



**TO:** Members of the Troy City Council  
**FROM:** Lori Grigg Bluhm, City Attorney  
Susan M. Lancaster, Assistant City Attorney  
**DATE:** June 29, 2006  
**SUBJECT:** Williams et. al v. City of Troy and Ken Freund

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The City has again prevailed in the *Williams, et. al v. City of Troy and Ken Freund, d/b/a Freund & Associates* case, since the Michigan Supreme Court denied Plaintiffs' Application for Leave to Appeal the Judgment of the Court of Appeals on June 26, 2006.

The City of Troy and Ken Freund were sued by landowners in the Middlesex Country Homesites Subdivision, located east of Adams between Square Lake Road and Long Lake Road. The Plaintiffs challenged that the City of Troy improperly approved the Freund Site Condominium project, without requiring an official re-plat of the property. The Troy City Council granted preliminary approval of the site condominium plan on March 3, 2003. Plaintiffs were unsuccessful in their challenge of this approval.

Count I of the Complaint alleged a violation of the Land Division Act. Count II argued that the City of Troy did not follow its own ordinance provisions, and specifically Chapter 39, Section 34.30.00 (unplatted one-family residential development), or in the alternative that the residential zoning regulations were not applicable to a site condominium project. Count III alleged a substantive due process violation, where Plaintiffs unsuccessfully argued that the existing houses, which are on 1 acre to 3 acre sites, are incompatible with the proposed condominium units, which are on less than ½ acre sites. The Plaintiffs also unsuccessfully argued that the approval of the preliminary site condominium project interfered with the health, safety and welfare of the community. The Court dismissed their request to nullify the City Council approval of the project, and require the developer to comply with the re-plat requirements. The Court similarly denied their request for a permanent injunction. The Court of Appeals affirmed the trial court decisions.

The Court's ruling sets precedent in the State of Michigan, and resolves an issue that has been raised in many other Michigan municipalities. Specifically, the Land Division Act does not control site condominium developments, and therefore developers are not required to vacate an underlying subdivision plat before developing a site condominium project. In addition, the Court also ruled that the City is required only to evaluate a proposed development on a community wide basis. Since the proposed site condominium was "consistent and compatible with other one-family residential developments in the *community*, and not detrimental to the orderly development of the area," the development was compliant with Troy's ordinance, Section 34.30.00.

This case is now closed.

# Order

Michigan Supreme Court  
Lansing, Michigan

June 26, 2006

Clifford W. Taylor,  
Chief Justice

130385

Michael F. Cavanagh  
Elizabeth A. Weaver  
Marilyn Kelly  
Maura D. Corrigan  
Robert P. Young, Jr.  
Stephen J. Markman,

JUN 27 2006 PM 2:11 Justices

ROBERT J. WILLIAMS, KARLA WILLIAMS,  
MATTHEW GOODMAN, AMY GOODMAN,  
THOMAS FOOT, JACQUELINE FOOT,  
WILLIAM BIGELOW, MARGO BIGELOW,  
CARL QUALMANN, MARGE QUALMANN,  
CALVIN ROBERTSON, VIRGINIA  
ROBERTSON, ROGER HOWARD, NANCY  
HOWARD, JOHN F. MILLS, and  
KATHLEEN A. MILLS,  
Plaintiffs-Appellants,

v

SC: 130385  
COA: 263366  
Oakland CC: 2003-049527-CH

CITY OF TROY and KEN FREUND, d/b/a  
FREUND & ASSOCIATES,  
Defendants-Appellees.

On order of the Court, the application for leave to appeal the December 13, 2005 judgment of the Court of Appeals is considered, and it is DENIED, because we are not persuaded that the questions presented should be reviewed by this Court.



d0619

I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

June 26, 2006

*Corbin R. Davis*

Clerk