

Docks and Boat Hoists – Everything You Always Wanted to Know

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On inland lakes in Michigan, virtually every property owner has a dock and frequently, a boat hoist as well. Numerous riparians also have a floating raft or the equivalent. Few riparians think about the legal and liability implications for such items, however.

In Michigan, the common lake access structure on inland lakes is generally referred to as a “dock”, while the permanent structures on the Great Lakes tend to be referred to as “piers”. Quite often, one can tell that a person is not from Michigan when they speak of their seasonal “pier” on an inland lake!

Under the Michigan common law, riparian property owners generally have the right to install a dock, as well as a boat hoist and swimming raft, on their bottomlands. That is one of the benefits of riparian ownership. See *Thies v Howland*, 424 Mich 282; 380 NW2d 463 (1985); *Burt v Munger*, 314 Mich 659; 23 NW2d 117 (1946); *Hilt v Weber*, 252 Mich 198; 233 NW 159 (1930); *Pierce v Riley*, 81 Mich App 39; 264 NW2d 110 (1978); *Sewers v Hacklander*, 219 Mich 143; 188 NW 547 (1922) and *Hall v Alford*, 114 Mich 165; 72 NW 137 (1897). However, it is also true that a riparian must place such items on their own bottomlands.

With most inland lakes in Michigan, the bottomlands of a riparian property extend under the water to the center of the lake. See *Hall v Wantz*, 336 Mich 112; 57 NW2d 462 (1953); *Gregory v LaFaive*, 172 Mich App 354; 431 NW2d 511 (1988) and *West Michigan Dock & Market Corp v Landland Investment*, 210 Mich App 505; 534 NW2d 212 (1995). Unfortunately, it is frequently difficult to determine the angle at which riparian boundary lines under the water

(and along the bottomlands) radiate to the center of an inland lake. Those angles almost never match the angles of the side lot lines on dry land of the lot or parcel involved. This uncertainty in the law can lead to disputes regarding the boundaries of bottomlands. Nevertheless, if you are a riparian land owner, you must make sure that your dock, boat hoist and swim raft are all located on and over your own bottomlands. It can constitute a trespass for any of those items to encroach on your neighbor's lake bottomlands unless you have your neighbor's permission. See *Hall v Wantz*, 336 Mich 112; 57 NW2d 462 (1953).

Is there a limit on the length of a dock or how far out into the lake a swim raft can be anchored? At the common law, there is no definitive limit from the shore *per se*. However, such items cannot unduly interfere with navigability or the rights of other riparians to reasonably use their respective riparian properties. See *Thompson v Enz*, 379 Mich 667; 154 NW2d 472 (1967); *Three Lakes Assn v Kessler*, 91 Mich App 371; 285 NW2d 300 (1979); *Pierce v Riley*, 81 Mich App 39; 264 NW2d 110 (1978); *West Michigan Dock & Market Corp v Lakeland Investments*, 210 Mich App 505; 534 NW2d 212 (1995) and *Square Lake Hills Condo Assn v Bloomfield Twp*, 437 Mich 310; 471 NW2d 321 (1991).

Pursuant to Michigan statute, a dock, boat hoist or swim raft cannot be a hazard to navigation. See MCL 324.80163. If it is, the Michigan Department of Natural Resources ("DNR") can require the riparian landowner to move or even remove such an item. And, if the property owner does not do so, the DNR might move or remove the item itself and bill the property owner for the cost. See MCL 324.80163.

Some local municipalities (a city, village or township) do have ordinance provisions which regulate docks. Those regulations can limit the length of a dock from shore, the width of a dock and the height of a dock, as well as ban permanent docks by requiring docks to be removed

from the water during the off-season. Some municipalities also require docks and shore stations to be located a certain distance away from the side lot lines at the waterfront. A limited number of municipalities also regulate swim rafts and boat hoists by ordinance.

Permanent docks or piers (i.e., docks or piers that are left in the water year-round) require a special state permit. Multi-family docks and piers are often regulated by municipal zoning ordinances and sometimes by stand-alone police power ordinances. Multi-family docks or piers also require a marina permit from the State of Michigan.

Moored or anchored boats cannot drift over the bottomlands of one's neighbor, even if the dock or anchor is located on the bottomlands of the owner of the boat. Likewise, a boater out in the lake cannot anchor or moor on the bottomlands of another without that riparian's permission, except for short periods of time as an incident of navigability, fishing or fowl hunting. See *Hall v Wantz*, 336 Mich 112; 57 NW2d 462 (1953).

Given the potential for accidents on the waterfront, it very important for a riparian property owner to carry sufficient liability insurance regarding the riparian's dock, boat hoist and swim raft. Today, even a million dollars in liability insurance coverage is likely not enough. Keeping one's dock and raft in a good and safe condition, as well as not placing them too far out into the water, can help minimize the potential for accidents, thus lowering the liability risk.

As you can see, there is a lot more to docks, boat hoists and swim rafts than you thought!