

Amicus Curiae Briefs

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Over the years, Michigan Lake & Stream Associations, Inc. (“ML&SA”) has filed several amicus curiae briefs with the Michigan appellate courts (i.e., the Michigan Court of Appeals and the Michigan Supreme Court). What is an amicus curiae brief? It is a brief filed by someone who is not a party to the lawsuit, but which supports the position of one of the parties in the litigation. A brief is a legal document submitted to a court that advocates a particular position or positions. Normally, a brief contains both factual and legal arguments. “Amicus curiae” can be roughly translated as “friend of the court.” Theoretically, amicus curiae briefs assist the appellate court in making a final decision.

ML&SA filed an amicus curiae brief in the leading case of *Hess v West Bloomfield Twp*, 439 Mich 550 (1992), a case in which the Michigan Supreme Court upheld anti-funneling/anti-keyholing zoning regulations. Recently, ML&SA filed amicus curiae briefs in two lake access easement cases—*Little v Kin*, 249 Mich App 502 (2002) (pending in the Michigan Supreme Court) and *Dyball v Lennox* (Court of Appeals Case No. 241296) (pending in the Michigan Court of Appeals).

How does ML&SA decide if it will file an amicus curiae brief? There are two major factors. First, ML&SA scrutinizes whether the case could potentially have a state-wide impact upon riparian issues and related law. The second factor is more practical—it depends upon ML&SA’s available funds at the time.

If a riparian property owner or lake association is involved in a case which is about to be appealed to the Michigan Court of Appeals or the Supreme Court and desires to have ML&SA consider filing an amicus curiae brief in support of their position, ML&SA should be contacted as soon as possible. There are strict filing deadlines for all briefs and ML&SA will not be able to consider filing an amicus brief unless it is contacted early enough in the appellate process.

Even if a riparian or lake association engaged in litigation does not pursue an appeal or ML&SA is unable to file an amicus brief in a particular case, it is always helpful for ML&SA to receive copies of any written opinions (or transcripts of a court’s oral opinion) by Michigan trial courts involving riparian issues. Accordingly, if you have a copy of any such document, please forward it to Don Winne at ML&SA.