

Misuse of Keyhole Lot as Marina: A Dispute Between Riparians and Backlot Owners in Michigan

Article By:

Riparian Rights

A dispute is brewing between riparians and backlot owners on Deer Lake in Independence Township, located in Oakland County, Michigan. The Deer Lake Knolls Homeowners Association owns an outlot on Deer Lake which Association members use to erect docks and moor boats, much to the chagrin of those who own waterfront property on Deer Lake. The Association is apparently one of six such associations which own outlots that provide access to Deer Lake. In a [June 1, 2013 article in the Oakland Press](#), Monica Drake does a nice job of describing the background and the positions of the various stakeholders. In a nutshell, the use of the outlot has been challenged as an unlawful marina which creates lake congestion and otherwise unsafe conditions. The following are important takeaways:

- Though the Michigan DEQ requires a permit for the operation of a marina, it does not have the staff and other resources to pursue over-use of outlot areas by backlot owners who seek to exercise riparian rights. This often requires private citizens to enforce both their property rights and the public interest.
- Townships and other municipalities should review and update their ordinances to manage the use of such areas to prevent misuse use of lake access devices. Apparently, Independence Township adopted a "keyhole" zoning ordinance in 2007, but the Association's use predates the ordinance.
- Even if use of an access device is "grandfathered," lawful uses of land may be actionable as a nuisance. Further, riparian rights must be exercised in a way that does not unreasonably interfere with another's riparian rights.
- Though a zoning ordinance violation may be grandfathered, police power ordinances can often be used to combat problems.
- Overuse of a lakefront lot often results in docks being erected on, or boats being moored over an adjacent owner's riparian bottomlands, constituting a [trespass](#).
- Though not mentioned in the article, multi-family use of common areas may also be prohibited in districts zoned for single-family residential uses.
- Unchecked, such uses of lake access devices by non-riparians tend to increase in intensity over time.
- Though riparians are often characterized as anti-public access, riparians tend to be the best protectors of a lake. Deer Lake has only 72 acres navigable for power boating and the outlot in dispute has reportedly been used to moor between 4 and 20 boats.

Though no one welcomes a fight, riparian owners must remain vigilant to protect their rights and preserve the lake against overuse and abuse.

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