

# Riparian Rights/Easement: Illinois Court Addresses Access Issue



**Walter Wright, Jr.**  
wwright@mwlaw.com  
(501) 688.8839

10/04/2024

## Co-Author Abigail Lindsey

An Illinois United States District Court (“Court”) addressed in a September 30th Order issues involving interpretation of riparian rights and easements.

The issues arose in the context of Tuggers Burger & Ale House (“Tuggers”) attempt to maintain a pedestrian walkway connecting multiple boat docks to their restaurant. *See PBR Group, LLC d/b/a/ Tuggers a/k/a Tuggers Burger & Ale House v. Soo Line Railroad Company d/b/a/ Canadian Pacific*, 2024 WL 4351865 (C.D. Ill. Sept. 30, 2024).

Tuggers owns a restaurant and bar (the “Restaurant”) on a parcel of land that abuts the Mississippi River. Sterling Rock Island Railroad Company obtained a right-of-way across this parcel in 1860. The Chicago, Milwaukee & St. Paul Railway purchased land west of the right-of-way. Both the right-of-way and the nearby land are now owned by Canadian Pacific Railroad (“CPKC”).

A company that previously owned Tuggers’s restaurant “installed a dock” on the river “to allow boaters to access the Restaurant from the water” in 2006. Tuggers installed a second dock after purchasing the restaurant in 2016. Both Tuggers and the previous Restaurant owners created a pedestrian crossing across the railroad tracks without CPKC’s permission.

CPKC notified Tuggers that in 2023 that it “objected to:

1. alleged water runoff from the Restaurant and
2. the use of the ‘illegal crossing’ by the public and Tuggers’s patrons.”

Tuggers addressed the runoff issue. Further, Tuggers proposed safety measures to resolve the pedestrian crossing issue. These actions did not satisfy CPKC.

Tuggers learned that CPKC planned “to install a fence just a few feet away from Tugger’s back door, running the length of the Restaurant.” It therefore filed a complaint against CPKC seeking a preliminary injunction. The request was denied.

Tuggers then filed a complaint for:

1. declaratory relief;
2. tortious interference with existing and prospective business relations; and,
3. temporary and permanent injunctions.

CPKC responded with a motion to dismiss.

The Court determined that Tuggers failed to state a claim upon which relief could be granted. It dismissed Tuggers's claims for declaratory relief for the following reasons:

- Tuggers claimed that the land on which the Restaurant sits includes riparian rights. The Court held no factual assertions or legal authority support the argument.
- Tuggers could not argue that it possessed an implied easement on CPKC's land because they did not have common ownership of the land. It attempted to liken the boat dock to a landlocked parcel that created an implied easement upon its construction. The Court rejected the argument.
- Tuggers could not argue that they had an easement by estoppel because it failed to plead that CPKC made representations about the pedestrian walkway that induced its reliance.
- Tuggers argued that a public easement of navigation exists that should allow pedestrians to cross the railroad tracks. However, this right "prohibits riparian landowners from interfering with the public's right to use navigable waterways for transportation" and does not protect the public's right to use land that abuts a navigable waterway. Therefore, the Court rejected this argument.

The Court dismissed Tuggers's tortious interference claim because it could not argue that CPKC acted unjustifiably, as the railroad company "has a right to exclude Tuggers and its customers from trespassing on its property." Since tortious interference claims must allege that the defendant acted unjustifiably, the Court rejected this argument.

Finally, since all of Tuggers's substantive claims for relief failed, their claims for injunctive relief failed by necessity.

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