

RECENT MICHIGAN APPELLATE CASES OF INTEREST

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On October 12, 2004, the Michigan Court of Appeals issued a very important unpublished decision upholding Yankee Springs Township's anti-funneling regulations in *Yankee Springs Township v Fox* (unpublished opinion—Case No. 249045). The Court agreed that the anti-funneling regulations contained in the Township's zoning ordinance prevented eight families from purchasing and utilizing a 103-foot wide piece of property on Gun Lake in Barry County for lake access. The Court also denied claims that the ordinance provision was unreasonable, ambiguous, overly-broad and vague, as well as the assertion that the Township waited too long to enforce the ordinance. The Court also rejected arguments that the Township could not enforce its anti-funneling regulations because Gun Lake is located in more than one township and the lake has numerous public access sites. This case is a major victory for the concept of anti-funneling regulations and riparians in general. Hopefully, this case will prompt townships which have been reluctant to adopt such regulations into doing so.

In a past issue of the *Riparian Magazine*, I mentioned a case where the Michigan Court of Appeals held that there could not be a dedication in a plat of a private park, private road, private walkway or other common property for use only by lot owners within the plat. That decision could potentially have wiped out all such privately dedicated items at lakes, with property formerly comprising those private plat dedication sites going to the adjoining landowners. Had that decision stood, it would have had huge implications for plats on lakes throughout Michigan. However, that decision by the Michigan Court of Appeals was overturned by the Michigan Supreme Court in *Martin v Beldean*, 469 Mich 541 (2004). The Michigan Supreme Court ended this controversy and held that parks, private roads, walkways and other common use devices could be created by private plat dedication for the use of lot owners only within a plat.