

STATE OF MICHIGAN
COURT OF APPEALS

GRAND TRAVERSE ROAD COMMISSION,

Plaintiff-Appellee,

v

PRECISION DRIVE ASSOCIATION, a Michigan
nonprofit corporation, DAVID L. BUSCH and
SANDRA M. BUSCH, husband and wife

Respondents-Appellants,

and

FIRST OF AMERICA BANK-NORTHERN
MICHIGAN, a banking corporation,

Respondent.

UNPUBLISHED

September 27, 1996

No. 175969

LC Nos. 93-011167-CC

93-011168-CC

Before: Saad, P.J., and Marilyn Kelly and M. J. Matuzak,* JJ.

PER CURIAM.

Respondents Precision Drive Association, David L. Busch, and Sandra M. Busch¹ appeal by right from a May 14, 1994, order of the circuit court awarding them attorney fees and costs in the amount of \$14,720.22, plus interest. We affirm.

This case arises from two condemnation actions brought by petitioner under the Uniform Condemnation Procedures Act, MCL 213.51a *et seq.*; MSA 8.265(1a) *et seq.* ("UCPA") against respondents as owners of two pieces of property among Hammond Road, East Bay Township, Grand Traverse County. The Busches owned one parcel with Precision as an additional mortgagor, while Precision owned an adjoining parcel with the Busches as additional mortgagors. First of America was the mortgagee on both parcels. Petitioner sought to widen Hammond Road in order to accommodate traffic. Petitioner brought similar actions against other Hammond Road property owners.

* Circuit judge, sitting on the Court of Appeals by assignment.

Respondents answered the petition by denying that the trial court had jurisdiction, claiming that petitioner failed to comply with the UCPA's requirement of tendering a good-faith written offer of just compensation for the property, and contesting the necessity of the Hammond Road project.

On June 28, 1993, respondents moved for summary disposition on the petition for the reason that the trial court had no jurisdiction because petitioner failed to comply with the UCPA's requirements to make or provide a written good-faith offer of just compensation. Respondents further moved for a hearing to review the necessity of the property acquisition. Respondents requested that petitioner pay their attorney fees and costs as authorized by law.

Petitioner moved for partial summary disposition on the basis that the question of necessity of the property acquisition was limited to whether it was necessary to acquire each of respondents' respective properties, not whether the entire project was necessary.

On August 26, 1993, the trial court held a joint hearing on respondents' motions for summary disposition, along with those of the other similarly situated respondents. All respondents disputed petitioner's claim due to lack of jurisdiction by its failure to make an express determination of necessity, its failure to provide a good-faith written offer, and its inability to delegate condemnation responsibility to its manager or assistant manager.

On August 31, 1993, the trial court rendered its oral opinion on the various parties' motions for summary disposition. The trial court found that petitioner was not required to make an express determination of necessity although documents petitioner submitted did implicitly contain determinations of necessity. The trial court further rejected respondents' challenge of petitioner's delegation of authority to its manager and assistant manager. Last, the trial court found that it lacked jurisdiction over the claim because petitioner did not abide by the requirements of the UCPA to provide respondents with a good-faith offer.

On October 12, 1993, the trial court entered an order effectuating its decision dismissing petitioner's claims. The order provided that petitioner reimburse respondents' "actual reasonable attorneys' fees and other expenses."

Respondents thereafter moved for attorney fees and costs. Petitioner vigorously objected to respondents' motions.

After hearing the parties' arguments, the trial court determined that respondents were entitled to \$12,000 for attorney fees and \$2,720.22 for costs, with interest to run at the statutory rate from the date of the award. The trial court denied respondents' requests for secretarial and paralegal expenses, and for attorney fees and costs incurred after the matter was dismissed. Respondents appeal as of right from that order of the trial court.

Respondents raise various challenges to the trial court's award of attorney fees and costs. We find no merit to these arguments, which we will briefly address seriatim.

Respondents argue that the trial court erred in that it failed to inquire into specific services rendered by the attorneys. However, our review of the record reveals that the trial court did in fact inquire into the services performed when it considered the skill, time, and labor involved in the case. As such, this argument lacks merit.

Respondents argue that the trial court erred because it failed to consider the factors outlined in the leading case of *Crawley v Schick*, 48 Mich App 728; 211 NW2d 217 (1973). However, we disagree with respondents because the record reflects that the trial court was aware of, and did in fact consider the factors outlined in *Crawley*. In particular, the trial court considered the skill, time and labor involved; the amount in question and the results achieved; the difficulty of the case; the expenses incurred; the fees customarily charged in the locality for similar services; and, the nature and length of the professional relationship. *Id.* The trial court considered the appropriate factors. However, it was not required to make detailed findings under each factor. *Howard v Canteen Corp*, 192 Mich App 427, 437; 481 NW2d 718 (1992).

Respondents argue that the trial court failed to explain the elimination of certain hours of service which were billed by the attorneys. However, this argument is without merit because the trial court did not eliminate specific hours of service in any mathematical fashion. Rather, the trial court figured a reasonable attorney fee based upon the *Crawley* factors and other considerations relevant to condemnation cases.

Respondents argue that the trial court improperly considered the fees charged by another attorney in another proceeding. We find that this was appropriate, as it was relevant to "the fee customarily charged in the locality for similar legal services." See *Michigan Department of Transp v D & T Const Co*, 209 Mich App 336, 341; 530 NW2d 183 (1995); MRPC 1.5(a)(3).

Respondents argue that the trial court improperly refused to include an allocation for secretarial and paralegal expenses. We cannot say that this was an abuse of discretion because the record lends support for the conclusion that these expenses were not specifically attributable to this litigation. *Escanaba & L S R Co v Keweenaw Land Ass'n, Ltd*, 156 Mich App 804, 817; 402 NW2d 505 (1986).

Respondents argue that the trial court erred in its conclusion that attorney fees were not recoverable for any work performed after the order of dismissal was entered. While it may have been equitable for the trial court to include in the award a small amount to cover the cost of subsequent settlement negotiations,² we cannot say that the trial court's decision constituted an abuse of discretion. *Wood v DAIIE*, 413 Mich 573, 588; 321 NW2d 653 (1982); *Transportation Dep't v Robinson*, 193 Mich App 638, 643; 484 NW2d 777 (1992). After reviewing the entire record, we find the award of attorney fees and costs to be reasonable.

Respondents argue that the trial court should have awarded prejudgment interest on the attorney fees and costs. We disagree. Respondents have provided no relevant authority for their position, which runs counter to this Court's holding in *Flint v Patel*, 198 Mich App 153, 161; 497 NW2d 542 (1993). If the Legislature had intended to provide for interest on attorney fees and costs under the UCPA, it could have easily done so.³

Affirmed. Respondents' request for attorney fees and costs associated with this appeal is denied.

/s/ Henry William Saad

/s/ Marilyn Kelly

/s/ Michael J. Matuzak

¹ Respondent First of America Bank-Northern Michigan is not a party to this appeal.

² Although the record is unclear, it appears that petitioner ultimately obtained a right of way over the subject property as a result of private negotiations.

³ We find that it was erroneous for the trial court to grant interest on the attorney fees from the date of its decision. However, any error was harmless because petitioner paid the attorney fees and costs on the day of the trial court's decision.