

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

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ROBERT DUEWEKE, SHIRLEY DUEWEKE,  
WALTER TOLONEN, and PATRICIA  
TOLONEN,

UNPUBLISHED  
November 20, 2003

Plaintiffs-Appellants,

V

GRIM TOWNSHIP and GLADWIN COUNTY  
ROAD COMMISSION,

No. 241115  
Gladwin Circuit Court  
LC No. 00-014338-CH

Defendants-Appellees.

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Before: Murray, P.J., and Gage and Kelly, JJ.

PER CURIAM.

Plaintiffs appeal as of right the trial court's order dismissing the case. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

This case involves a road known as Sagsaning Road. The road is a section line road in defendant Grim Township. Plaintiffs own property north and south of the western half of the road. Plaintiffs filed suit seeking an order quieting title to Sagsaning Road west of the easterly boundaries of their properties, and an injunction permanently precluding defendants from altering, improving, or maintaining the road.

At trial the evidence showed that Sagsaning Road had been certified in 1936 for a length of one-half mile, and that defendant Gladwin County Road Commission had certified the road every year since 1939. A county plat book and an aerial photograph taken in 1958 showed that the road was one-half mile in length. Road Commission employees testified that the Road Commission regularly plowed and bladed the first one-quarter mile of the road to accommodate the residents along that portion of the road. The Road Commission replaced a culvert tube along the second quarter mile of the road in the early 1990's. Witnesses testified that the residents in the area considered Sagsaning Road to be a public road and had used it since at least the 1960's for a variety of activities, including gaining access to nearby state land and horseback riding. A sign at the eastern end of the road identified it as Sagsaning Road. At one time, plaintiffs requested that Grim Township close the road; however, the township refused to do so.

The trial court found that Sagsaning Road was a public road. The trial court relied on the documentary evidence that displayed a visible road one-half mile in length, the evidence that the

Road Commission maintained the road as required, and the testimony of various witnesses that residents in the area considered the road to be a public road and used it as such.

An action to quiet title is equitable in nature. We review the trial court's findings of fact for clear error, and its conclusions of law de novo. *Killips v Mannisto*, 244 Mich App 256, 258; 624 NW2d 224 (2001). Clear error exists when the reviewing court is left with a firm and definite conviction that a mistake has been made. *Massey v Mandell*, 462 Mich 375, 379; 614 NW2d 70 (2000).

A highway-by-user road is a road in which the public has acquired an interest notwithstanding the absence of a formal dedication of the road. *Cimock v Conklin*, 233 Mich App 79, 86; 592 NW2d 401 (1998). The highway-by-user statute, MCL 221.20, treats such a road as one "impliedly dedicated to the state for public use." *Kentwood v Sommerdyke Estate*, 458 Mich 642, 652; 581 NW2d 670 (1998). Establishing a public highway pursuant to MCL 221.20 requires a showing: (1) of a defined line of travel; (2) that the road was maintained by public authorities; (3) that the public traveled on and used the road for ten consecutive years without interruption; and (4) that the public's use was open, notorious, and exclusive. *Beulah Hoagland Appleton Qualified Personal Residence Trust v Emmet Co Rd Comm*, 236 Mich App 546, 554-555; 600 NW2d 698 (1999).

Plaintiffs argue that the trial court erred in finding that Sagsaning Road was a public road. We disagree. Documentary evidence, including a plat book, an aerial photograph from 1958, and county certification maps from 1939 forward, demonstrated the existence of a defined and visible road one-half mile in length. *Watson v Montmorency Co Bd of Rd Comm'rs*, 52 Mich App 258, 260-261; 217 NW2d 129 (1974). Witnesses testified that Sagsaning Road was visible, was maintained as a public road, and was used by residents as a public road as early as the 1960's. The evidence showed that the Road Commission maintained, plowed, and bladed the first half to accommodate the residents on that section of the road, and performed needed maintenance on the second half of the road by replacing a culvert tube. *Boone v Antrim Co Bd of Road Comm'rs*, 177 Mich App 688, 694; 442 NW2d 725 (1989). Finally, the evidence showed that the public traveled over the entire one-half mile length of the road and used it for various activities since at least the 1960's. No evidence showed that the road was closed to the public at any time. The trial court's finding that the public used the road openly and continuously for the requisite period was not clearly erroneous. *Killips, supra*. The trial court did not err in concluding that Sagsaning Road was a public road. *Hoagland, supra*; *Cimock, supra*.

Affirmed.

/s/ Christopher M. Murray  
/s/ Hilda R. Gage  
/s/ Kirsten Frank Kelly