

Yet Another Pro-Riparian Case

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The Michigan Court of Appeals issued an interesting recent opinion in the case of *Sullivan v Tillman* (unpublished Court of Appeals Case No. 285195, dated June 2, 2009). The properties at issue were in a plat on Big Crooked Lake in Van Buren County. The plaintiff owned a lot which was separated from the lake by a narrow strip of land dedicated as a “beach” in the original plat. Adjacent to plaintiff’s lot (and running along the side lot line) was an area dedicated as a “walk” which stretches from the road to the lake. Defendants owned an offlake property or backlot. Defendants erected a dock at the end of the walk at the lake and moored boats at that dock.

Plaintiff filed a lawsuit in an attempt to force the removal of defendants’ dock and boats at the terminus of the walk at the lake. In the lawsuit, the defendants also argued that the plaintiff’s lot was not riparian, as the narrow property designated as “beach” was located between plaintiff’s lot and the lake.

The Court of Appeals reached two important decisions in this case. First, the Court held that plaintiff’s lot is a lakefront or riparian lot despite the fact that it is separated from the waters of Big Crooked Lake by the narrow dedicated beach area. The Court found that the area dedicated as a beach was actually an easement for beach purposes, such that the side lot lines of plaintiff’s lot extended through and under the beach area and to the lake. The language in the plat dedication, which stated that the beach was dedicated “to the use of” the lot owners, did not transfer title to all of the property owners within the plat, but simply created an easement for beach purposes for all of the lot owners.

The second important holding in this case is that the walk is for ingress and egress purposes only to access the lake. Accordingly, defendants, as backlot property owners, are not riparian property owners and have no right to install or maintain a dock or boat moorings at the termination of the walk at the lake. The Court specifically held that overnight boat mooring is prohibited. The defendants were also prohibited from keeping storage containers on the walk.

Although this is an unpublished decision by the Court of Appeals and is not technically binding precedent, it nevertheless can be persuasive to trial courts throughout Michigan.