

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

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RICHARD MILLER, Personal Representative of the  
Estate of SALLY B. MILLER, Deceased,

UNPUBLISHED  
June 24, 1997

Plaintiff-Appellant,

v

No. 193420  
Ottawa Circuit Court  
LC No. 94-21246 CZ

OTTAWA COUNTY ROAD COMMISSION,

Defendant-Appellee.

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Before: Gage, P.J., and Reilly and Hoekstra, JJ.

MEMORANDUM.

Plaintiff's decedent was fatally injured in an intersectional collision with Betty Jane Smith. Decedent was Eastbound on Filmore, Smith Northbound on 96<sup>th</sup> Avenue.

At the time of the accident, Eastbound Filmore traffic was required to stop at the intersection with 96<sup>th</sup> Avenue, which had the right of way. An oversized stop sign had been installed by defendant Road Commission facing Eastbound traffic on Filmore, and a tenth of a mile West of the stop sign was a "Stop Ahead" sign. Decedent did not stop and the accident resulted.

Plaintiff's theory of the case is that the Road Commission did not design the highway in a condition reasonably safe and convenient for public travel, and that additional warning signs, such as flashing lights, double stop signs, and double "Stop Ahead" signs would have made the road safer. Plaintiff also blames the accident on the rising sun, which would have been directly in decedent's eyes when the accident occurred at approximately 7:57 a.m. on a September morning. This case is being decided without oral argument pursuant to MCR 7.214(E).

It may be conceded for present purposes that the Filmore/96<sup>th</sup> Avenue intersection, by virtue of geography and visual obstructions attributable to trees and structures, is a "point of special hazard." Accordingly, defendant would have a duty to provide suitable traffic control devices and warning signs so as to make the road at this point reasonably safe and convenient for public travel. MCL 691.1402; MSA 3.996(102); *Pick v Szymczak*, 451 Mich 607; 548 NW2d 603 (1996). On the facts of this case, however, that duty was fulfilled. Defendant had in fact installed an oversized stop sign and a

secondary sign warning “Stop Ahead” facing traffic in the direction plaintiff’s decedent was traveling. While installing additional traffic control devices, as plaintiff contends, such as double signage and flashing lights, would certainly make the intersection even safer, that is not the test for liability. Given the presence of a plainly visible stop sign and “Stop Ahead” sign, had decedent obeyed those signals the accident would not have occurred, and thus the intersection was reasonably safe and convenient for public travel, even if not perfectly so. *Wechsler v Wayne County Road Commission*, 215 Mich App 579; 546 NW2d 690 (1996). It was decedent’s failure to obey the traffic control devices already installed, not any alleged inadequacy of those devices, that was a proximate cause of the accident. *Colovos v Department of Transportation*, 450 Mich 861; 539 NW2d 375 (1995).

Affirmed.

/s/ Hilda R. Gage  
/s/ Maureen Pulte Reilly  
/s/ Joel P. Hoekstra