

LaGrange Circuit Court
STATE OF INDIANA, COUNTY OF LAGRANGE, SS:
IN THE LAGRANGE CIRCUIT COURT

HOCHSTETLER HOLDINGS LLC and
HONEYVILLE METAL LLC,

Plaintiffs,

v.

BOARD OF COMMISSIONERS OF THE
COUNTY OF LAGRANGE and EDEN WORSHIP
CENTER, INC. a/k/a EDEN COMMUNITY
WORSHIP CENTER,

Defendants.

CAUSE NO.:

44C01-2310-PL-_____

SUMMONS

The State of Indiana to the Defendant:

EDEN WORSHIP CENTER, INC.
c/o Matt Gingerich, Reg. Agent
3510 N. 980 W.
Shipshewana, IN 46565

You have been sued by the persons named "Plaintiffs" in the following court:
LaGrange Circuit Court, 105 N. Detroit St., LaGrange, IN 46761; Ph: (260) 499-6358

The nature of the suit against you is stated in the Complaint which is attached to this Summons. It also states the demand which the Plaintiffs have made and want from you.

You must answer the complaint in writing, by you or your attorney, within 20 days (23 days if service by certified mail) commencing the day after you receive this Summons, or a judgment by default may be rendered against you for the relief demanded in the complaint.

If you have a claim for relief against the Plaintiffs arising from the same transaction or occurrence, you must assert it in your written answer.

PRAECIPE

The following manner of service of summons is hereby designated: **Certified U.S. Mail,
Return Receipt Requested**

Dated: 10/20/2023

Dennis J. Groves
Attorney Number 37272-20
Sanders • Pianowski, LLP
300 Riverwalk Drive
Elkhart, IN 46516
(574) 294-1499

Attorney for Plaintiffs
Hochstetler Holdings LLC and Honeyville Metal LLC

Kimberley Johnson
Clerk, LaGrange Circuit Court



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COMMUNITY WORSHIP CENTER,

Defendants.

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COMPLAINT

The Plaintiffs, Hochstetler Holdings LLC (“Hochstetler”), and Honeyville Metal LLC (“Honeyville”) (collectively, “Plaintiffs”), as and for their Complaint against the Board of Commissioners of the County of LaGrange (“LaGrange County”) and Eden Worship Center, Inc. a/k/a Eden Community Worship Center (“Eden”) (collectively, “Defendants”), allege and state that:

Allegations Common to All Claims

1. Hochstetler is an Indiana limited liability company with its principal office in Elkhart County, Indiana.
2. Honeyville is an Indiana limited liability company with its principal office in LaGrange County, Indiana.
3. LaGrange County is a body corporate and politic existing under the laws of the State of Indiana.
4. Eden is an Indiana nonprofit corporation with its principal office in LaGrange County, Indiana.

5. Pursuant to Ind. Trial Rule 75(A)(2), preferred venue for this action lies in LaGrange County, Indiana.

6. Eden is the owner of certain real estate located in LaGrange County, Indiana, commonly known as 4095 S 900 W, Topeka, Indiana 46571, as evidenced by the Corporate Deed annexed hereto as Exhibit A and incorporated herein (hereinafter, "Eden's Tract").

7. Hochstetler is the owner of certain real estate located in LaGrange County, Indiana which is situated south of Eden's Tract (the "Honeyville Tract").

8. Honeyville, as Hochstetler's tenant, occupies the Honeyville Tract and conducts its business from the Honeyville Tract.

9. As shown in the aerial photograph below, a road exists which travels north/south and connects S 900 W and W 400 S (the "Road"):



10. The Plaintiffs and the Plaintiffs' predecessors in interest have used the Road for a period of more than twenty (20) years to access the Honeyville Tract.

11. Indeed, trucks and combination vehicles making left-hand turns from W 400 S onto the Road – as well as trucks and combination vehicles making right-hand turns from the Road to W 400 S – are able to safely travel to and from the Honeyville Tract by utilizing the intersection of the Road and W 400 S.

12. Trucks and combination vehicles traveling west on W 400 S cannot safely make left-hand turns onto S 900 W at the intersection of W 400 S and S 900 W. Similarly, trucks and combination vehicles traveling north on S 900 W cannot safely make right-hand turns onto W 400 S at the intersection of W 400 S and S 900 W.

13. Accordingly, the Road allows for trucks and combination vehicles to safely access the Honeyville Tract from W 400 S and vice versa.

14. For a period of more than twenty (20) years prior to January 1, 1988, the Road was used by the public in a continuous manner and without interruption or protest.

15. The public continued to use the Road, in a continuous manner and without interruption or protest, from January 1, 1988, until 2023.

16. The Road is shown as a public road on maps of LaGrange County dating back to at least 1961.

17. Indeed, during all relevant periods, up to and including the summer of 2023, LaGrange County maintained the Road, installed stop signs on the Road, and took responsibility for the maintenance, reconstruction, and operation of the Road.

18. In or about the summer of 2023, however, LaGrange County ceased maintaining the Road, and removed the stop signs which LaGrange County had previously installed on the Road.

19. Upon information and belief, LaGrange County ceased maintaining the Road as a result of a land survey obtained by Eden, which purportedly shows that the Road, or a portion thereof, is part of Eden's Tract.

Count I – Declaratory Judgment

20. Pursuant to T.R. 10(C), the Plaintiffs hereby adopt and incorporate by reference each and all of the allegations contained in rhetorical paragraphs numbered 1 through 19 of this Complaint, as though fully set forth herein.

21. This action is brought pursuant to the provisions of the Uniform Declaratory Judgment Act (I.C. § 34-14-1-1, *et seq.*) and T.R. 57.

22. Before it was amended in 1988, I.C. § 8-20-1-15 provided, in pertinent part, as follows:

(a) All county highways heretofore laid out according to law, *or used as such for twenty (20) years or more*, shall continue as originally located and as of their original width, respectively, until changed according to law.

I.C. § 8-20-1-15 (West 1976) (emphasis added).

23. In 1988, the statute was amended, and the phrase “or used as such for twenty (20) years or more” was deleted.

24. However, under Indiana law, if a “street became a public street before 1988, then the public has a vested right in that street, and the vested right was not eliminated by the amendment of the statute [in 1988].” *Chaja v. Smith*, 755 N.E.2d 611, 614 (Ind. Ct. App. 2001).

25. For a period of at least twenty (20) years prior to the amendment of the aforesaid statute in 1988, the Road was accessed by, and was free to use by, all persons who had occasion to use it as a public highway.

26. The Plaintiffs have provided written notice to LaGrange County that the Road constitutes a public highway. However, LaGrange County failed to act on said notice, has not

acknowledged that the Road constitutes a public highway, refuses to maintain the Road, and has declined to reinstall the stop signs along the Road.

27. Accordingly, an actual controversy of a justiciable nature exists between the Plaintiffs, Eden, and LaGrange County involving the rights of the Plaintiffs – as well as the rights of the public – to use and access the Road.

28. A decree herein will terminate the uncertainty involved in this matter and the controversy giving rise to this proceeding.

29. The Plaintiffs are entitled to an award and declaration of rights by decree herein setting forth that the Road constitutes a public highway, that the public is permitted to freely use and access the Road, and that LaGrange County is responsible for the maintenance, reconstruction, and operation of the Road.

30. Eden has been named herein to answer as to any interest it may have in this matter stemming from Eden's ownership of Eden's Tract.

31. All of the promissory and non-promissory conditions precedent to the prosecution of this action have been performed, have occurred, or have been excused.

WHEREFORE, the Plaintiffs respectfully request that the Court:

A. Determine that the Road constitutes a "public highway," as the Road was used by the public for a period of at least twenty (20) years prior to January 1, 1988, and accordingly, the public has a vested right to continue using, enjoying, and accessing the Road;

B. Determine that, because the Road constitutes a public highway in accordance with Indiana law, LaGrange County is responsible for the maintenance, reconstruction, and operation of the Road;

C. Order all further and proper relief in the premises.

Count II – Prescriptive Easement
(As Against Eden)

32. Pursuant to T.R. 10(C), the Plaintiffs hereby adopt and incorporate by reference each and all of the allegations contained in rhetorical paragraphs numbered 1 through 31 of this Complaint, as though fully set forth herein.

33. The Plaintiffs and the Plaintiffs' predecessors in interest used the Road for a period of twenty (20) years or more as a mode of ingress and egress to and from the Honeyville Tract.

34. During said period of twenty (20) years or more, the use of the Road by Plaintiffs and the Plaintiffs' predecessors in interest was actual, hostile, open, notorious, continuous, uninterrupted, and under a claim of right.

35. Plaintiff's use of the Road was adverse to the rights of Eden, as upon information and belief, the Road, or a portion thereof, may traverse Eden's Tract.

36. All of the promissory and non-promissory conditions precedent to the prosecution of this action have been performed, have occurred, or have been excused.

WHEREFORE, the Plaintiffs respectfully request that the Court declare that the Plaintiffs hold a prescriptive easement permitting the Plaintiffs to use and access the Road as a means of ingress and egress to and from the Honeyville Tract.

Respectfully submitted,

SANDERS • PIANOWSKI, LLP
300 Riverwalk Drive
Elkhart, IN 46516
Telephone: (574) 294-1499
Facsimile: (574) 294-7277

/s/ Dennis J. Groves
Dennis J. Groves (37272-20)
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Attorneys for Plaintiffs

EXHIBIT A

LaGrange Circuit Court

Clerk

LaGrange County, Indiana

ENTERED FOR TAXATION

OCT-23 2001

Kary M. Myers
LAGRANGE COUNTY AUDITORRECORDER'S OFFICE } SS
LaGrange County, IndianaReceived for Record on 23 day of Oct
A.D. 2001 At 9.00 M.James H. McElroy
Recorder of LaGrange County

THIS FORM HAS BEEN PREPARED FOR USE IN THE STATE OF INDIANA. SELECTING A FORM OF INSTRUMENT, FILLING IN BLANK SPACES, STRIKING OUT PROVISIONS AND INSERTING SPECIAL CLAUSES MAY CONSTITUTE THE PRACTICE OF LAW, WHICH SHOULD BE PERFORMED ONLY BY A LAWYER.

Mail Tax Bills To:

P.O. Box 518

Topeka, IN 46571

CORPORATE DEED

THIS INDENTURE WITNESSETH, That Westview School Corporation, Board of Trustees, successors
in interest to Eden School Township

existing under the laws of the State of Indiana, ("Grantor"), a corporation organized and
existing under the laws of the State of Indiana, CONVEYS AND WARRANTS

~~RELEASES AND QUITS CLAIMS (Strike one)~~ to Eden Community Worship Center

("Grantee") of LaGrange County,

in the State of Indiana, in consideration of One Dollar (\$1.00) and other valuable consideration,

the receipt of which is hereby acknowledged, the following described real estate in LaGrange County, in the State of Indiana, to-wit:

See Attached Exhibit "A" for Legal Description.

Subject to easements, restrictions, and rights of way of record.

Grantor avers that there is no Gross Indiana Income Tax due by reason of this transaction.

The undersigned person(s) executing this deed represent(s) and certify (certifies) on behalf of the Grantor, that (each of) the undersigned is a duly elected officer of the Grantor and has been fully empowered by proper resolution, or the by-laws of the Grantor, to execute and deliver this deed; that the Grantor is a corporation in good standing in the State of its origin and, where required, in the State where the subject real estate is situate; that the Grantor has full corporate capacity to convey the real estate described; and that all necessary corporate action for the making of this conveyance has been duly taken.

IN WITNESS WHEREOF, Grantor has caused this deed to be executed this 22nd day of October, 2001.

IMAGE/COPY PRO OF LAGRANGE, IN: GR INSE O L

R-9802

01-10-0581

IMAGE/COPY FOR RECORDING FILED IN 36-2-7-10
 LAGRANGE COUNTY INDIANA

Westview School Corporation, Board of Trustees
 (NAME OF CORPORATION)

By LaMar Hochstedler

By David Mehas

LaMar Hochstedler, President
 (PRINTED NAME AND OFFICE)

David Mehas, Secretary
 (PRINTED NAME AND OFFICE)

STATE OF INDIANA, COUNTY OF LAGRANGE SS:

Before me a Notary Public in and for said County and State, personally appeared LaMar Hochstedler,

and David Mehas the

President and Secretary, respectively, of

Westview School Corporation,

Board of Trustees,

who acknowledged execution of the foregoing Deed for and on behalf of said Grantor, and who, having been duly sworn, stated that the representations therein contained are true.

Witness my hand and Notarial Seal this 22nd day of October 2007

My Commission Expires: March 3, 2008 Signature Richard C. Tjarks

Resident of LaGrange County Printed Richard C. Tjarks, Notary Public

STATE OF INDIANA, COUNTY OF LAGRANGE SS:

Before me a Notary Public in and for said County and State, personally appeared

and the

and, respectively, of

who acknowledged execution of the foregoing Deed for and on behalf of said Grantor, and who, having been duly sworn, stated that the representations therein contained are true.

Witness my hand and Notarial Seal this day of

My Commission Expires: Signature

Resident of County Printed, Notary Public

This instrument prepared by: Fredrick J. Hartz Attorney at Law

Attorney Identification No. 7566-44

Mail to:



01-10-0581

EXHIBIT "A"

Beginning at a point six hundred sixty nine and five tenths (669.5) feet west from the northeast corner of Section sixteen (16) Township Thirty-six (36) North, Range Eight (8) East, LaGrange County, Indiana and running thence south one thousand nineteen and eight tenths (1019.8) feet to the center of the highway; thence with a right deflection angle of one hundred fifty five degrees and twenty three minutes along the center of the highway, two hundred eighty three and nine tenths (283.9) feet; thence with a right deflection angle of thirty eight minutes, fifty one and six tenths (51.6) feet; thence on a fifteen degree curve to the left one hundred forty and three tenths (140.3) feet; thence with a left deflection angle of twenty one degrees, fifty and nine tenths (250.9) feet; thence with a right deflection angle of forty eight degrees and fourteen minutes four hundred twenty two (422) feet to the center of the east and west highways; thence with a right deflection angle of eighty eight degrees and six minutes along the center of the highway three hundred eighty nine and five tenths feet to the place of beginning.