



August Case Law Update August 31, 2011

[A summary of published Wisconsin court opinions decided during the month of August related to planning]

Wisconsin Supreme Court Opinions

[No planning related decisions to report.]

Wisconsin Court of Appeals Opinions

Disputing Neighbors: Determining the Boundaries of Riparian Areas

[*Manlick v. Lopponow*](#) involves a dispute between two lakefront property owners on Pewaukee Lake in Waukesha County. Each party owns less than 30 feet of lake frontage on a portion of the lake with a curved shoreline. The Manlicks traditionally placed their pier at the end of their property closest to the Lopponow property within parallel lines extending from the parties' property lines. In 2006, the Manlicks purchased a pontoon boat that they docked on the north side of their pier closest to the Lopponow property. After the Lopponows voiced concerns, the Manlicks moved the pontoon. In 2007, the Lopponows moved their pier so it was immediately next to the Manlicks' pier to prevent the Manlicks from using the north side of their pier.

The Manlicks then brought this lawsuit alleging the Lopponows' pier infringed upon their riparian rights. The Lopponows counterclaimed alleging nuisance and trespass. The circuit court denied the claims of the Manlicks and the counterclaims of the Lopponows. The Manlicks appealed the circuit court decision.

Court of Appeals decision in the case centers on how to determine the boundaries of the parties' riparian areas. Owners of lakefront property are entitled to exclusive possession of the waterfront to the extent necessary to reach navigable water, to have reasonable ingress and egress to navigable water and to have reasonable access for bathing and swimming. These rights, commonly referred to as "riparian rights," extend from a landowner's property line to the line of navigability. There is no set rule in Wisconsin for establishing the extension of boundaries into a lake between contiguous shoreline properties. However, Wisconsin case law sets forth three general methods for determining where riparian boundaries lie. First, where the course of the shore approximates a straight line and the onshore property division lines are at right angles with the shore, the boundaries are determined by simply extending the onshore property division lines into the lake. Second, if the boundary lines on land are not at right angles with the shore but approach the shore at obtuse or acute angles the division lines should be drawn in a straight line at a right angle to the shoreline without respect to the onshore boundaries

(commonly known as the “coterminous method”). Third, where the shoreline is irregular then the boundary line should be run in such a way as to divide the total navigable waterfront in proportion to the length of the actual shorelines of each owner taken according to the general trend of the shore.

The proper method to use is to be decided by the court, and not a jury, based on what is fair and equitable under the circumstances. In this case, the circuit court determined the second method, the coterminous method, was the most equitable method to define the parties’ riparian rights. Using this methodology, the circuit court determined that it was actually the Manlicks’ pier that was inside the Loppnows’ riparian area. The Wisconsin Court of Appeals decision affirms the methodological approach used by the circuit court.

The case is recommended for publication.