



## Memorandum on Engles' Decision

In November the Michigan Court of Appeals affirmed a decision by the Grand Traverse County Circuit Court in a case brought by Acme Township and the Department of Agriculture and Rural Development (Plaintiffs) on behalf of the State of Michigan against Kenneth and Janet Engle (Defendants).

The Engles' own approximately 100 acres of farmland and in 2012 sold a conservation easement to Acme Township and the State for approximately \$400,000. Under the conservation easement the Engles' agreed that they would not develop the land so that it would continue to be able to be used for farming. The Engles' retained the right to sell the entire parcel but agreed that they would not subdivide the land.

In 2019 The Engles' sold approximately 1/2 of the parcel to a third party. After the Engles' refused the demands by the Township and the State to restore the title to a single entity, these holders of the conservation easement sued the Engles' asking that the Court enforce the agreed upon restraint on the sale of a portion of the land. The Engles' first claimed that this restraint on a portion of their land was an unreasonable restraint on their right to sell their land. The trial court and the Court of Appeals rejected this argument, holding that the "conservation easements serve an important public function" and since the Engles' had agreed to this restriction on the right to subdivide their land this was a reasonable restraint.

Engles' also asserted that since their 100 + acres we're made up of two tax parcels they should be entitled to sell one of them. Both courts rejected this argument because the conservation easement clearly stated that the entire 100+ acres was not able to be subdivided.

Engles' next argued that since the conservation easement didn't specifically state that the State/Township could seek rescission the request for rescission should be denied. Again, the courts rejected this argument holding that since the conservation easement stated the State/ Township could seek specific performance of its terms and since the Engles' had "violated the express terms of the Conservation Easement by dividing" the parcel into two parcels, "rescission or nullification of the Warranty Deed ... is warranted".

Finally, Engles' claimed that since State/Township learned of the sale before it was completed and didn't try to get an injunction to prevent the sale, the doctrine of laches applies, and they had lost the right to enforce the terms of the conservation easement. Again, these arguments were rejected. First, the easement provided that "No delay in enforcement shall be construed as a waiver of the ... right to enforce the terms of the Conservation Easement at a later." The courts also ruled that the Engles' had not been prejudiced or harmed by the delay in bringing the suit.

Finally, the Court of Appeals in a last foot note stated: "Indeed, this point would seem to suggest the application of the clean-hands doctrine and, by violating the easement, defendants do not come to court with clean hands, thus denying their right to an equitable defense." The appellate court has decided to publish its opinion, so unless reversed by the Supreme Court its holdings are binding on other Michigan Courts.