For developers and homeowners lakefront property can be both valuable and troublesome. With its abundance of lakes, ponds and streams, Michigan has many special laws governing, and sometimes limiting, the rights of land owners to access water abutting their property. For example, some may believe that if their land borders the edge of a body of water, they have a right to use the entire body of water. Not necessarily so. The Michigan Court of Appeals recently clarified when neighbors can and cannot use a body of water that borders both of their properties. Holton v Ward, (Mich App No. 308454, January 23, 2014), involved a 20 acre pond, the edges of which bordered two neighbors’ properties. The Holton’s claimed a right to use the pond (called riparian or litoral rights) by accessing the pond from their property. Ms. Ward disagreed. The Michigan Court of Appeals agreed with Ms. Ward and ruled that riparian/littoral rights do not attach to land abutting a large man-made body of water; the key being that this 20 acre pond was a man-made body of water that did not find its source in any natural watercourse, but rather was formed by surface water.

I acted as lead trial counsel for Ms. Ward who won both at the trial court level and at the court of appeals. I have helped many developers, subdivision associations and individual property owners navigate their way through the complex area of Michigan water law, helping them to maximize their investment and avoid costly mistakes. Many older subdivisions which include or border a lake have subdivided lots that appear from visual inspection to go all the way to the water’s edge. Careful review of the legal and technical documents, however, may reveal that the presumed right to the exclusive use of expensive lake frontage does not exist. Developers seeking to maximize lake access in their development will benefit from the expertise of an experienced real estate attorney as well.

Before developing or purchasing lakefront property, or before becoming embroiled in a lawsuit over waterfront access and use, consult with an experienced real estate attorney. Protect your investment and be certain of your access and use rights.

PATRICK KARBOWSKI
I am a dealmaker. I really enjoy being part of something where at the end, everyone comes out a winner. I am truly accessible to my clients and integrate into my practice my years of experience and my understanding of my clients' business and their problems, their goals.

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