STATE OF MICHIGAN

COURT OF APPEALS

HUGH BROWN, III,

Plaintiff-Appellee,

v

CALEDONIA TOWNSHIP,

Defendant-Appellee,

and

KARL KOWALSKI, SANDRA KOWALSKI, KENNETH HUBBARD, and MARY ANN HUBBARD,

Intervening Plaintiffs-Appellants.

UNPUBLISHED
May 25, 2004

No. 244773
Alcona Circuit Court
LC No. 00-010582-AA

Before: Whitbeck, C.J., and Griffin and Borrello, JJ.

PER CURIAM.

Intervenors[1] appeal by leave granted an order denying their motion to intervene in a zoning appeal. This case arises from the township's denial of plaintiff's application for a special use permit to operate a campground that was vigorously challenged by neighboring landowners, including intervenors. The project is currently approved through consent of plaintiff and defendant. We affirm.

Intervenors argue that they had a right to intervene to protect their interest of preventing traffic congestion, decrease in property values, fire hazards, a change in the character of the neighborhood, and interference with their quiet enjoyment of their homes. We disagree.

A court's decision to grant or deny a motion to intervene is reviewed for an abuse of discretion. *Vestevich v West Bloomfield Twp*, 245 Mich App 759, 761; 630 NW2d 646 (2001).

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[1] Although their motions for intervention at trial were denied, and they are appealing the denial in the instant case, appellants will be referred to as intervenors for ease of reference.

"Intervention is properly allowed where the intervenor's interests '*may be*' inadequately represented by one of the existing parties." *Id.* (emphasis in original). While a municipality typically represents its citizens when litigating municipal matters, "citizens are entitled to intervene" when the municipality refuses to protect their interests. *School Dist of Ferndale v Royal Oak Twp School Dist No 8,* 293 Mich 1, 8; 291 NW 199 (1940). Nevertheless, a review of the record does not indicate that the township failed to represent intervenors' interests.

Even if a potential intervenor has a basis to intervene as of right, the potential intervenor must also demonstrate standing to assert a claim. *Karrip v Cannon Twp,* 115 Mich App 726, 732; 321 NW2d 690 (1982). Traditional standing denotes a party's interest in litigation that assures vigorous advocacy. *Grosse Ile Committee for Legal Taxation v Grosse Ile Twp,* 129 Mich App 477, 487; 342 NW2d 582 (1983). To have standing, intervenors must demonstrate a legally protected interest that may be adversely affected. *Wortelboer v Benzie Co,* 212 Mich App 208, 214; 537 NW2d 603 (1995). Our Supreme Court stated that a party must demonstrate three elements to establish standing:

> First, the plaintiff must have suffered an "injury in fact" – an invasion of a legally protected interest which is (a) concrete and particularized, and (b) "actual or imminent, not 'conjectural' or 'hypothetical.'" Second, there must be a causal connection between the injury and the conduct complained of – the injury has to be "fairly . . . trace[able] to the challenged action of the defendant, and not . . . th[e] result [of] the independent action of some third party not before the court." Third, it must be "likely," as opposed to merely "speculative," that the injury will be "redressed by a favorable decision." [*Lee v Macomb Co Bd of Comm'rs*, 464 Mich 726, 739-740; 629 NW2d 900 (2001), adopting *Lujan v Defenders of Wildlife*, 504 US 555, 560-561; 112 S Ct 2130; 119 L Ed 2d 351 (1992).]

While intervenors zealously voiced their concerns at numerous zoning hearings, no evidence was presented that would move intervenors' concerns from conjectural and hypothetical to actual and concrete. Because intervenors presented no concrete evidence of imminent injury, they did not demonstrate standing. We decline to address the remaining issues on appeal.

Affirmed.

/s/ William C. Whitbeck
/s/ Richard Allen Griffin
/s/ Stephen L. Borrello