

July 2016

Take Me to the Artificial River

By Gary A. Kravitz, Maddin, Hauser, Roth & Heller PC



Two recent cases, one citing the other, are a useful reminder of the black-letter common law rule that riparian rights do not attach to artificial bodies of water. In [*Holton v. Ward*](#), 303 Mich. App. 718 (2014), plaintiffs claimed riparian rights to a pond on their property created when the prior owner installed an earthen dam. The pond stretches across both plaintiffs' and defendant's property. The Michigan Court of Appeals found plaintiffs 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years later, the plaintiff in [*Adrian Developers LLC v. City of Adrian*](#) (Mich App No. 322511, December 17, 2015, unpublished), took a similar dunking regarding property along Lake Adrian. The city created the large lake in 1941 when it 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 body of water that owes its existence to man-made improvements, such as canals, drainage ditches, and dams. 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. Potential plaintiffs: be sure to determine the precise origin of the body of water in question before asserting such claims.