

STATE OF MICHIGAN
COURT OF APPEALS

GEORGE OCHS, Deceased, and PATRICIA A.
OCHS,

UNPUBLISHED
May 28, 2002

Plaintiffs-Appellants,

v

VILLAGE OF WOLVERINE,

No. 229478
Cheboygan Circuit Court
LC No. 99-006608-CZ

Defendant-Appellee.

Before: Fitzgerald, P.J., and Holbrook, Jr., and Doctoroff, JJ.

MEMORANDUM.

Plaintiffs appeal as of right the order granting judgment to defendant. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Plaintiffs brought this action seeking a declaration that their street was never accepted as a public street, or that it was abandoned by defendant. Defendant presented evidence that the plat was approved by the village council, and that the council had resolved to open the streets when the subdivision became occupied and the streets were necessary for ingress and egress. No actions were taken to open plaintiffs' street.

A valid dedication of land for a public purpose requires two elements: a recorded plat evidencing a clear intent to dedicate designated areas to public use, and acceptance by the public authority. *Kraus v Dep't of Commerce*, 451 Mich 420, 424; 547 NW2d 780 (1996). Public acceptance must be timely and must be disclosed through a manifest act by the public authority, either formally confirming or accepting the dedication or by exercising authority over the street. *Id.* If an offer to dedicate the platted road was timely and effectively accepted by the public entity, a court has no authority to vacate the road absent defendant's consent. *Id.*; MCL 560.226(1).

The trial court did not clearly err in finding that defendant accepted the plat, which included streets dedicated for the public use. The court could not vacate the accepted road without defendant's consent.

Affirmed.

/s/ E. Thomas Fitzgerald
/s/ Donald E. Holbrook, Jr.
/s/ Martin M. Doctoroff