ Martin M. Doctoroff

/s/ Thomas L. Ludington