



MICHIGAN WATERFRONT ALLIANCE NEWSLETTER

August 2009

www.mwai.org

MWA Mission Statement “This corporation is formed to protect, preserve and promote the wise use of inland waters – lakes, streams, rivers, creeks and the waters and bottomlands of the state of Michigan.

Presidents’ Corner

By Bob Frye

Dear Michigan Waterfront Alliance Individual and Lake Association Members,

Do you own a lakefront property which is separated from the lake by a platted public road right-of-way (whether improved or unimproved) which runs along the shore of the lake? Do you have a friend or relative who does? If so, please read the following (and pass this on to your friend or relative). It could be essential to your lake usage rights!

Before this past June 23, if a landowner in Michigan owned a platted lot separated from a lake by a platted public road right-of-way which ran along the lakeshore (whether improved or unimproved), the Michigan appellate courts had held for over a century that such “first tier” lots fronting on the road were riparian or lakefront lots. Such lot owners could enjoy exclusively riparian uses and rights such as dockage, boat moorage, sunbathing, and lounging. Those lot owners could engage in those uses so long as they didn’t interfere with road travel. On June 23, 2009, one panel of the Michigan Court of Appeals disregarded over a century of well-settled Michigan property law and held that in such cases, the first tier lot owners (*i.e.*, the owners of lots which front on such a public road right-of-way) are no longer lakefront or riparian property owners. The case was *2000 Baum Family Trust v Babel*. This case will have a devastating impact on thousands of property owners throughout Michigan.

Since the decision in *2000 Baum v Babel* involves so-called “parallel roads” at lakes, the case should not have an effect on public road ends at lakes, should it? Unfortunately, the Court of Appeals used language in the *2000 Baum* opinion that implies that any public road (including road ends at lakes) can be used for any purpose which the local road commission or other municipal road authority desires. That could include public docks, permanent boat mooring, lounging, and sunbathing. Of course, that would also be contrary to over a century of established Michigan case law which indicates that road ends cannot be used for private dockage, permanent boat moorage, sunbathing, lounging, and similar uses.

Because of the gravity of this situation the Michigan Lakes and Stream Association and the Michigan Waterfront Alliance have finalized plans to hold a special symposium dedicated to exploring the far reaching implications of the Michigan Court of Appeals ruling in the 2000 Baum Family Trust Case.

The symposium will be held Friday, September 18th from 10:00 AM to 2:00 PM at the Ralph A. MacMullan Conference Center at 104 Conservation Drive, Roscommon, Michigan. For those of you not familiar with the area, the center is located on the North Shore of Higgins Lake. 1.5 miles east of US 27 (Military Rd exit) and five miles west of I-75 (exit 244).

ML&SA attorney Cliff Bloom and Bill Carey, the new attorney for the 2000 Baum Family Trust, will be speaking and answering questions regarding the implications of this case on riparian rights in our

state. Pat Springstead and your MWA President Bob Frye, current and former president of the Higgins Lake Property Owners Association will be on hand to answer possible Lake Association responses to this threat.

The registration fee will be \$18.00 and will include lunch (see form below). We have arranged for a classroom venue that will accommodate 100 folks.

Please direct any questions you may have to Bob Frye at this e-mail address: skibones@aol.com or at my cell phone 517 403 3947 or MLS&A Executive Director Scott Brown at his email address: sbrown@mlswa.org or on his cell phone at 517-914-1684.

Hope to see you there

Bob Frye MWA President

Please sign up and send the following to: **MWA, PO Box 369, Fenton MI 48430**

2000 Baum Family Trust v. Babel Riparian Rights Case Symposium

Location: Ralph A. MacMullan MDNR Conference Center, Roscommon, MI
Date / Time: Friday, September 18th, 2009 / 10:00 AM – 2:00 PM

2000 Baum Family Trust Case Symposium Registration Form

PLEASE PRINT
NAME _____

MAILING ADDRESS _____

CITY _____ ST _____ ZIP _____

E-Mail: _____ PHONE: _____

LAKE ASSOCIATION or AFFILIATED GROUP _____

Michigan Waterfront Alliance - Legislative Update - May 2009
By Scofes & Associates Consulting, Inc.

Your Scofes & Associates Consulting lobbyists are working hard to protect MWA interests. MWA expressed interest in tracking legislation introduced by Representative Michael Lahti that would prohibit and protect Michigan waters from the invasion of invasive species by instituting a fine to individuals for launching boats with an aquatic plant attached. On April 1, 2009, the House passed HB 4199 and referred the bill to the Senate Natural Resources and Environmental Affairs Committee. The House - passed version reduced the fine from \$500 to \$100. Due to the fact that HB 4199 garnered bipartisan support, Chair of the Senate Natural Resources and Environmental Affairs committee Senator Patricia Birkholz passed the bill out of her committee with ease. Just before the vote was taken, Senator Birkholz offered an amendment that would mandate the Department of Environmental Quality (DEQ) to properly notify the public of the changes by placing notices in relevant publications and on the DEQ's website. The amendment passed.

Currently, HB 4199 has not been placed on the Senate agenda to be taken up on the floor. Scofes & Associates Consulting will continue to monitor action and will update MWA on legislative activity pertaining to this issue.

MWA expressed concern surrounding near-shore trespassing, a recurring problem that resorts in “party barges” held in many shallow lake areas for long periods of time. Such activity involves large gatherings of boaters who congregate in specific areas of the lake for purposes of partying. As a result, MWA has asked Scofes & Associates to identify a legislator who would submit a letter to the Michigan Attorney General requesting a written opinion. We are happy to report that Senator Michelle McManus understands the concern that MWA has expressed and has committed to writing a letter of request to the Attorney General on the legalities of these activities.

On another note, in an effort to encourage the protection, education, and celebration of Michigan’s vast water resources, Governor Jennifer Granholm proclaimed Water Week back in June. In speaking with the DEQ, the Governor has proclaimed Water Week over the past four or five years. However, to ensure Water Week for next year, it is encouraged that interested parties join in discussions on how they can partner with the DEQ. If you or your lake association is interested in participating in next year’s Water Week, please contact Scofes & Associates lobbyist Teresa Edwards for additional details. Teresa can be reached in the office at (517) 485-5536.

Teresa Edwards
Scofes & Associates

ML&SA: READY TO MOVE FORWARD

by
Scott Brown, ML&SA Executive Director

The Michigan Lake and Stream Associations leadership team is proud to announce that the organizational transition which began this past March with the retirements of Don Winne, our Executive Director and Pearl Bonnell, our Director of Operations, is near completion. Thanks to the outstanding leadership of our President, our corporate officers and our Board of Directors, ML&SA has successfully navigated this challenging period in our history. We are confident that we are well on our way to achieving our goal of building a more effective and viable statewide organization re-dedicated to our mission of being a unified and effective voice for the preservation of Michigan’s inland lake and stream treasures and being a steadfast advocate for the protection of the riparian rights of our members.

The entire ML&SA leadership team would like to offer a hearty thank you to our membership and to our many collaborative partners for their patience, understanding and valuable assistance during these past few months as we worked through the various phases of our transition. We offer special thanks to the friends of Michigan Lake and Stream Associations for their support and unique contributions that helped make our transition a successful one. Let there be no question, without the support of our partners and our old friends, we would not have succeeded !

The next year promises to be an exciting one for Michigan Lake and Stream Associations as we unveil new membership programs as well as new publications written specifically to address the unique interests of our riparian and freshwater conservation oriented membership. Starting on September 18th with the MWA / MLSA sponsored symposium regarding the 2000 Baum Family Trust v. Babel case in Higgins Lake and continuing on into the fall with our much anticipated release of Cliff Bloom’s new book entitled “**Michigan Lake Associations – The Nuts and Bolts**” and followed soon thereafter with the release of the ML&SA Science Committee’s new publication on inland lakes management, the release of many new educational brochures on a wide variety of subjects of interest to riparians as well as numerous fall seminars to be held throughout the state, fall 2009 will be a very busy and productive time for the ML&SA team... and then we’ll set the stage for our upcoming 49th Annual Conference to be held Friday and Saturday, April 30th and May 1st 2010 at the Radisson Hotel and Conference Center in downtown Lansing – this conference promises to be one of biggest and best ever ! Save the dates !

We look forward to working with the officers, Board of Directors and membership of our Michigan Waterfront Alliance partners in developing new opportunities for both of our organizations to expand our memberships and to become more effective state wide advocates for Michigan's freshwater bounty ! Michigan Lake and Stream Associations, Inc. is ready to move forward !

Is it time for another citizen effort to add water and other non-carbonated beverages to the Bottle Law?

To access your state representative: http://house.mi.gov/find_a_rep.asp
To access your state senator: <http://senate.michigan.gov/>

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For more information, contact Editor Dick Brown

The Future of The Michigan Waterfront Alliance

For the MWA to operate we estimated our annual budget to be about \$22,000 a year. With some ML&SA assistance, reduced lobbyist activity, new members (individuals, lake associations and corporate sponsors), we are planning for an improved financial position very soon.

If you are not currently a member, please join by filling out the membership application at the back of this newsletter. Also encourage your Lake or Stream Association to join.

Scofes & Associates continues to work on and monitor issues for the MWA. Please do not hesitate to contact us if you have any questions.



SUMMARY MWA MEETING(S)

MICHIGAN WATERFRONT ALLIANCE, INC. REGULAR BOARD MEETING May 27, 2009 – Lansing, MI

Minutes (unapproved)

1. Meeting called to order at 10:20 am Present were Brown, P. Bonnell, R. Carey, Frye, Highfield, Sharp, Tying , along with T. Edwards and G. Scofes Excused were P. Tying, W. Carey & D. Winne.
2. Minutes of regular Board meeting of April 24, 2009, were reviewed and accepted.
3. The Financial Report was accepted as presented.
4. B. Frye reviewed the email motion & second to for MWA to contribute an additional \$500 for B. Carey to make oral arguments to the Appeals Court regarding Lake Charlevoix. This motion passed unanimously with B. Carey not voting
5. Legislative issues were reviewed by Theresa. A contact to Patty Birkholtz to assure bill 4199 is not forgotten. She will also email body of HB 5004 to MWA Board. Theresa will email to D. Brown monthly Legislative updates for web site posting.
6. ML&SA Report: E. Highfield reported on ML&SA Stanton office is not fully functioning, as yet. Ed will ask ML&SA a \$2000 donation. Frye will contact ML&SA regarding email addresses for MWA alerts on important issues.
7. D. Brown reported on the membership status, noting MWA was slightly ahead of last year.
8. Lake Charlevoix Amicus status was reviewed to update the Board.
9. MWA Legislative agenda was update and the domain name renewal was authorized.
10. Jim Kasprzak and Nikki McCord from DEQ presented current DEQ funding status. B. Frye will send an email alert asking individuals to contact their representatives to let them know MWA is in support DEQ adjusting their fees to help with funding.
11. Riparian Magazine as in MWA newsletter was discussed by P. Bonnell. It was agreed that Riparian will receive MWA brochures for Riparian invoice mailing and MWA will reciprocate by placing an ad for the Riparian in MWA Newsletter.
12. Next meeting – date to be determined.
13. Meeting adjourned at 1:15 pm

