

# Boundary Disputes in Michigan: "Dry-Land" Disputes, Part 1

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*"It appears that as the Water Wonderland acquires more population it also acquires more litigation over water rights."*

The above-quoted observation was made by the Michigan Supreme Court in 1957. As our society has become more litigious, individuals who own waterfront land increasingly become entangled in boundary disputes. Those disputes can involve property lines on "dry-land" as well as submerged lands, also known as riparian bottomlands. This blog will address the so-called "dry-land" boundary disputes.

Many of the areas around Michigan's lakes were platted in the early part of the last century the lots were tiny by today's standards, though likely suitable for the small seasonal cottages that were built. The original owners of the small seasonal cottages may not have been terribly concerned about the precise point at which their land was separated from their neighbors. As a cottage was passed down to a new generation or sold to third parties, however, old understandings disappear and issues may arise concerning proper boundaries.

Many boundary disputes arise because a new purchaser obtains a survey and discovers that his or her neighbor is encroaching upon the land recently purchased. If confronted, the encroaching neighbor is likely to defend his or her continued use of the disputed property under one of two theories, adverse possession or acquiescence.

When one openly and continuously treats the land of another as his own for more than 15 years, he or she may acquire title to that land based upon adverse possession. A claim for adverse possession may be based upon as little as mowing a portion of your neighbors' lawn continuously for in excess of fifteen years, as though it was your property. Adverse possession requires use of another's land that is exclusive and hostile, or without permission. One who satisfies the requirements for adverse possession obtains title to the disputed land.

Acquiescence, like adverse possession, can also undermine legal property lines. Michigan courts have recognized three variations of acquiescence: (1) acquiescence for the statutory period of 15 years; (2) acquiescence based upon an agreement following a dispute over a property line; and (3) acquiescence arising from an intention to deed property to a marked boundary. Parties often

succeed on a claim for acquiescence when they are unable to satisfy the more exacting requirements for adverse possession. Unlike adverse possession, acquiescence does not require that the use be hostile or without permission.

There are certain things you can do to avoid "dry-land" boundary disputes. If you can locate an existing survey for your property, review it or have a professional review it, to verify the location of your legal property lines. Though a new survey can also be useful in that regard, retaining a surveyor may plant the seeds for a potential conflict. Individuals are sometimes aware that one or more of their neighbors is using a portion of their land but have no objection to that arrangement. Though such understandings are perfectly acceptable, they need to be memorialized in writing to protect against a later claim of adverse possession, acquiescence or a prescriptive easement. A brief written license agreement can be signed by both parties acknowledging that such use is being made with your permission, which can be revoked at any time.

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