

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

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OAKTREE PROPERTIES LLC,

Plaintiff-Appellant,

v

INGHAM COUNTY TREASURER,

Defendant-Appellee.

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UNPUBLISHED

May 13, 2008

No. 276168

Ingham Circuit Court

LC No. 06-000704-AW

Before: Saad, C.J., and Murphy and Donofrio, JJ.

PER CURIAM.

Plaintiff appeals the trial court's order granting summary disposition for defendant. We affirm.

**I. Facts and Proceedings**

Plaintiff is a real estate investment firm that claims it was interested in buying properties that were subject to foreclosure for tax delinquency. The county treasurer foreclosed on the properties, and transferred them to the county, which transferred them to the Land Bank Fast Track Authority. Plaintiff brought this action for mandamus and declaratory and injunctive relief, alleging that defendant violated a statutory duty to sell the properties at public auction. The trial court granted defendant's motion for summary disposition pursuant to MCR 2.116(C)(5) (plaintiff lacks capacity to bring action), (C)(8) (failure to state claim on which relief can be granted), and (C)(10) (no genuine issue of material fact).

**II. Legal Analysis**

Plaintiff argues that defendant had a statutory duty, pursuant to MCL 211.78m(2), to offer the properties for sale at auction. MCL 211.78m provides, in pertinent part:

(1) Not later than the first Tuesday in July, immediately succeeding the entry of judgment under section 78k vesting absolute title to tax delinquent property in the foreclosing governmental unit, this state is granted the right of first refusal to purchase property at the greater of the minimum bid or its fair market value by paying that amount to the foreclosing governmental unit if the foreclosing governmental unit is not this state. If this state elects not to purchase the property under its right of first refusal, a city, village, or township may

purchase for a public purpose any property located within that city, village, or township set forth in the judgment and subject to sale under this section by payment to the foreclosing governmental unit of the minimum bid. If a city, village, or township does not purchase that property, the county in which that property is located may purchase that property under this section by payment to the foreclosing governmental unit of the minimum bid. If property is purchased by a city, village, township, or county under this subsection, the foreclosing governmental unit shall convey the property to the purchasing city, village, township, or county within 30 days. . . .

(2) *Subject to subsection (1)*, beginning on the third Tuesday in July immediately succeeding the entry of the judgment under section 78k vesting absolute title to tax delinquent property in the foreclosing governmental unit and ending on the immediately succeeding first Tuesday in November, the foreclosing governmental unit, or its authorized agent, at the option of the foreclosing governmental unit, shall hold at least 2 property sales at 1 or more convenient locations at which property foreclosed by the judgment entered under section 78k shall be sold by auction sale, which may include an auction sale conducted via an internet website. . . .

Plaintiff contends that defendant violated this statute by transferring the properties directly to the Land Bank, rather than transferring them to the county. It argues that defendant was obligated to offer the properties at a public auction because it did not transfer them to the county.

We need not consider the merits of this argument, because plaintiff clearly lacks standing to challenge defendant's disposition of the foreclosed properties. To establish standing, the plaintiff must have suffered an "injury in fact," i.e., an invasion of a legally protected interest that is (a) concrete and particularized, and (b) actual or imminent, and not conjectural or hypothetical. *Michigan Citizens for Water Conservation v Nestle Waters North America Inc*, 479 Mich 280, 294; 737 NW2d 447 (2007). The plaintiff must demonstrate that it has a substantial interest that will be detrimentally affected in a manner different from the citizenry at large. Here, plaintiff had no legally protected interest in the properties. It was merely interested in buying them if they came available through auction. Plaintiff contends that the lost opportunity to buy the properties at issue gives it standing, but this loss of a speculative and uncertain opportunity does not affect plaintiff any differently than it affects the general public.

Affirmed.

/s/ Henry William Saad  
/s/ Pat M. Donofrio