

ATTORNEY WRITES

By Clifford H. Bloom, Esq.
Law, Weathers & Richardson, P.C.
800 Bridgewater Place
333 Bridge Street, N.W.
Grand Rapids, Michigan 49504-5320

“Odds and Ends”

For lakefront property owners, good local ordinances are a lot like home fire extinguishers—you don’t think about them much, but they are very important when you need them. Of course, having effective local municipal ordinances governing zoning, anti-keyhole or anti-funneling developments to protect the lakefront should be of vital interest to any lake association or riparian property owner. Nevertheless, there are certain new “hot” topics in Michigan that should be the subject of local ordinances if that is not already the case.

I. Water Withdrawal

Most Michigan riparians are well aware of spring water ground extractions by Nestlé under their Ice Mountain bottled water label. What if Nestlé or some other water bottling firm were to choose a site in your area from which to extract large quantities of water? It would become a pretty important topic of conversation regarding any proposed water extraction well located near your lake (or feeder creek, stream, or river), particularly if your aquifer or water level could be impacted.

Given the toothless water withdrawal regulations enacted in Michigan just over a year ago and the weak powers of the Michigan Department of Environmental Quality in this area, regulation by a local township, village or city ordinance might be the only line of defense against unreasonable water withdrawals. Accordingly, riparians should inquire about having their local municipality adopt an amendment to the municipal zoning ordinance to regulate groundwater withdrawals.

You should be aware, however, that the legislation passed last year in Michigan might preclude some water withdrawal ordinance regulations, although the law is not clear regarding that matter.

II. Outdoor Furnaces

You may have noticed the proliferation of new outdoor residential heating devices, which resemble sheds. They typically utilize wood or pellets as an alternate means for heating individual houses. You might be wondering, “What does this have to do with lakes and streams?” Well, in crowded lake areas, you could find it quite annoying if your neighbor installs an outdoor furnace close to the common property line (and potentially close to your house) which spews out significant amounts of black smoke during the winter or colder months.

People with asthma or breathing problems could be particular adversely affected. An increasing number of municipalities are adopting ordinance provisions which regulate or even ban outdoor furnaces. At this time, however, it is unclear whether or not state heating and mechanical codes (or other laws) will permit municipalities to ban outdoor furnaces altogether.

III. Road End Ordinances

As most riparians know, public roads which end at lakes in Michigan are becoming an increasingly significant problem due to backlot property owners or members of the public misusing them by installing docks, creating floating marinas, leaving items there all summer, etc.

While adjoining or nearby riparians can often obtain relief via expensive private civil lawsuits, local municipalities can regulate road ends by ordinance provisions. Such ordinances can include a prohibition on docks, shorestations, overnight boat mooring, and similar matters. It is much easier for a municipal official to enforce such an ordinance by a civil infraction ticket than it is for riparians to have to file expensive private lawsuits to clean up problems at public road ends.

IV. “Party Barge” Ordinances

On a number of inland lakes in Michigan, riparians experience problems with areas of the lake where large numbers of people tie their boats together and engage in prolonged loud and boisterous conduct. Most riparians are not interested in micromanaging other people’s behavior, but sometimes these situations get out of hand.

On some lakes, these floating parties occur weekend after weekend in front of a given riparian’s house or cottage for hours at a time. Although it appears that no municipality in Michigan has adopted an ordinance to regulate such behavior (and such an ordinance could even be difficult to draft), there is no reason that such an ordinance could not be adopted.

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Just as this issue of *The Riparian* went to print, the Michigan House of Representatives passed the public road ends bills sponsored by the backlot property owners groups. The battle over the bills now turns to the Michigan Senate. If passed, the backlotters’ bills have the potential to hurt riparians (and even members of the general public who would like to use the public road ends in the fashion that they were intended to be used for, such as swimming, fishing, etc.) more than any legislation in decades.

If these matters interest you, please contact your Michigan Senator and state your opinion. That is what many backlotters did with their Michigan House member, and it helped result in the Michigan House passing their bills. Legislators do respond to calls, letters and e-mails from their constituents!