



“The Difficulty of Bottomlands Ownership Location”

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Most readers of *The Michigan Riparian* magazine are familiar with the Michigan appellate case law indicating that on most inland lakes in Michigan, the waterfront or riparian lots extend under the water and to the center of the lake. See *Heeringa v Petroelje*, 279 Mich App 444; 760 NW2d 538 (2008); *Weisenburger v Kirkwood*, 7 Mich App 283; 151 NW2d 889 (1979); *Hall v Wantz*, 336 Mich 112; 57 NW2d 462 (1953); *Gregory v LaFaive*, 172 Mich App 354; 431 NW2d 511 (1988). If the lake were round, the location of the bottomlands and riparian boundary lines would be easy to determine – riparian boundary lines would radiate to a point in the center of the lake (like slices of a pie or pizza). Unfortunately, however, lakes are not perfectly round such that the courts must use a variety of different techniques to determine which property owner owns a specific section of the bottomlands under the lake. And, almost never do the underwater riparian boundary lines for a waterfront property radiate to the center of the lake at the same angle as the side property lines for the lot on dry land.

Depending on the shape of the lake, layout of the shoreline of the lot or lots involved and other factors, the courts can use a variety of different techniques to determine the center of an inland lake. For a few lakes that are fairly round, there might be one center point for the whole lake. However, with most lakes, the courts utilize a combination of points and thread lines for determining the angle of riparian boundary lines.

Why is it that determining the exact location for a riparian boundary line under the waters of a Michigan inland lake is so difficult? There are generally five reasons. First, as many judges have put it, determining the location of underwater riparian boundary lines on an inland lake in Michigan is more of an art, than a science. For a given area of a lake, the surveyors or surveyors/engineers who give professional opinions regarding the location of a common riparian boundary line offer a

variety of different techniques that can be utilized. Rarely do two surveyors or surveyors/engineers agree on where a common boundary line is located. Ultimately, only a judge can determine the exact location of a riparian boundary line. Second, there are a variety of different techniques for determining the center or thread line of a lake and at what angles the riparian boundary lines radiate to the center or thread line. Third, lawsuits involving the location of the riparian boundary lines tend to be time-consuming, expensive and complex. Fourth, there are many persistent myths that laypeople perpetuate regarding bottomlands ownership that wreak havoc with the public’s understanding of bottomlands ownership. Quite often, laypeople try to determine the location of their own riparian boundary lines. And, in almost all cases, they are wrong! Finally, riparian boundary line disputes are often contentious, emotional and frustrating. Given how strongly people feel about their waterfront property and the fact that many lake lots are small such that every inch of lakefront property is important, riparian boundary line disputes tend to be very intense.

Many surveyors and surveyors/engineers in Michigan hold themselves out as being able to properly do riparian boundary lines determinations. In fact, it has been this writer’s experience and opinion that there are a limited number of such experts in Michigan who are truly skilled at determining underwater boundary lines for Michigan inland lakes.

Based on all of the above, if two neighbors feud over their common riparian boundary line, it is almost always better to attempt to reach a compromise settlement for the bottomlands boundary line location rather than to risk expensive court litigation. *R.*