

BOLHOUSE, BAAR & LEFERE, P.C.
ATTORNEYS AT LAW

WHO HAS THE RIGHT TO THE WATER?

Jeannine L. Bolhouse

July 2011

In addition to our wonderful Great Lakes, Michigan also has more than 11,000 inland lakes, many of which have public roads that were designed to dead end at the water. For more than 130 years, Michigan courts have determined that these roads may be used by the public to access the water for boating, fishing, swimming, and temporary anchorage. However, the law becomes less clear as to the public's rights when it comes to recreational activities such as sunbathing, picnicking, and lounging on shore. Michigan courts have said that anyone attempting to show that the public has rights to the water beyond mere access to it must prove that the dedicator of the public road *intended* it to be used for additional uses such as recreational activities. Therefore, public roads that dead end at the water's edge may generally be used to access the water, not lounge on shore.

Additionally, many lakes in Michigan have scenic boulevards running along the lakeshore. With regard to these public roads, the general public has absolutely no right to the water, either for access or for recreational activities. According to Michigan law, the right to the water is maintained by the owners of the land adjacent to, and separated from the water by, the public road.

As you head out to your favorite lake this summer, consider your legal right to access the water from a public road. You probably have the right to swim out from shore, but probably not to lie on the beach.