

## Park Dedicated in a Plat Cuts-off Riparian Rights

Plats often contain dedicated and even undedicated areas between the "front tier" lots (those closest to the lake) and the water. Dedicated areas may be described as roads, walkways, promenades or parks. The dedications may be to the public or limited to those who own land within the plat, i.e. a private dedication. Because the dedicated areas separate the front-tier lots from the water, there are often issues as to whether front-tier lot owners have riparian rights, permitting them to install a dock and permanently moor boats. That issue becomes particularly muddled when the dedicated area is a park.

In an unpublished decision issued on August 2, 2012, *Horseshoe Lake Corporation v Carlson*, the Michigan Court of Appeals held that the existence of a park between the defendants' lot and the shoreline prevented defendants from enjoying riparian rights. Without resolving who owned the park, the court likened the park to an easement, but held that the easement prevented the defendants from enjoying riparian rights. Though perhaps difficult to reconcile with earlier cases, the result may be explained, in part, by the fact that the plat in that case was under the jurisdiction of a corporation organized under the Summer Resort Owners Act.

The court in *Horseshoe Lake* relied on *Dobie v Morrison*, 227 Mich App 536 (1998), but came to a conclusion seemingly at odds with the court in *Dobie*. In *Dobie*, the court explained that because the park was in the nature of an easement, it did not cut-off riparian rights. In *Dobie*, the court found that the owners of the front-tier lot owned the fee, subject to the easement. In *Horseshoe Lake*, the court simply failed to address who owned fee title to the park.

Another "park" case, *Locust Land Resort, LLC v Thiebaut*, produced a particularly thorny outcome for the parties. That case involved the Mitchell Park plat on Lake Mitchell. The front-tier lots were separated from the water by a privately dedicated park. All the parties to the lawsuit were front-lot owners, who agreed they all had riparian rights, but could not agree on where docks would be placed. The trial court equitably apportioned the frontage among the front-tier owners, but a disgruntled party appealed. The Court of Appeals reversed holding that, despite the agreement of the parties, none of the front-tier owners had riparian rights. Like the courts in *Dobie* and *Horseshoe Lake*, the court held that the right to use the park was in the nature of an easement, but it made no findings as to who owned the fee title. When the *Locust Land* lawsuit was filed all the parties were exercising riparian rights, but wound up in court because they could not agree on dock placement. After the expense and hassle of litigation, they all returned home without riparian rights.

What is the lesson? If you are considering buying land in a plat, carefully review the plat map and seek professional guidance. You can find a copy of your plat map by searching here. It is important to review the plat map because platted areas are rarely obvious based on viewing the property. In addition to a park, you may discover "paper" roads, walks or other areas that may impact your property rights and the ability to enjoy your property.