

NEWAYGO -- Seeking an idyllic retreat, Glenn and Lynnae Jarrell bought a \$60,000 cottage on a hill overlooking a Newaygo County lake.

"We talk about this place like it's 'Golden Pond,'" he told a judge, referring to a famous movie starring Henry Fonda. "I would like to have a rowboat that I putt around in and do a little fishing."

Indeed, it sounds appealing. But, just weeks after arriving at Sylvan Lake in 2001, the East Grand Rapids couple learned it also might be illegal.

For four years, they were in court challenging lakefront neighbors over the right to erect a dock and tie up boats. The question: Did a decades-old easement allow more than just swimming, sunbathing and paddling a canoe?

"If I paid what they paid, I would be happy with swimming privileges," said year-round lakeshore resident Cindy Stariha. She and husband Joe own the 40-foot beach at the center of the dispute.

"We also own a couple hundred acres in the wilderness. Sometimes, we think, 'Is it worth it to be here?' " she said before the saga ended last week.

The right to walk along miles of Great Lakes beaches has made headlines, but access to Michigan's 11,000 inland lakes can provoke even more passion.

As people retire or hunt for second homes, and properties change hands for the first time in generations, controversies have erupted between lakefront residents and back-lot owners. In some cases, friendly, informal agreements that lasted for years suddenly become contested.

Separately, state lawmakers, responding to a long-running battle at Higgins Lake in northern Michigan, are considering a ban on docks at the end of public roads.

"These cases become very emotionally charged," said attorney Mike Roth, who represents the Jarrells in Newaygo County but usually steps in for lakefront owners seeking to aggressively enforce restrictions.

Lakefront lots come at a premium," he said. "People work hard to get these properties and try to make memories for their families. ... Inland lakes typically don't have as many feet of frontage. You feel the effects of your neighbor when they're right next to you."

### **Recent rulings**

Since fall, the Michigan Court of Appeals has made nearly a dozen decisions in lake fights, some favoring the rear lots and others going to waterfront owners:

- In Frankfort, southwest of Traverse City, Dennis Czeryba and family members own cottages across a road from Crystal Lake.

An easement gives them access to the lake through another property, but a new lakefront owner erected a fence just before an annual July 4 picnic.

"We thought about tearing it down, but that would have gotten the sheriff involved," said Czeryba, 56, of suburban Detroit.

A dock and boats are OK because the families had used the easement that way for at least 15 years, the court said. The fence was removed.

"Kind of silly," Czeryba said of litigation that collectively cost more than \$100,000. "At a cottage, you think people would like to get along."

- Barry County's Yankee Springs Township successfully sued to prohibit eight back-lot families from using ownership in a single lakeside lot to claim valuable dock rights on Gun Lake.

The scheme ran smack into the township's "anti-funneling" ordinance, which is aimed at preventing a piece of land from becoming a funnel to the popular lake. The law says there must be a certain amount of frontage for each family. That lot flunked the test.

"We try to keep down the number of boats," Supervisor Al McCrumb said. "It's to protect riparian owners for their right to use the lake, and just to protect against overcrowding."

- Elsewhere in Barry County, there have been controversies at Algonquin Lake, near Hastings.

Rob and Catherine Longstreet bought a waterfront home for relatives. They noticed back-lot residents were turning narrow public-access strips into "marinas," although the easement didn't allow it.

After a three-day trial, a judge said only a few families with historical use could keep boats. Others could form an association and put a dock elsewhere off a public parkway.

"I don't think they erroneously interpreted it -- they knew it was wrong," Rob Longstreet said of the back-lot families. "Now, there's no more confusion."

In a similar case on the other side of Algonquin, residents who don't live on the water could get mooring privileges, but lakefront owners would have veto power under a compromise awaiting a judge's review.

### **More money, more rights**

So what's going on here? Can't everyone enjoy an inland lake the same way?

No, says Cliff Bloom, a Grand Rapids lawyer who specializes in water law.

"One who purchases a cheaper \$10 seat way in the back of a theater should not complain about the poor view and acoustics," he and partner Roth wrote in an Algonquin Lake case.

While it might sound "cold-hearted," they said, water lovers who want a full bundle of lakefront rights "should have spent the extra money."

In an interview, Bloom, who represents the Michigan Lake and Stream Associations, a statewide group of waterfront owners, said conflicts grow because lakefront properties are becoming "scarcer and scarcer."

A strict reading of deeds and easements, he said, probably was ignored when members of the same family shared a quiet inland lake. But times change -- and so can ownership.

"No one had jet skis years ago. People have gone from having a rowboat to wanting a 100-foot dock," Bloom said. "In the past, many lots were not even built on; they weren't seen as valuable. The list goes on and on."

### **'Plain and unambiguous'**

In 2003, the Michigan Supreme Court announced a key legal standard to help determine the rights that back-lot owners could have on inland lakes. When the language of an easement is "plain and unambiguous, it is to be enforced as written and no further inquiry is permitted."

That unanimous conclusion led to significant consequences for the Jarrell and Stariha families on Sylvan Lake.

Located off M-37, about 40 miles north of Grand Rapids, Sylvan is a private, spring-fed lake with no public boat launch. A single, narrow road -- paved in parts, gravel elsewhere -- rings it and the adjacent Emerald Lake. There are modest cottages here, along with homes worth more than \$400,000.

"Just wait a few minutes," Cindy Stariha said, standing on her dock and looking west. "You'll have a sunset that will be gorgeous."

The Jarrells arrived four years ago, purchasing a cottage high off the lake but one that still allows access to a beach owned by the Starihas.

It was a rocky start.

Joe Stariha "would enter into some kind of diatribe about what I could or couldn't do -- that I couldn't keep a boat there, I couldn't have a dock," Glenn Jarrell, 48, said during a one-day trial.

Stariha, 49, doesn't recall it being too contentious: "We just said, 'Look, these are the rules.'"

But when the Jarrells chained a canoe to his flagpole, "we had to call in law enforcement. ... That kind of sent me off the deep end," Stariha said.

The Jarrells, in turn, took their neighbors to court, claiming language in the deed to their hilltop haven went beyond just swimming and skipping stones.

### **Piers and docks**

The easement, written in 1964, granted "pier rights," although the old pier dating back to the timber era was removed in 1966.

Newaygo County Judge Anthony Monton said the right to a dock disappeared with that pier. The Michigan Court of Appeals, however, said "pier rights" survive, especially when the easement is tied to ownership in land. The court pulled out a college dictionary to define pier and dock.

Last week, after shuttling in and out of Monton's chambers, both sides reached a settlement: The Jarrells can tie a boat to the Starihas' dock, starting in 2006. If the dock is removed, the Jarrells can install their own.

"All we wanted," Lynnae Jarrell said outside court, "was what we bought."