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By [Dennis Pelham](#)

Daily Telegram Staff Writer

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Appeals court upholds order to buy Lake Madison home

The Michigan Court of Appeals upheld a jury verdict that the value of a Lake Madison home was destroyed by a Lenawee County Airport runway extension in 2005.

A decision dated Thursday confirmed a 2012 jury decision that Robert and Michelle Gardner be paid \$590,000 for their home. The three-judge panel, however, reversed an award for an additional \$147,500 payment and for payment of interest since 2007.

The ruling could bring to an end litigation involving five homes at Lake Madison where an easement for air space above them was acquired by eminent domain. The easement was needed for an object-free runway protection zone that was expanded after the airport runway was lengthened from 4,000 feet to 5,000 feet.

Homeowners claimed the value of their properties was destroyed by the air space easement and demanded their entire houses be purchased. The county offered to pay only for the easement and any diminished value to the property.

The Gardners were the second homeowners to go to trial in the dispute. David and Barbara Wagley also won a verdict from a Lenawee County Circuit Court jury that found a total taking of their home had occurred. Settlement agreements were reached with the three other homeowners for their entire properties to be purchased by the airport. State and federal grants covered 95 percent of the expenses.

Lenawee County Administrator Martin Marshall said Friday the decision is being reviewed by the attorney who handled the case. A decision on whether to pursue further appeals will be made soon, he said.

“We had hoped that the court of appeals would understand the argument we were making on the total taking,” Marshall said. The appeals court panel disagreed with the argument.

“At least it found the trial court did not commit a major error,” he said.

The county’s attorney raised a half dozen issues in an attempt to reverse the jury verdict. None of the arguments seemed to move the judges.

An argument that the Federal Aviation Administration was responsible for any damages because it imposed the runway protection zone requirements was “convoluted and circular logic,” the opinion stated.

It also rejected a claim of error in allowing witnesses to testify the easements permitted aircraft to fly 7 feet above the Gardner’s home. There was no basis to exclude such testimony, the panel ruled. Experts testified it would not be prudent for pilots to fly that close to a home, but there was no specific prohibition.

“The effect of the avigation easement was an issue of fact to be determined by the jury at trial,” the opinion stated.

The panel followed an appeal ruling in the Wagley case to subtract a 25 percent additional payment ordered by the trial judge, William Collette of Ingham County.

A state law that requires payment of 125 percent of property value in eminent domain cases took effect more than a year after Lenawee County filed its claim against the Lake Madison homeowners.

The panel also eliminated interest payments to the Gardners because they continue to live in the home.

“Because defendants remain in possession of the property, they effectively waived their right to interest on the judgment for that period,” the opinion stated.