
Take Me to the Artificial River

By Gary A. Kravitz

The black-letter common law rule that riparian rights do not attach to artificial bodies of water as applied in two more recent cases, one citing the other, is a useful reminder of the principal. In *Holton v Ward*, 303 Mich. App. 718 (2014), plaintiff claimed riparian rights to a pond on their property created when the prior owner installed an earthen dam. The Michigan Court of Appeals found them to be all wet. There are no riparian rights to artificial bodies of water. The Court held that Plaintiffs did not acquire riparian rights from the impoundment and remanded with instructions to impose sanctions for filing a frivolous lawsuit.

Two years later the plaintiff in *Adrian Developers v The City of Adrian* (Michigan Court of Appeals, Unpublished, December 17, 2015), took a similar dunking regarding property along Lake Adrian. The lake was created in 1941 when the City dammed Wolf Creek. More recently the City gave Savoy Energy the rights to perform oil and gas exploration on the Lake Adrian bottom lands. Plaintiff claimed that, as a riparian, it was entitled to a portion of the royalty payments. Citing *Holton* at length, the Court of Appeals reiterated that riparian rights do not attach to land adjacent to a water course that owes its existence to improvements, such as canals, drainage ditches, dams and the like. The dam turned the natural water course into an artificial one, defeating the claim of riparian rights.

Takeaway:

It's clear that someone isn't getting the memo: no riparian rights flow from an artificial body of water. Thus, be sure to determine the precise origin of the body of water in question before asserting such claims.

