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April 23, 2018

Sheriff Ed Stern
Roscommon County Sheriff's Dept.
111 S 2nd St
Roscommon, MI 48653

Re: Public Act 56 and Michigan Common Law

Dear Sheriff Stern:

With the commencement of the 2018 boating and swimming season just around the corner, the Higgins Lake Property Owner's Association would like to use this correspondence to provide some clarity with respect to the legal principles created by Michigan common law and Public Act 56, as amended.

In 1993, nearly twenty-five years ago, the Michigan Court of Appeals published its opinion in the matter of **Jacobs v Lyon Township** (citations intentionally omitted). In that case, the Court of Appeals conclusively ruled that public roads, terminating at a navigable body of water, were intended to provide public access to the water surface. Access, the Court held, included the right of the public to maintain a single public dock at the road ending. This right to maintain a dock the Court reasoned was necessary to provide access to the water surface via watercraft.

However, the **Jacobs** court also ruled that non-temporary boat mooring, sunbathing, picnics and lounging activities were prohibited at public road endings. **Jacobs** remains the law in Michigan today.

In 2003, the Michigan Court of Appeals affirmed the entire **Jacobs** ruling when it decided the matter of **HLPOA v Gerrish** (citations intentionally omitted). In the 2003 case, the Court of Appeals applied the **Jacobs** ruling to all of the platted subdivisions on Higgins Lake. **HLPOA v Gerrish** remains the law today.

In 2012, the Michigan legislature promulgated P.A. 56. The effective date of the Act was March 22, 2012. The Act has been subsequently amended, but not in any meaningful way.

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P.A. 56 codifies a portion of the common law established by **Jacobs**. Further, P.A. 56 provides law officers with the ability to enforce its provisions via the issuance of a misdemeanor violation.

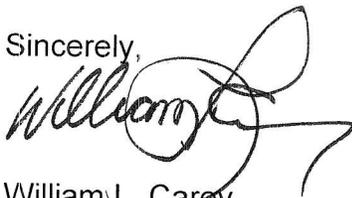
P.A. 56 prohibits overnight boat mooring at public road ends. It further prohibits boat hoists and other anchorage at road ends.

P.A. 56 while codifying **Jacobs**, in part, does not supplant the **Jacobs** rule of law. As noted above, **Jacobs** remains the law in Michigan, notwithstanding the enactment of P.A. 56.

Accordingly, public roads may not be used by the public for non-temporary mooring, hoist or anchorage installation, sunbathing, lounging or picnics. The public, with governmental approval, may erect a single seasonal dock to only be used to embark and disembark from a boating trip. Any notion that P.A. 56 has replaced or modified the common law (**Jacobs**) is simply incorrect.

Thank you for your kind attention. Should you have any questions, please call me.

Sincerely,

A handwritten signature in black ink, appearing to read "William L. Carey", with a large, stylized flourish extending from the end of the signature.

William L. Carey
HLPOA Corporate Counsel

WLC/st

Cc: Roscommon County Prosecutor
HLPOA corporate office
File