

To be set to the Efpier e-mail on Monday July 27:

----- Forwarded Message -----

Subject:Stine Response to Message

Date:Fri, 24 Jul 2015 13:11:48 -0500

From:Robert Stine <robert.stine@sbcglobal.net>

EFAC, the e-mail below was received in our 'spam' folder since the entire message had apparently been typed into the subject line. Fortunately it was nonetheless noticed.

After some research, here is our response...

1. It is not clear whether the incomplete message we received is from the full-committee or even what it was asking for (timing? impact to assigned off-shore owner?, etc.). It had no one's name on it - indeed, some we have spoken with believed with good reason that it was sent individually from a close personal friend of a belligerent neighbor of ours who serves on the committee (Montovani for Chapman). If so, this would be unacceptable.

It is clear that the judgment and court orders intent is for the WHOLE committee to review and decide together upon compliance issues. This would be done in a meeting with decisions documented by minutes.

The court orders also require that the committee establish and maintain a process of notice to all impacted owners along with appeal procedures. The former, if it exists, was not followed. The latter is unknown and has not been communicated, either in this instance or in general to the community. The committee should work quickly to get proper business practices in place so this does not happen again (with us or others).

Any future request should be accompanied by appropriate approved EFAC meeting minutes documenting any group action. Should such a communication affect others too (such as the Tran family), we expect that information would be shared in writing with them as well (along with any appeal process information).

2. Any future correspondence from the committee regarding our pier's location or other non-routine matter is to be MAILED to us at our Chicago home address - preferably by certified mail, just as a copy of this correspondence has been sent to Ms. Grossnickle for the committee. If the committee has an alternate contact and legal address that may be utilized with certified mail, please advise. E-mail may be useful for community-wide communications or billing, but it is not acceptable for legal matters.

3. As the attached documents detail, we are in full compliance with all pier rulings and guidelines - there can be no legal basis to ask us to change our pier's position. It is in its correct assigned location as it has been for years. As you know, on-shore assignments are considered to be permanent per the judgment.

We intend to defend our property rights fully and in doing so will also protect those of the Tran family whose pier assignment may also be adversely affected. Any effort to move our pier location will be met with significant legal action that will ultimately be unsuccessful and costly to EFAC and its limited financial resources. Indeed, we have already retained Attorney Steve Snyder of Snyder, Morgan LLP to represent us in this matter.

4. It is our understanding that Roy Chapman has initiated a written complaint to the committee regarding our pier's position. In compliance with EFAC's own rules, please provide us with a copy of that inquiry as an affected owner (as soon as possible).

Lastly, we recommend to the committee that it is HIGHLY advisable for the group to make decisions only after seeking and considering perspectives of ALL impacted owners. To not do so merely invites ongoing disputes and unnecessary costly litigation.

Bob and Molly Stine
Pier 56

P.S. minor note: as you can see below, the message was auto-signed by the 'Epworth Forest Administrative Committee'. EFAC may wish to correct its e-mail template since the group's actual name includes 'Administration'.

----- Forwarded Message -----

Subject: Per the January 21, 2014 Court order, "...the on-shore owners may establish a pier at their location of choice upon their lands..." When the EFAC Board walked the shoreline, it was determined your boat/lift on the west side of your property was approximately 9-10 foot over your property line. To be in compliance with the Court Order, you need to reconfigure your pier so all is on your property.

Date: Wed, 15 Jul 2015 14:44:18 -0400

From: Epworth Forest Administration Committee <efpier@gmail.com>

To: Stine, Robert & Molly <thestines@sbcglobal.net>

Epworth Forest Administrative Committee, Inc
www.efpier.org
efpier@gmail.com

Bob and Molly Stine Submission to Epworth Forest Administration Committee, July 24, 2015

Summary

The court-ordered purpose of the Epworth Forest Administration Committee (EFAC) is to maintain and administer lake access shared by on-shore and off-shore property owners within our community. This is to be done maximizing desired off-shore access while not over burdening on-shore owners.

For the reasons stated below, our pier is in its correct assigned location and will remain so.

We have retained Syracuse Attorney Steve Snyder of Snyder Morgan LLP to represent us on this matter. All requests are to be directed to us at our Chicago home mailing address. We will share appropriate information with Attorney Snyder as we desire. Mr. Snyder has been instructed not to receive calls, documentation, or requests directly from other parties on this matter (in the interest of minimizing our legal expense).

If there is a committee desire to add off-shore access in our area, we would suggest that numerous neighbors in our area – including our immediate west neighbor – have NO assigned off-shore piers.

Representative and Separately Supporting Facts

1. Our pier is in the same (correct) location as it has been for many years. The same is true with our lifts. Provided as an attachment is a picture from 10 years ago in 2005 showing our pier / west lift in the same location as today.

2. Also provided as an attachment is a scan of a 2006 letter from former EF Pier Committee Chair Dick Mann confirming that our pier is in its correct location - it includes a picture on page 2 showing the same location as today. This letter was issued when very similar false concerns were brought by a difficult neighbor.

As you know, existing pier locations at the time of the recent judgment carry forward to the new EFAC entity per the court ruling. Also, on-shore pier location assignments are considered to be 'permanent' per the various rulings.

3. The original mid-1990s court judgment stated that on-shore owners can select their PIER location anywhere along their land's shoreline (see pg. 12 & 14 of '94 judgment). Nothing was stated for placement purposes about boats or lifts in the water. Our PIER is fully on our property's shoreline as required and is right where it was assigned many years ago.

4. Having our pier in its current location allows an off-shore pier assignment to be accommodated on our property (Tran 56A). If our pier were to be moved eastward 9 to 10 feet as suggested, there would not be space for the Tran family's pier assignment and it would need to be eliminated (which we, of course, do not want and removal by EFAC would be completely inappropriate as that would run counter to the group's mission).

5. Some other owners incorrectly assert that property lines extend into the lake past the shoreline / easement and nothing in the water can cross them. Bottom line: it has been confirmed time and again for years that when specific court rulings concerning lake access are in place for a defined area, those rulings supersede generic DNR guidelines that may exist (including so-called 'riparian rights').

Included as an attachment is an excerpt of DNR policy obtained from our attorney supporting this – note especially the underlined sentences.

As you know, I served as an on-shore pier committee representative for 7 years including several as the group's facilitator. In that capacity, I travelled to Indiana State DNR HQ in Indianapolis with former Pier Chair Dick Mann and met with a top official. He not only confirmed to us that individual court rulings supersede generic DNR 'non-rules' (to use DNR terminology), he also stated that the DNR appreciates it when court rulings exist - for 2 reasons:

- A) court rulings most typically are more appropriate to a specific community or lake's unique situations (as with Epworth Forest), and
- B) it also allows for the DNR to do more with their existing limited resources since other legal entities with full authority are court-empowered to manage these areas (in our case now, EFAC).

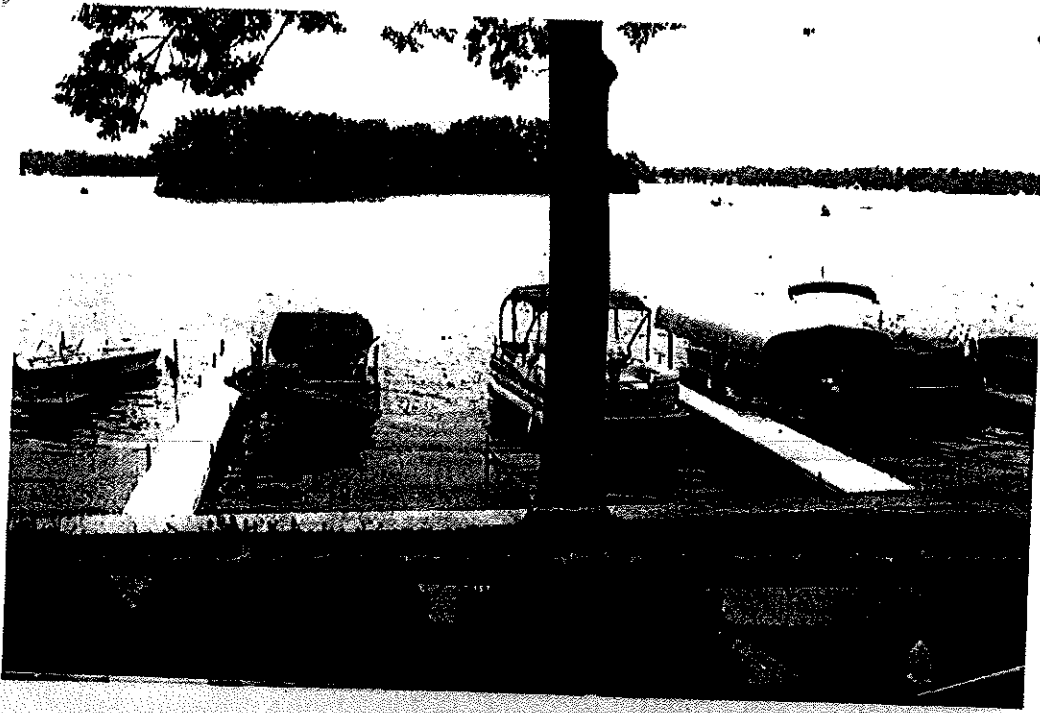
Also, beyond the legalities, it is clear that the ability to have pier placement unfettered by needless 'artificial lines' best allows for accommodating reasonable off-shore access without over-crowding. This in turn helps further the very purpose of the court rulings: allowing shared lake access without over burdening on-shore owners.

In summary, we are aware of no approved pier policy changes that would countermand ANY of the above facts, much less all of them. If EFAC has other knowledge, please provide the appropriate EFAC meeting minutes (date, motion, second, vote).

Note: any such change would adversely and significantly affect off-shore shared access rights. This would run counter to the various court rulings and would therefore inevitably open up more rounds of unnecessary and costly litigation hurtful to the community and EFAC's mission - we therefore trust that this is not in fact the situation.

In conclusion, thank you for your time and effort working with this situation. Please do not hesitate to contact us with questions or comments.





RELEVANT EXCERPTS – NOTE UNDERLINED

Bottom line: the 'riparian rights' sometimes quoted in error by EF owners are generic DNR suggestions (non-rules) – not law. Where other rulings are in effect – such as EF's court judgment – those rules control.

From: Date: Jul 18,2011 3:02:45PM EDT DIN: 20100331-IR-312100175NRA

NATURAL RESOURCES COMMISSION

Information Bulletin #56 (Second Amendment)

Subject: Riparian Zones within Public Freshwater Lakes and Navigable Waters

1. Purpose and Scope

A state agency may issue statements in the conduct of its affairs that interpret, supplement, or implement a statute. Where these statements are not adopted as rules and are not intended to have the effect of law, they are required to be delivered to the Legislative Services Agency for publication in the Indiana Register as nonrule policy documents

1. The purpose of this nonrule policy document (described here as "this information bulletin") is to assist with interpreting, supplementing, and implementing the responsibilities of the Department with respect to:
 - (1) IC 14-26-2 and rules adopted for the Lakes Preservation Act at 312 IAC 11.
 - (2) IC 14-29-1 and rules adopted for the Navigable Waters Act at 312 IAC 6.

4. Principles for Delineating the Boundaries of Riparian Zones

First principle: Where properties are purchased subject to a homeowner association's constitution and bylaws, or a similar document intended to govern riparian rights, the document supersedes other principles governing a determination of riparian zone s29.

29 Lukis v. Ray, 888 N.E.2d 325 (Ind. App. 2008). This case is subsequently cited as Lukis.