

Dock Access: Michigan Appellate Court Addresses Non-Riparian Lot Owner Issue



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The Michigan Court of Appeals addressed in a January 16th opinion an action in which the Plaintiff sought to limit the rights of non-riparian lot owners to maintain a dock at the end of a dedicated private road abutting a lake. See *In re Joseph M. Drago Revocable Tr. Agreement Dated Aug. 11, 1992, No. 335472*, 2018 WL 442219, at *1 (Mich. Ct. App. Jan. 16, 2018)

The plat of the Raevena Shores Subdivision granted non-riparian lot owners use of the private road.

The issue addressed was whether the reservation also gave the non-riparian lot owners the right to erect and maintain a dock at the water's edge.

Plaintiff contended that the trial court erred in finding that lot owners in the Raevena Shores Subdivision were permitted to maintain a dock at the end of the private drive. The appellate court acknowledged that the "reservation of a right of way for access" to a body of water "does not give rise to riparian rights." However, a riparian property owner may "grant an easement to backlot owners to enjoy certain rights that are traditionally regarded as exclusively riparian." The court stated that the scope of rights granted to the non-riparian lot owners depends on the language of the dedication of the property and the surrounding circumstances.

In reviewing Michigan case law, the court determined that roads dedicated to private use that terminate at the edge of a lake should be presumed to have been intended to provide access to the lake. Further, individuals who gain access to a navigable waterbody have a right to use the surface of the water in a reasonable manner, which includes building and maintaining a dock. Because the plain language of the dedication indicated an intention to allow access to water in order to use the lake and provided no explicit limitations on the access, the plat dedication included use of a dock to achieve access.

Plaintiff also argued that the trial court erred in allowing overnight mooring of boats on the dock.

The appellate court clarified that while the trial court did find that the lot owners may moor boats temporarily, this did mean boats may be moored overnight. Permanent mooring of boats would be inconsistent with the plain language of the dedication because it would go beyond the parameters of the dock's use incident to accessing of the water.

[A copy of the opinion can be downloaded here.](#)