

Appellate Court Rules Against Road End Boat Hoists – May, 2004

Originally published May 14, 2004

PRESS RELEASE –

Appellate Court Rules Against Boat Hoists on Higgins Lake

Date: Monday, May 10, 2004 For Release: Immediately

The Michigan Court of Appeals has ruled that the placement of boat hoists or the seasonal mooring of watercraft at public road ends on Higgins Lake is inconsistent with the original dedication and therefore illegal.

The Appellate Court issued final rulings in cases involving some 18 subdivisions on Higgins Lake: Almeda Beach, Chicago Beach, Evergreen Park, Highland Park, Honolulu Beach, Lyon Manor, Michigan Central Park 1st Addition, Michigan Central Park 3rd Addition, Michigan Central Park Struble's Addition, Old Point Comfort, Pine Bluffs, Shoppenagon's Lodge, Sam-O-Set, Sovereign Park, Sylvan Beach, Triangle Park, Whittington Park and Woodlawn.

The court further ruled against activities that obstruct the public's access to the lake at these road ends. And, in order to facilitate access to the lake, the ruling allows for the placement of one public dock.

This decision by the Court of Appeals validates the position of the HLPOA (Higgins Lake Property Owners' Association) according to Ken Dennings, president of the organization. "We maintain, and the courts agree, that public roads leading to the lake are intended for public use and cannot be appropriated by individuals for their private use," Dennings said.

The recent court decision is consistent with previous court rulings dating back to the 1993 Jacobs v. Lyon Township decision that first prohibited boat hoists and seasonal mooring of watercraft at public road ends on Higgins Lake. Various appeals to higher courts, primarily by the Higgins Lake Civic Association, have kept the debate alive and allowed individuals to continue their "seasonal appropriation of public land," according to Dennings.

Recently, however, the Michigan Supreme Court refused to hear appeals regarding the appellate court rulings, thereby making these rulings final.

In the absence of township ordinances reflecting the appellate court findings, the Higgins Lake Property Owners' Association has stated its intention to take further legal action, if necessary, to enforce the court decisions. The following public notice was posted in both local newspapers, the Houghton Lake Resorter and Roscommon County Herald News:

HIGGINS LAKE PROPERTY OWNERS' ASSOCIATION

TO SEEK ENFORCEMENT

OF COURT DECISIONS

The Appellate Courts of Michigan have issued final rulings regarding permitted activities at road ends leading into Higgins Lake. The Michigan Court of Appeals has ruled that the placement of boat hoists or

the seasonal mooring of watercraft at all road ends in eighteen Higgins Lake subdivisions is inconsistent with the original dedication and is, therefore, illegal.

The subdivisions adjudicated include the following:

Woodlawn, Sovereign Park, Michigan Central Park Struble's Addition, Alameda Beach, Michigan Central Park 1st Addition, Chicago Beach, Michigan Central Park 3rd Addition, Highland Park, Evergreen Park, Triangle Park, Old Point Comfort, Sylvan Beach, Lyon Manor, Shoppenagon's Lodge, Whittington Park, Honolulu Beach, Pine Bluffs and Sam-O-Set

No activity that obstructs access to Higgins Lake is permitted at road ends within these subdivisions. The appellate court ruled that the placement of a single public dock to aid access to the lake by the public is permitted. The court decisions are consistent with previous court rulings dating back to 1993 and the Jacobs v. Lyon Township decision. The Michigan Supreme Court has refused to hear any appeals regarding the Appellate Court rulings, thereby making all rulings final.

Gerrish and Lyon Townships have failed to take formal action in accordance with the court rulings. Therefore, the Higgins Lake Property Owners' Association is providing this public notice and will seek enforcement through further legal action should anyone engage in prohibited activities at road ends within the named subdivisions.

Higgins Lake Property Owners' Association
Board of Directors
Ken Dennings,
President