

WATER LAW—GET YOUR FEET WET!
(Thursday, January 10, 2008—Morning Session)

2008 MICHIGAN TOWNSHIPS ASSOCIATION
ANNUAL CONVENTION
Renaissance Center

Clifford H. Bloom, Attorney at Law
Law, Weathers & Richardson, P.C.
800 Bridgewater Place
333 Bridge Street, N.W.
Grand Rapids, Michigan 49504-5320
(616) 459-1171

OUTLINE

I. Township Ordinance Authority

A. Sources of township ordinance authority:

1. Michigan Constitution
2. Municipal ordinance statutes
3. Uniform Zoning Act
4. Marine Safety Act

B. Zoning Regulations

1. Anti-funneling
 - (a) What is funneling or keyholing?
 - (b) History of these ordinances.
 - (c) What are they?
 - (d) Provisions:
 - X number of feet
 - dock regulations
 - boat limits
 - (e) Court scrutiny.
2. Typical other zoning provisions:
 - (a) Buffer or natural vegetation strips
 - (b) Lot width
 - (c) Lake setbacks
 - (d) Side yard setbacks
 - (e) “Hangover”
 - (f) Canals
 - (g) Houseboats

- (h) Ramps
- (i) Common/joint use properties
- (j) Lot width-to-depth ratios
- (k) PUD's
- (l) Waterfront overlay zones
- (m) Exclude underwater areas for lot area calculations
- (n) Lawful nonconforming lots
 - Merger/combination provisions

C. Police Power Ordinances:

1. Dock and boat ordinances
2. Road end ordinances
3. "Bubbler" ordinances
4. Special Events
 - bass tournaments
 - boat races
5. Water withdrawal
6. No fertilizer
7. Speed limits
8. Seaplane landings/takeoffs
9. "Party barge" problems
10. Houseboats
11. Golf carts
12. Court scrutiny

D. Miscellaneous Township Involvement:

1. DEQ permits

2. SADs
3. Lake boards
4. General funds to weed treatment
5. Special watercraft rules – DNR

II. **The Beachwalker Case:**

- A. *Glass v Goeckel*, 473 Mich 667 (2005)
- B. Facts
- C. Local ordinances

III. **Useful Web Sites:**

- Michigan Twps Association – www.michigantownships.org
- Cliff Bloom’s website – www.lwr.com (click on “Attorneys,” then “Clifford Bloom,” and then “Publications”)
- Michigan Lake & Stream Associations, Inc. – www.mlswa.org
- Michigan Waterfront Alliance – www.mwai.org

IV. **Important Michigan Appellate Court Cases**

- A. Anti-funneling regulations (zoning):

Hess v West Bloomfield Twp, 439 Mich 550 (1992)

Yankee Springs Twp v Fox, 264 Mich App 604 (2004)

Jones v Genoa Twp, unpublished opinion *per curiam* of the Court of Appeals, decided October 25, 2002 (Docket No. 231537)

- B. Dock ordinances (police power ordinances):

Square Lake Hills Condo Ass’n v Bloomfield Twp, 437 Mich 310 (1991)

V. **Sample Ordinance Provisions (see the attached)**

Sample Anti-Funneling Ordinance Amendment (lake access and frontage/keyhole development)

Sample Anti-Funneling Ordinance Amendment (riparian lot use regulations)

Sample Police Power Dock Ordinance

99999 (017) 373977.1