

Another Road End Case *from the* Michigan Court of Appeals

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The Michigan Court of Appeals issued its unpublished opinion in *Bildstein v Hasler* on January 21, 2016 (Case No. 323094; 2016 WL 298982). The case involved the plat of Woodland Beach No. 1 which is adjacent to Crooked Lake in Keeler Township, Van Buren County, Michigan. The plat created or dedicated a 20-foot wide private road (“Woodland Court”) that approached the lake at an approximately 90 degree angle. The road then turns to the southeast and runs along the shore of the lake as a “beach”. The road portion was dedicated as a “street”. The plat indicated that both the street and the beach were dedicated “to the use of” lot owners within the plat.

At the point where the road end intersects with the lake, the owners of several backlots installed a dock, moored a number of boats seasonally and engaged in lounging, sunbathing and at times, partying. The adjoining first tier lot owners tired of the conduct of the backlot owners and filed a lawsuit in the Van Buren County Circuit Court.

The trial court held that the first tier lot owners are riparian notwithstanding that their lot was separated from the lake on the plat by the area dedicated as a beach. The trial court also held that the backlot owners could install one non-exclusive dock at the road end but could not moor, anchor or dock boats at the road end or on the dock overnight. The trial court also made determinations regarding the allowable use of the beach.

On appeal, the Court of Appeals generally upheld the decisions by the trial court with the exception of those relating to the beach. The appellate court held that the issues regarding the beach were not properly before the trial court and therefore dismissed those issues. Overall, the Court of Appeals agreed with the trial court that the road end was for access to the lake only, that the backlot property owners could have one non-exclusive dock (essentially for day use) and that no boat or watercraft could be moored or kept at the road end or the dock overnight. That is consistent with the overwhelming applicable Michigan appellate case law as provided by *Jacobs v. Lyon Township (after remand)*, 199 Mich App 667 (1993) and *Theis v. Howland*, 424 Mich 282 (1985). It is not clear from the written opinion by the Michigan Court of Appeals whether or not the backlot owners can engage in non-access uses at the road end such as lounging, sunbathing and picnicking. In general, the Michigan appellate case law has not allowed non-access uses such as lounging, sunbathing and picnicking at road ends. See *Jacobs v. Lyon Township* and related cases. 