

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

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TANISHA SHAW, a Minor, by her Next Friend  
CATHERINE O'CONNOR,

UNPUBLISHED  
April 23, 2002

Plaintiff-Appellant,

v

STEVE DAVID WILSON and BARB WILSON,

No. 228732  
Washtenaw Circuit Court  
LC No. 98-004634-NO

Defendants,

and

LIBERTY SQUARE APARTMENTS, LIBERTY  
SQUARE CONDOMINIUM, GROVE PARK  
HOME IMPROVEMENT ASSOCIATION, and B  
INVESTMENTS, INC.,

Defendants-Appellees.

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Before: Gage, P.J., and Griffin and G. S. Buth\*, JJ

PER CURIAM.

Plaintiff appeals as of right the trial court's order granting defendants' motions for summary disposition. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

This is a dog bite case. Liberty Square Apartments is a condominium complex in which each unit is privately owned. The condominium association is known as the Grove Park Home Improvement Association (GPHIA). B Investments, Inc. (BII) owns a number of units in the complex and rents them to individual tenants. BII rented a unit to non-participating defendants Steve David Wilson and his mother, Barb Wilson. The Wilsons kept four pit bulls on their property. The minor plaintiff, who was three years old at the time, and her brother, who was six years old at the time, were walking their dog in the complex when a dog owned by the Wilsons exited its yard through a hole in the fence, left the Wilsons' yard, approached the children, and bit Tanisha.

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

Plaintiff filed suit, alleging that defendants knew of the dog's vicious tendencies and breached their duty to exercise reasonable care to secure the dog. Plaintiff's allegations referred to "defendants" collectively, and did not differentiate among the named defendants.<sup>1</sup> Defendants filed motions for summary disposition pursuant to MCR 2.116(C)(10), arguing that they did not own, control, or possess the dog, the premises on which the dog was kept, or the premises on which the incident occurred, and that no evidence showed that they had any prior knowledge that the dog in question was vicious. The trial court granted the motions, finding that the evidence did not create a genuine issue of fact regarding whether defendants knew of the vicious propensities of the dog.

We review a trial court's decision on a motion for summary disposition de novo. *Harrison v Olde Financial Corp*, 225 Mich App 601, 605; 572 NW2d 679 (1997).

Plaintiff argues that the trial court erred by granting summary disposition in favor of defendants. We disagree and affirm. Under common law, which the parties agreed applied in this case, an owner or keeper of a dog can be held liable for damage caused by the dog only if the owner or keeper knew of the animal's vicious propensities. *Nicholes v Lorenz*, 396 Mich 53, 59 n 3; 237 NW2d 468 (1976). The undisputed evidence showed that defendants did not own or keep the dog that bit plaintiff. A landlord cannot be held liable under common law for damages caused by a dog on leased property unless the owner knew of the animal's vicious propensities. *Szkodzinski v Griffin*, 171 Mich App 711, 713-714; 431 NW2d 51 (1988). Contrary to plaintiff's assertion, the evidence did not create an issue of fact regarding whether any defendant had actual knowledge of the dog's vicious propensities. The testimony from the investigating officer established only that on one occasion prior to the incident involving plaintiff's ward, the dog barked aggressively. No evidence showed that the dog attacked anyone on that occasion.

Moreover, plaintiff's assertion that GPHIA's managing agent must have lied when he stated that he had no knowledge of the dog's vicious propensities is completely unsubstantiated. A landlord has no duty to protect third parties for injuries caused by a dog off the leased premises. *Feister v Bosack*, 198 Mich App 19, 23; 497 NW2d 522 (1993). Finally, the failure of an association such as GPHIA to enforce rules and regulations concerning the presence of pets on property does not impose liability for damage caused by an animal in the absence of evidence of knowledge of the animal's vicious propensities. *Braun v York Properties, Inc*, 230 Mich App 138, 147-148; 583 NW2d 503 (1998). No evidence created an issue of fact regarding whether any named defendant had actual knowledge of the dog's vicious propensities. The trial court correctly granted summary disposition in favor of defendants.

Affirmed.

/s/ Hilda R. Gage  
/s/ Richard Allen Griffin  
/s/ George S. Buth

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<sup>1</sup> Defendants Wilson did not respond, and eventually the trial court entered a default judgment against them.