



Hazards to Navigability

By Clifford H. Bloom, Esq.

Bloom Sluggett, PC | Grand Rapids, Michigan

www.bloomsluggett.com

If a dock, pier, swim raft, or other item jets out into a Michigan lake too far or is a hazard to navigability, is there an enforcement mechanism in the law to remedy such a situation? In general, yes. There are potentially three sources of relief. First, MCL 324.80163 (a Michigan statute) allows the Michigan Department of Natural Resources and certain police agencies to require the moving or removal of any such aquatic item that is a hazard to navigability. That statute states:

(1) If an anchored raft or other item or material, whether floating free or attached to the bottomland or a shoreline, presents a hazard to navigation, the department or a peace officer with jurisdiction over the body of water where the anchored raft or other item or material is located may relocate or remove it or may order its relocation or removal.

(2) The person who owns or who caused a navigational hazard that is relocated or removed under subsection (1) is liable to pay the actual and reasonable costs of relocation or removal. The department or the law enforcement agency with jurisdiction over the body of water where the navigational hazard was located may send written notice of the relocation or removal under subsection (1) and the associated costs to the person determined to own or to have caused the navigational hazard. If the owner or person who caused the navigational hazard fails to pay the costs within 30 days of the date the written notice is mailed, the costs may become a lien against the person's property. MCL 324.80163

Second, to the extent that a dock, pier, swim raft, or other aquatic item interferes with navigability on a lake, it would likely also constitute an unreasonable interference with the riparian rights of the property owners on the lake. An affected riparian property owner could sue the owner of the item in a county circuit court for the moving or removal of the item. Unfortunately, those types of lawsuits tend to be expensive, time-consuming, and can be inefficient.

Third, a municipality (either a city, village, or township) can enact a police power or regulatory ordinance that governs the length or placement of docks, piers, swim rafts, or similar items to prevent such items from being hazards to navigability or unreasonably interfering with boaters, fishermen, swimmers, and other users of the lake.

Finally, anyone who owns a dock, pier, swim raft, or other item that is a hazard to navigability and potentially unsafe faces a huge potential liability should a boater, water skier, or other person become injured or killed due to the improper length, construction, condition, or location of the item in the lake. In extreme situations, the owner of the item could even face criminal prosecution for manslaughter or negligent homicide. 