

A DECISION IN THE LANDMARK CASE REGARDING WHERE THE PUBLIC CAN WALK ON THE BEACHES OF THE GREAT LAKES IS DUE BY JULY

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In the November 2004 issue of *The Riparian*, Don Winne reported on the Michigan Court of Appeals decision in *Glass v Goeckel*, 262 Mich App 29 (2004). Glass involved the issue of where members of the public can walk on the beaches of the Great Lakes adjacent to private lakefront property. All courts seem to agree that a lakefront property owner on the Great Lakes can control the land above or upland from the ordinary high water mark. Longstanding Michigan case law also seems to indicate that all beach or exposed bottomlands from the ordinary high water mark back to the actual waters of any of the Great

Lakes are government-owned. However, the Court of Appeals in *Glass* held that the adjoining riparian property owner does have some measure of control over the beach and exposed bottomlands even beyond the ordinary high water mark and effectively to the water or wet sand adjacent to the lake.

Proponents of broad public lake access and beach rights for the Great Lakes have appealed the decision of the Court of Appeals in *Glass* to the Michigan Supreme Court. While they generally acknowledge that the adjoining lakefront property owners can exclusively control all land from the ordinary high water mark upland

(and thus, prohibit trespassers), they assert that the decision by the Court of Appeals was erroneous and they claim that members of the public should be able to walk freely on beach sand and not be confined to the area within or immediately adjacent to the water. The Michigan Supreme Court heard oral argument in this matter during mid-March and is expected to render its decision by mid-July. We will report on the decision of the Michigan Supreme Court in the August, 2005 issue of *The Riparian* if the decision is rendered in time for this magazine's printing deadline for August. *

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