

STATE OF MICHIGAN
COURT OF APPEALS

HENRY VAN BAAK and MAE VAN BAAK,

Plaintiffs-Appellants,

v

CITY OF ST. CLAIR SHORES,

Defendant-Appellee.

UNPUBLISHED

July 26, 2005

No. 255388

Macomb Circuit Court

LC No. 2003-005238-CZ

Before: O’Connell, P.J., and Schuette and Borrello, JJ.

MEMORANDUM.

Plaintiffs¹ appeal of right the trial court’s order granting summary disposition to defendant. Plaintiffs’ complaint alleges that defendant imposed an illegal tax on them when it required their cable company to pay a five percent “franchise fee” in exchange for the opportunity to run cable along defendant’s rights of way. Because the franchise agreement at issue was executed on December 16, 1992, and plaintiffs did not bring suit until November 18, 2003, the one-year limitations period found in MCL 600.308a(3) bars this action. *Morgan v Grand Rapids*, ___ Mich App ___; ___ NW2d ___ (2005) (Docket No. 255311).

Affirmed.

/s/ Peter D. O’Connell

/s/ Bill Schuette

I concur in result only.

/s/ Stephen L. Borrello

¹ Plaintiffs Van Baak were never granted class certification below, so the term “plaintiffs” refers to them exclusively, and, because there is no class, our holding affects all the claims and disposes of the entire suit.