



Court of Appeals Rules on Partial Lake Access Dispute, Returns Case to Trial Court for Further Proceedings

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The Michigan Court of Appeals (COA) recently handed down a ruling in a long-simmering lake access dispute between property owners at a 99-year-old lakefront resort community in West Michigan's Lake County. The case, *Bloomquist v. Depree*, centers around whether the plaintiffs have obtained a prescriptive easement to access a shared beach from their backlot properties and erect docks or other moorings in the waters of Big Star Lake.

In the latest chapter of this dispute, which reportedly began in 2018, the COA ruled that the plaintiffs had established some rights through express easements allowing them access to Big Star Lake. However, the March 2024 ruling also stipulated that the plaintiffs had not proven they were entitled to full riparian rights and were not allowed to place seasonal or permanent docks in the water. The three-judge COA panel also sent the case back to Lake County Trial Court for further deliberations on the matter.

Dispute at Big Star Lake: History and Scope

The Pine Grove Beach Resort on the South shore of Big Star Lake in Baldwin, Michigan was established in 1925 and sub-divided in the early 1970s. At that time, the designated backlot properties not abutting the lake were each granted an express, 10-foot easement between properties owned by the defendants to allow plaintiff property owners access to the beach and water.

According to court documents, the backlot property owners have freely accessed and used the beach and Big Star Lake for swimming, sunbathing and boating for decades.

Apparently, the property owners at the Pine Grove Beach Resort peacefully coexisted until six years ago when relations between residents began to sour over a reported large party on the shared beach hosted by several of the plaintiff back lot owners. From this point on, the dispute intensified and both sides became increasingly litigious.

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Over the next six years, the feuding factions of Pine Grove have filed multiple legal complaints against each other. The plaintiffs have consistently claimed they had clearly established legal rights via prescriptive easements allowing them to access and use Big Star Lake and the beach. The defendants have consistently made counterclaims disputing the plaintiffs' claimed property rights.

Significance of Riparian Rights and Prescriptive Easements

At the crux of this snowballing neighborhood dustup are the time-honored legal concepts of riparian rights and prescriptive easements:

- *Riparian rights* – The rights that come with owning property bordering a waterway (lake, pond, stream, etc.). These rights usually encompass access to the water, use of the water for reasonable purposes, and limited development rights on the water.
- *Prescriptive easements* – In general, a prescriptive easement allows someone other than the property owner to gain the right to use that property. In certain instances, non-owners can establish a prescriptive easement through long-term and continuous use of a portion of another person's land for specific purposes. According to Michigan law, a prescriptive easement is established by open, notorious, adverse use of another's property over a continuous period of 15 years.

These two legal concepts are inextricably linked in both the creation and resolution of the Big Star Lake access dispute, as they are so often in the many similar Michigan property disagreements.

Takeaways for Waterfront Property Owners

Legal disputes of this sort involving riparian rights and prescriptive easement claims are common in Michigan. With more than 11,000 lakes and waterways and tens of thousands of adjacent lakefront properties in continuous use by multiple owners over many decades, the conditions that can lead to these kinds of legal problems exist throughout our state.

For Michigan property owners who share full or partial access to a waterway and beach with neighbors, we strongly recommend that any documents related to the property be reviewed by an experienced real estate attorney. Records that should be examined include deeds, mortgages, and any papers or illustrations detailing the use of shared property and lake access arrangements.

With the boating and swimming season upon us, ensuring that riparian rights and easement usage arrangements for your waterfront access are clearly defined, legal and properly recorded, is critical. It could head off an unpleasant, unnecessary, and expensive legal dispute, such as the one that currently divides the residents of Pine Grove Beach.

The attorneys of Foster Swift's Finance, Real Estate and Bankruptcy Law Practice Group are seasoned in the law of riparian rights and have deep experience in relevant statutes, regulations, case law and government agency rules. If you have any questions or concerns about your waterfront property and related lake access issues, please contact Scott Hogan at shogan@fosterswift.com/616-726-2207, McKenna Rivers at mrivers@fosterswift.com/517.371.8294 or another member of our team.