

**STATE OF MICHIGAN
23RD JUDICIAL CIRCUIT COURT (ARENAC COUNTY)**

SIMS TOWNSHIP, a Michigan
General Law Township,

Plaintiff,

v.

Charles A. Abraham, et al.

Defendants.

CASE NO. 01-7657-CH

HON. WILLIAM F. MYLES

GARY R. CAMPBELL (P36596)
Humphreys, Campbell,
Dust & Humphreys, P.C.
Attorneys for Plaintiff
5090 State Street
Building A, Suite One
Saginaw, Michigan 48603-7706
Telephone: (989) 792-2552

FILED
TRUE COPY
RECEIVED
2013 FEB 13 PM 1 11
RICKY A. ROCKWELL
ARENAC COUNTY CLERK

ORDER ON OBJECTIONS TO PROPOSED AMENDED PLAT

At a session of said Court held in the
City of Standish, County of Arenac, State of Michigan.

Present: Honorable William F. Myles, Circuit Judge

Defendants Wallace & Orr Backlottery Association, et al. and John F. Moran having filed Objections to Sims Township's Proposed Amended Plat and Proposed Judgment Vacating and Revising Recorded Plat, the Court having considered the pleadings filed and the oral argument of counsel and parties at a hearing held on January 30, 2013, the Court having partially granted and partially denied Wallace & Orr Backlottery Association, et al.'s Objections to Sims Township's Proposed Amended Plat and Proposed Judgment Vacating



and Revising Recorded Plat, the Court having denied Wallace & Orr Backlottery Association, et al.'s Second Objections to Sims Township's Proposed Amended Plat and Proposed Judgment Vacating and Revising Recorded Plat, the Court having denied the Objections of John F. Moran, the Court having stated the reasons for its rulings on the record in open Court, and the Court being otherwise fully advised in the premises:

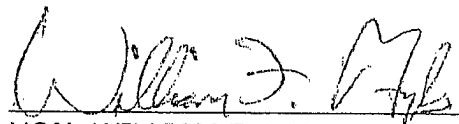
IT IS HEREBY ORDERED that the note on the Proposed Amended Plat which reads "Lots lying easterly of Crescent Avenue have a 'front' at the water's edge of Lake Huron" shall be amended to read "Lots lying easterly of Crescent Avenue have a front on the Promenade Beach which in turn fronts the water's edge of Lake Huron."

IT IS FURTHER ORDERED that the remaining Objections in the Wallace & Orr Backlottery Association, et al.'s Objections to Sims Township's Proposed Amended Plat and Proposed Judgment Vacating and Revising Recorded Plat are denied.

IT IS FURTHER ORDERED that the Wallace & Orr Backlottery Association, et al.'s Second Objections to Sims Township's Proposed Amended Plat and Proposed Judgment Vacating and Revising Recorded Plat are denied.

IT IS FURTHER ORDERED that John F. Moran's Objections to Sims Township's Proposed Amended Plat and Proposed Judgment Vacating and Revising Recorded Plat are denied.

Dated: 2-13-13


HON. WILLIAM F. MYLES, Circuit Judge

STATE OF MICHIGAN
ARENAC COUNTY CIRCUIT COURT

SIMS TOWNSHIP, a Michigan General Law
Township,

Plaintiff/Counter-Defendant,

v

WALLACE & ORR LAKEFRONT PROPERTY
OWNERS ASSOCIATION, BARBARA BLANCHET,
et al.,

Defendants/Cross-Plaintiffs
and Counter-Plaintiffs,

v

WALLACE & ORR BACKLATTERS
ASSOCIATION, et al.,

Defendants/Cross-Defendants.

Case No 01-7657-CH

Hon. William F. Myles

RICKY R. ROCKWELL
ARENAC COUNTY CLERK

2009 JUL 2 PM 4 09

FILED
TRUE COPY
RECEIVED

John D.L. Humphreys
HUMPHREYS, CAMPBELL, DUST & HUMPHREYS, P.C.
Attorneys for Plaintiff/Counter-Defendant
5090 State Street
Building A, Suite One
Saginaw, MI 48603
Telephone: (989) 792-2552

Gerard F. Brabant (P31123)
Attorney for Certain Defendants/Cross-Plaintiffs/Counter-Plaintiffs
and Lakefront Property Owners Assn., etc.
241 Lake Street
Roscommon, MI 48653
Telephone: (989) 275-4365

Christopher M. Bzdok (P53094)
OLSON, BZOOK & HOWARD, P.C.
Attorneys for Certain Defendants/Cross-Plaintiffs/Counter-Plaintiffs
Wallace & Orr Backlatters Association
420 East Front Street
Traverse City, MI 49686
Telephone: (231) 946-0044

Kathy D. Kihata (P41422)
UAW-GM LEGAL SERVICES PLAN
Attorneys for Defendants Knta, Hank, Utter, Kalinowski, Hurl,
Childs, Porrest, Schaper, Hughes, Wiegand, Consiglio,
Rundell, Reynolds, Schileker, Slonkowski and Estabrook
4139 Wilder Road
Bay City, MI 48706-2266
Telephone: (989) 684-3300

Richard A. Levitt (P28073)
Attorney for Levitt, Drocher & Sharp
2661 Woodward Avenue
Huntington Woods, MI 48070
Telephone: (248) 547-5800

Robert C. Miller (P50037)
SHINNERS & COOK, P.C.
Attorneys for Defendants Robert & Doris Loomis
5195 Hampton Place
Saginaw, MI 48604-9576
Telephone: (989) 799-5000

James E. Riley (P23992)
MICHIGAN DEPARTMENT OF ATTORNEY GENERAL ENVIRONMENT,
NATURAL RESOURCES & AGRICULTURE DIVISION
Attorneys for Defendants Natural Resources and Environmental
Quality
525 West Ottawa, Floor 6
P.O. Box 30755
Lansing, MI 48909
Telephone: (517) 373-7540

Haider A. Kazim (P66146)
Peter R. Wendling (P48784)
GRAHAM, EISENHGIMER, WENDLING & KAZIM, PC
Attorneys for Arenac County Road Commission
104 East Forest Home
P.O. Box 398
Bellevue, MI 49615
Telephone: (231) 533-8635

Andrew J. Kozyra (P38309)
Attorney for Kozyras
5526 East Main Street
P.O. Box 343
Dryden, Michigan 48428
Telephone: (810) 796-9825

Kent E. Greenfelder (P59409)
Greenfelder & Greenfelder
Appering in Pro Per
233 West Broad Street
Chesaning, MI 48616
Telephone: (989) 845-4333

David B. Fordyce (P48657)
DAVID B. FORDYCE, P.C.
Attorney for Stuart & Dorothy Fordyce
58 Parkland Plaza, Suite 400
Ann Arbor, MI 48103
Telephone: (734) 930-1715

Patrick R. Winter (P24376)
Attorney for Daniel & Christine Auel
P.O. Box 939
Standish, MI 48658
Telephone: (989) 846-4589

Ronald L. Chadwick (P37377)
Attorney for Lih Butler, Raymond Riggs, Jr. & Valerie Riggs
1711 Court Street
Saginaw, MI 48602
Telephone: (989) 790-6988

Deborah A. Kile (P36689)
Attorney for Consumers Energy
One Energy Plaza
Jackson, MI 49201
Telephone: (517) 788-0562

James A. Bacarella (P46198)
Attorney for Mark C. Gnaster
1228 East US-23
East Trawas, MI 48730
Telephone: (989) 362-1364

Charles B. Judson (P31574)
Attorney for Charter
P.O. Box 848
Traverse City, MI 49685-0848
Telephone: (231) 929-4878

Harold J. Blanchet, Jr. (P10871)
BRAUN, KENDRICK FINKBEINER, P.L.C.
Co-Counsel for Barbara A. Blanchet only
4301 Fashion Square Blvd.
Saginaw, MI 48603
Telephone: (989) 498-2100

Curtis G. Broughton (P47200)
BROUGHTON & VOLLBACH
Attorney for John & Eleanor Krisan and Wilford & Mary Lee
808 W. Cedar Street
P.O. Box 1159
Standish, MI 48658
Telephone: (989) 846-2770

Robert J. Chasnis (P26578)
Attorney for William & Marguerite Collison
P.O. Box 6220
Saginaw, MI 48608
Telephone: (989) 793-8740

Jamie Hecht Nigidis (P48969)
BRAUN, KENDRICK FINKBEINER, P.L.C.
Attorney for John & Ann Johnsey, Warner & Anne Lehmann, Lynn
R. Wolfgang, William & Marie Black, Charles & Margaret
Gatza, The Frank N. Moran Trust, John F. Moran and
Gene & Janis Howard
4301 Fashion Square Blvd.
Saginaw, MI 48603
Telephone: (989) 498-2100

ORDER REGARDING
ORDER REGARDING PLAINTIFF'S MOTION FOR THE ENTRY
OF AN ORDER BASED UPON PRIOR STIPULATIONS
PLACED UPON THE RECORD ON AUGUST 1, 2005

At a session of the Court held on July 1, 2009 in Standish, Michigan.

PRESENT: HON. William F. Myles, Circuit Judge.

This matter is before the Court on Plaintiff's Motion for the Entry of an Order Based upon Prior Stipulations Placed upon the Record on August 1, 2005. The Court has considered the briefs, heard the oral arguments of the parties, and is fully advised. For the reasons stated on the record:

1. Plaintiff submitted an order relative to this matter by 7-day rule on June 12, 2009.
2. Paragraph 6 of Plaintiff's proposed order reads:

Crescent Avenue south of 4th Street shall be platted as a 66 foot wide roadway, except where it passes Lot 4, Block 3, where the western right-of-way along the entire Lot 4, Block 3 ends at the eastern surface of the concrete retaining wall situated on Lot 4, Block 3; and Lots 3 and 4, Block 2, where the western right-of-way is limited to the same distance as established for Lot 4, Block 3. (Such Blocks and Lots as having been established in the original plat of the Wallace & Orr Park Subdivision).

3. Nothing in Plaintiff's order prevents or restricts the entry of an order stipulating that the western edge of the right-of-way of Crescent Avenue where it passes Lot 4, Block 4 is limited to the built portion of the road, should such an order later be proposed and determined otherwise appropriate.

It is ORDERED

Date: 7-1-09

151
William F. Myles, Circuit Judge

STATE OF MICHIGAN
23RD JUDICIAL CIRCUIT COURT (ARENAC COUNTY)

SIMS TOWNSHIP, a Michigan
General Law Township,

Plaintiff,

CASE NO. 01-7657-CH

-v-

HON. WILLIAM F. MYLES

Charles A. Abraham, et al.

Defendants.

JOHN D. L. HUMPHREYS (P40496)
Humphreys, Campbell,
Dust & Humphreys, P.C.
Attorneys for Plaintiff
5090 State Street
Building A, Suite One
Saginaw, Michigan 48603-7706
Telephone: (989) 792-2552

FILED
TRUE COPY
RECEIVED
2009 JUL 2 PM 4 15
RICKY R. ROCKWELL
ARENAC COUNTY CLERK

ORDER REGARDING PLAINTIFF'S MOTION FOR ORDER TO REDESIGNATE A
BLOCK AND FOR INTERPRETATION OF STATUTE

AT A SESSION OF SAID COURT HELD IN THE COURTHOUSE IN
THE CITY OF STANDISH, COUNTY OF ARENAC AND STATE OF
MICHIGAN, THIS 1ST DAY OF July 2009.

PRESENT: HON. WILLIAM F. MYLES
CIRCUIT JUDGE

Plaintiff, Sims Township, through its attorneys, brought a Motion for Order to Redesignate a Block and for Interpretation of Statute and this Court having reviewed the Motion and having heard the argument of counsel at a hearing on June 10, 2009, the Court hereby orders and adjudges that:

1. The northern most lakefront block of the 1904 Wallace & Orr Park Subdivision Plat which was designated on the original plat with a symbol freely translated as an ampersand is hereby redesignated and shall appear upon the amended plat as Block "AA"; and
2. Plaintiff's request for alternate monumentation based upon an

interpretation of MCLA 560.125 is denied.

This Order is not a final order and resolves only those matters brought before the Court upon Plaintiff's Motion. In all other respects, this Court retains jurisdiction over this case.

131
HON. WILLIAM F. MYLES
Circuit Judge

STATE OF MICHIGAN
23RD JUDICIAL CIRCUIT COURT (ARENAC COUNTY)

SIMS TOWNSHIP, a Michigan
General Law Township,

Plaintiff,

CASE NO. 01-7657-CH

-v-

HON. WILLIAM F. MYLES

Charles A. Abraham, et al.

Defendants.

JOHN D. L. HUMPHREYS (P40496)
Humphreys, Campbell,
Dust & Humphreys, P.C.
Attorneys for Plaintiff
5090 State Street
Building A, Suite One
Saginaw, Michigan 48603-7706
Telephone: (989) 792-2552

FILED
TRUE COPY
RECEIVED
2009 JUL 2 1 PM H 16
RICKY R. ROCKWELL
ARENAC COUNTY CLERK

ORDER REGARDING PLAINTIFF'S MOTION FOR THE
ENTRY OF AN ORDER BASED UPON PRIOR STIPULATIONS
PLACED UPON THE RECORD ON AUGUST 1, 2005

AT A SESSION OF SAID COURT HELD IN THE COURTHOUSE IN
THE CITY OF STANDISH, COUNTY OF ARENAC AND STATE OF
MICHIGAN, THIS 1ST DAY OF July 2009.

PRESENT: HON. WILLIAM F. MYLES
CIRCUIT JUDGE

This matter having come before the Court upon the Plaintiff's Motion for the Entry of an Order Based Upon Prior Stipulations Placed Upon the Record on August 1, 2005, and the Court being duly advised in the premises in the motion based upon the responses of parties and argument of counsel at a hearing on June 1, 2009, the following Order is entered in regard to the stipulations put on the record on August 1, 2005:

1. In the north end of the Subdivision, A Street running from 28th Street to 31st Street shall be limited to the area of its actual use on the amended plat. A Street will remain a one-way street which will not be expanded to a

two-way street until there is a demand by the property owners located on A Street for such an expansion at which time an additional right-of-way will be given to the Arenac County Road Commission. The Arenac County Road Commission shall provide the surveyor preparing the amended plat the size, length, and width of A Street by exact measurements so that the surveyor may incorporate that information into the amended plat. A Street shall be accurately legally described to ensure that it complies with the Land Division Act. A Street shall be extended across that part of 31st Street being vacated by paragraph 2, below, so as to intersect with 31st Street as now platted in the subdivision immediately to the north of the Wallace & Orr Park Subdivision.

2. 31st Street, as set forth in the original plat of the Wallace & Orr Park Subdivision from Arenac Street to A Street is hereby vacated as 31st Street has been surveyed and incorporated into the Lucky Three Subdivision immediately north of, adjacent to, and contiguous with the original Wallace & Orr Park Subdivision. Title to the vacated 31st Street shall vest in those property owners of the parcels adjacent to and contiguous with 31st Street as platted in the Lucky Three Subdivision by extension of their existing east and west boundaries to the road right-of-way.
3. Crescent Avenue north of 28th Street to its juncture with 31st Street shall be surveyed and replatted so as to be limited to its actual use.
4. The westerly 196 feet of 26th Street is hereby vacated and title shall vest in the property owner(s) of the parcels immediately adjacent to the westerly 198 feet of 26th Street to the north, and to the south.
5. This stipulation reached between Defendants Lintz and Levitt as to an encroachment between their two lots shall be incorporated into the amended plat, at their expense, as agreed upon by Defendants Lintz and Levitt.
6. Crescent Avenue south of 4th Street shall be platted as a 66 foot wide roadway, except where it passes Lot 4, Block 3, where the western right-of-way along the entire Lot 4, Block 3 ends at the eastern surface of the concrete retaining wall situated on Lot 4, Block 3; and Lots 3 and 4, Block 2, where the western right-of-way is limited to the same distance as established for Lot 4, Block 3. (Such Blocks and Lots as having been established in the original plat of the Wallace & Orr Park Subdivision).

This Order is not a final order and does not resolve all of the issues in this action. This Order reflects the stipulations that were placed upon the record on August 1, 2005, with such corrections as are necessary. This Order resolves Plaintiff's Motion as it relates to the stipulations placed upon the record on August 1, 2005. In all other

respects, this Court retains jurisdiction over this case.

151
HON. WILLIAM F. MYLES
Circuit Judge

STATE OF MICHIGAN
23RD JUDICIAL CIRCUIT COURT (ARENAC COUNTY)

SIMS TOWNSHIP, a Michigan
General Law Township,

Plaintiff,

CASE NO. 01-7657-CH

-v-

HON. WILLIAM F. MYLES

Charles A. Abraham, et al.

Defendants.

JOHN D. L. HUMPHREYS (P40496)
Humphreys, Campbell,
Dust & Humphreys, P.C.
Attorneys for Plaintiff
5090 State Street
Building A, Suite One
Saginaw, Michigan 48603-7706
Telephone: (989) 792-2552

FILED
TRUE COPY
RECEIVED
2009 APR 15 AM 11 17
RICKY R. ROCKWELL
ARENAC COUNTY CLERK

ORDER

At a session of said court held in the courthouse in
the City of Standish, County of Arenac and State of
Michigan, on this 15th day of April, 2009.

This matter come before the court on Sims Township motion to amend the order on
petition for clarification and guidance regarding amended plat dated March 4, 2009 and this
court being duly advised in the premises of that motion;

IT IS HEREBY ORDERED AND ADJUDGED that paragraph 2 of the order March 4, 2009
is hereby amended and shall now read as follows:

Those parcels of property within the proposed assessor's plat for the Wallace &
Orr Park Subdivision which were aggregated in the proposed plat shall be
incorporated into the amended plat as aggregated so that there shall be one
description for each aggregated parcel. The township shall notify the property
owners of the aggregation and if the owners wish to return to the original
parcels as platted in the original Wallace & Orr Park Subdivision or if they wish to
resurvey their parcels in some other fashion, so long as such parcels shall comply

HUMPHREYS, CAMPBELL, DUST & HUMPHREYS, P.C.

with the Sims Township Zoning Ordinances, then the owners may do so. The cost of doing so shall be borne by the owners.

131
Honorable William F. Myles, Circuit Judge

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF ARENAC

SIMS TOWNSHIP, a Michigan
General Law Township,

Plaintiff,

-v-

Charles A. **Abraham**, et al.

Defendants.

CASE NO. 01 -7657-CH

HON. WILLIAM F. MYLES

REC'D & INDEXED
ARENAC COUNTY CLERK

07 JAN -9 AM 10:04

FILE COPY

JOHN D. L. HUMPHREYS (P40496)
Lippert, Humphreys, Campbell,
Dust & Humphreys, P.C.
Attorneys for Plaintiff, Sims Township
Plaza North, Suite 410
4800 Fashion Square Blvd.
Saginaw, MI 48604
989.792.2552

ORDER ON SIMS TOWNSHIP'S PETITION FOR CLARIFICATION AND
GUIDANCE REGARDING 19TH - 25TH STREETS

AT A SESSION OF SAID COURT HELD IN THE COURTHOUSE
IN THE CITY OF STANDISH, COUNTY OF ARENAC AND
STATE OF MICHIGAN, THIS 5th DAY OF
January 2007.

PRESENT: HON. WILLIAM F. MYLES
CIRCUIT JUDGE

This matter having come before the court upon Sims Township's
Petition for Clarification and Guidance, and this court having had the
opportunity to review the petition and address the matter in open court on
16 November 2006, and there otherwise being no objections filed or voiced
by the parties to this suit,

IT IS HEREBY ORDERED AND ADJUDGED that Sims Township is hereby directed, in the amending of the plat for the Wallace & Orr Park Subdivision, to prepare an amended dedication certificate to incorporate the determination that 19th Street through 25th Street in the subdivision were determined to be private roads for the benefit of the subdivision. It is not necessary that in the drafting in the amended plat that the lots and blocks between 19th and 25th Streets west of Crescent Avenue be redrawn.

This order shall be deemed a final order as it relates to this petition for clarification and guidance. The court shall retain continuing jurisdiction over the matter.



HON. WILLIAM F. MYLES
Circuit Judge

STATE OF MICHIGAN
23RD JUDICIAL CIRCUIT COURT (ARENAC COUNTY)

SIMS TOWNSHIP, a Michigan
General Law Township,

Plaintiff,

CASE NO. 01-7657-CH

-v-

HON. WILLIAM F. MYLES

Charles A. Abraham, et al.

Defendants.

JOHN D. L. HUMPHREYS (P40496)
Humphreys, Campbell,
Dust & Humphreys, P.C.
Attorneys for Plaintiff
5090 State Street
Building A, Suite One
Saginaw, Michigan 48603-7706
Telephone: (989) 792-2552

CLERK
ARENAC COUNTY CLERK
MAR 4 PM 2:12

ORDER ON PETITION FOR CLARIFICATION AND
GUIDANCE REGARDING AMENDED PLAT

AT A SESSION OF SAID COURT HELD IN THE COURTHOUSE IN
THE CITY OF STANDISH, COUNTY OF ARENAC AND STATE OF
MICHIGAN, THIS 4TH DAY OF March 2009.

PRESENT: HON. WILLIAM F. MYLES
CIRCUIT JUDGE

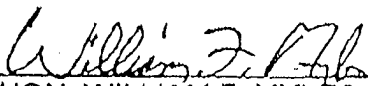
This matter having come before the Court upon the Petition of Sims Township for Clarification and Guidance Regarding Amended Plat and this Court being advised that an understanding has been reached as to those matters raised for clarification and guidance it is hereby ordered and adjudged that:

1. Those properties located outside the current Wallace & Orr Park Subdivision plat at the southeast corner of the plat in Section 12 legally described by metes and bounds which were initially incorporated into the proposed assessors plat drawing shall be incorporated into the amended plat so that all such parcels shall become platted parcels. The Township shall notify the owners of the incorporation and if the owners of such

parcels choose not to be included in the amended plat, then such owners shall notify the Assessor for the Township of Sims of their intent to opt out of the amended plat and such owners shall be responsible for any cost that would be incurred for opting out of the amended plat.

2. Those parcels of property within the proposed assessors plats for the Wallace & Orr Park Subdivision which were aggregated in the proposed plats shall be incorporated into the amended plat as aggregated so that there shall be one description for each aggregated parcel. The Township shall notify the property owners of the aggregation and that if the owners wish to opt out of the aggregation and return to the original parcels as platted in the original Wallace & Orr Park Subdivision plat then such owners may do so but the cost of doing so shall be borne by the owners so opting out of the amended plat.
3. The amended plat shall reflect easements of record, only. The amended plat need not show any easements of use, prescriptive easements, apparent easements, or other alleged easements. This Order shall not be construed, however, as a ruling or a determination as to the validity or the legality of any such easements.
4. Each individual parcel owner or entity affected by the amended plat need not be served a copy of the final proposed amended plat upon its submission to this Court. A copy of this plat shall be served upon the attorneys of record and a copy shall be posted at the Sims Township Hall and notice shall be provided in the Arenac Independent of such mailing and posting so that there may be appropriate time, not to exceed 28 days, for public comment upon such drawing subsequent to submission of the drawing to the Court for review and approval.
5. The proposed amended plat as prepared by the surveyor retained by the Township to prepare the proposed amended plat should be submitted to this Court for review and approval not more than 180 days from the date of the final entry of this Order.

This Order does not resolve all of the issues pending in this matter and this Court retains jurisdiction of this case.


HON. WILLIAM F. MYLES
Circuit Judge

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF ARENAC

SIMS TOWNSHIP, a Michigan General
Law Township,

Plaintiff/Counter-Defendant,

v

WALLACE & ORR LAKEFRONT PROPERTY
OWNERS ASSOCIATION, et al,

Defendants/Counter-Plaintiffs

v

DON PRUETER, Arenac County Drain
Commissioner, et al

Defendants/Cross Defendants.

File No. 01-7657-CH

Hon. William F. Myles

ORDER

06 DEC 20 AM 9:30
ARENAC COUNTY CLERK

TELETYPE COPY

John D.L. Humphreys (P40496)
LIPPERT, HUMPHREYS, CAMPBELL,
DUST & HUMPHREYS, PC
Attorney for Plaintiff
Plaza North, Suite 410
4800 Fashion Square Blvd
Saginaw, MI 48604
(989) 792-2552

Peter R. Wendling (P48784)
Haider A. Kazim (P66146)
YOUNG, GRAHAM & ELSENHEIMER, PC
Attorneys for Defendant Arenac CRC
104 E Forest Home, PO Box 398
Bellaire, MI 49615
(231) 533-8635

Kathy Kihata (P41422)
Alan D. Walton (P31786)
UAW-GM LEGAL SERVICES PLAN
Attorney for Ernest & Sandra Kata,
Linda Kipfmiller, Lorraine Kalinowski, Robert &
Marilyn Hartl, Eva L. Childs, Evelyn E. Forrest,
Denise M. Schaper, and Patti K. Hughes
4139 E Wilder Rd
Bay City, MI 48706
(989) 684-3300

David B. Fordyce (P31786)
DAVID B. FORDYCE, PC
Attorney for Stuart & Dorothy Fordyce
350 St. Andrews Rd, Suite 250
Saginaw, MI 48603
(989) 797-0877

Patrick R. Winter (P24376)
PATRICK R. WINTER, PC
Attorney for Daniel & Christine Ancel
PO Box 939, 206 E Cedar St
Standish, MI 48658
(989) 846-4589

James A. Brisbois, Jr. (P30941)
Attorney for James Koerner
5090 State St, Building D
Saginaw, MI 48603
(989) 790-6510

Richard A. Levitt (P28073)
Attorney for Defendants Levitt, Derocher & Sharp
26611 Woodward Ave.
Huntington Woods, MI 48070
(248) 547-5800

Irving T. Nelson (P18231)
In Pro Per
727 S. Grand Traverse St.
Flint, MI 48502
(810) 239-3165

John H. Underhill (P42326)
JOHN H. UNDERHILL, PC
Attorney for Harold & Karen Stenglein
718 Ashmun Street
Sault Ste. Marie, MI 49783
(906) 632-6020

Gerard F. Brabant (P31123)
Attorney for Certain Wallace & Orr
Property Owners Association
PO Box 35
Roscommon, MI 48653
(989) 275-4365

Patrick Greenfelder (P44663)
GREENFELDER LAW OFFICE
Attorney for Defendant Greenfelder
233 W Broad Street
Chesaning, MI 48616
(989) 845-4333

Robert J. Chasnis (P36578)
CHASNIS, DOGGER & GIERSON, PC
Attorney for William & Marguerite Collison
PO Box 6220, 155 N Plymouth Rd
Saginaw, MI 48608
(989) 793-8740

Wendy A. McIntyre (P53792)
Attorney for Consumers Energy
212 W Michigan Ave
Jackson, MI 49201
(517) 788-0717

James A. Bacarella (P46198)
JAMES A. BACARELLA, PC
Attorney for Mark G. Gnaster
1228 E. US 23
East Tawas, MI 48730
(989) 362-1364

Curtis G. Broughton (P47200)
BROUGHTON & VOLLBACH LAW OFFICE
Attorney for John & Eleanor Krisan and
Wilford & Mary Lee
PO Box 1159; 808 W. Cedar Street
Standish, MI 48658
(989) 846-2770

Charles B. Judson (P37377)
SMITH, HAUGHEY, RICE & ROEGGE
Attorney for Charter Communications
PO Box 848
Traverse City, MI 48685
(231) 929-4878

Ronald L. Chadwick (P37377)
Attorney for Lila Butler, Raymond Riggs Jr.
and Valerie Riggs
3144 Davenport Ave.
Saginaw, MI 48602
(989) 790-6988

Andrew J. Kozyra (P38309)
Attorney for Andrew & Gail Kozyra
5569 North St., PO Box 343
Dryden, MI 48428
(810) 796-9825

James E. Riley (P23992)
Attorney for State Defendants Natural
Resources & Environmental Quality Division
PO Box 30028
Lansing, MI 48909
(517) 373-7540

Christopher M. Bzdok (P53094)
OLSON, BZDOK & HOWARD
Attorney for Wallace & Orr Backlotlers
420 East Front Street
Traverse City, MI 49686
(231) 946-0044

Robert C. Miller (P50037)
Attorney for Defendants Loomis
5195 Hampton Place
Saginaw, MI 48604-9576
(989) 799-5000

Harold J. Blanchet, Jr. (P10871)
Attorney as Co-Counsel for Barbara Blanchet
4700 Pinehaven Drive
Saginaw MI 48603
(989) 753-3461

Scott C. Strattard (P33167)
BRAUN, KENDRICK FINKBEINER
Attorneys for Johnsey, Lehmann, Wolgast, Black,
Gatza, Moran Trust, Howard
4301 Fashion Square Blvd.
Saginaw, MI 48603
(989) 498-2100

ORDER

At a session of Court held in the
courthouse in Standish, Michigan,
on the 16th day of November, 2006.

PRESENT: Honorable William F. Myles
23rd Circuit Court Judge

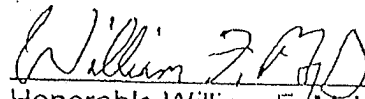
This matter having come before the Court at a November 16, 2006 hearing with respect to the Arenac County Road Commission's Motion for Clarification of Findings of Fact and Interim Order, and the Court being fully advised in the premises:

IT IS HEREBY ORDERED, that:

1. The Motion for Clarification of Findings of Fact and Interim Order is GRANTED.
2. The portion of Arenac Street between 28th Street and 31st Street and located within the Plat of Wallace & Orr Park subdivision in Sims Township, Arenac County, is a public roadway under the jurisdiction of the Arenac County Road Commission.
3. Arenac Street as it extends south from 28th Street within the Plat of Wallace & Orr Park subdivision in Sims Township, Arenac County, is a private street for the use of the lot owners within the subdivision.
5. The Court retains jurisdiction in this matter to address issues as may arise out of the preparation of the preliminary amended plat.

IT IS SO ORDERED.

Dated: 12-18-06



Honorable William F. Myles
23rd Circuit Court Judge

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF ARENAC

SIMS TOWNSHIP, a Michigan General
Law Township,
Plaintiff/Counter-Defendant,

-v-

CASE NO. 01-7657-CH
Honorable William F. Myles

WALLACE & ORR LAKEFRONT PROPERTY
OWNERS ASSOCIATION, et al,
Defendants/Counter-Plaintiffs

~~THIS IS A~~ FINDINGS OF
FACT AND INTERIM ORDER

-v-

DON PRUETER, Arenac County Drain
Commissioner, et al.
Defendants/Cross Defendants.

06 AUG 24 PM 12:02
ARENAC COUNTY CLERK

THIS IS A COPY

JOHN D. L. HUMPHREYS P40496
Lippert, Humphreys, Campbell,
Dust & Humphreys, P.C.
Attorneys for Plaintiff
Plaza North, Suite 410
4800 Fashion Square Blvd.
Saginaw, MI 48604
989-792-2552

ROBERT C. MILLER P50037
Attorney for Defendants L. L. Tomis
5195 Hampton Place
Saginaw, MI 48604-9576
989-799-5000

DAVID B. FORDYCE P48657
Attorneys for Stuart & Dorothy Fordyce
350 St. Andrews Road, Ste. 250
Saginaw, Michigan 48603
989-797-0877

GERARD F. BRABANT P31123
Attorney for Certain Defendants -
Lakefront Property Owners, etc.
Post Office Box 35
Roscommon, MI 48653
989-275-4365

PATRICK J. GREENFELDER P44663
Attorneys for Greenfelder
233 W. Broad Street
Chesaning, MI 48616
989-845-4333

HAIDER KAZIM P66146
Young, Graham & Elsenheimer, P.C
Attorneys for Road Commission
104 E. Forest Home
P. O. Box 398
Bellaire, MI 49615
231-533-8635

PATRICK R. WINTER P24376
Attorneys for Daniel & Christi Ancel
206 E. Cedar Street, P. O. 939
Standish, MI 48658
989-846-4589

Gerard F. Brabant, P.C.
Attorney at Law
241 Lake Street, P.O. Box
35
Roscommon, MI 48653
TEL (989) 275-4365
FAX (989) 275-4613

HAROLD J. BLANCHET, JR. P10871
Attorney as Co-Counsel for Barbara Blanchet
4700 Pinchaven Drive
Saginaw, MI 48603
(989)753-3461

KATHY KIHATA P41422
UAW-GM Legal Services Plan
Attorneys for Ernest F. & Sandra Kata, Robert R.
& Betty J. Hauk, Gladys J. Utter, Stanley A. &
Linda Kipfmiller, Lorraine Kalinowski, Robert &
Marilyn Hartl, Eva L Childs, Evelyn E Forrest,
Denise M. Schaper, & Patti K Hughes
4139 East Wilder Road
Bay City, Michigan 48706-2266
989-684-3300

RICHARD A. LEVITT P28073
Attorneys for Sharp, Levitt & Derocher
26611 Woodward Avenue
Huntington Woods, MI 48070
248-547-5800/ FAX 248-591-0243

JAMES A. BACARELLA P46198
Attorney for Mark G. Gnaster
1228 E. US-23
East Tawas, MI 48730
989-362-1364

WILLIAM L. CAREY P31602
Carey & Jaskowski, PLLC
Attorneys for Symons
Post Office Box 665
Grayling, MI 49738
989-348-5232

ANDREW J. KOZYRA P38309
Attorney for Andrew & Gail Kozra
5569 North Street, P.O. Box 343
Dryden, MI 48428
810-796-9825

JAMES A. BRISBOIS, JR.
Attorney for Defendant James Koerner
5090 State St. Bldg D
Saginaw, MI 48603-7706

WENDY A. McINTYRE P53792
Attorney for Consumers Energy
212 West Michigan Avenue
Jackson, MI 49201
517-788-0717

CHARLES B. JUDSON P31574
Smith Haughey Rice & Roegge
Attorneys for Charter
P.O. Box 848
Traverse City, MI 49685-084
231-929-4878

RONALD L. CHADWICK P37377
Attorney for Lila Butler, Raymond
Riggs, Jr. & Valerie Riggs
1711 Court Street
Saginaw, MI 48602
989-790-6988

JAMES E. RILEY P23992
Attorney for State Defendants
Natural Resources & Environm
Quality Division
P.O. Box 30755
Lansing, MI 48909

ROBERT J. CHASNIS P36578
Chasnis, Dogger & Grierson, P.C.
Attorney for William & Marguerite Collison
155 N. Plymouth Road
Post Office Box 6220
Saginaw, MI 48608
989-793-8740

CURTIS G. BROUGHTON P47200
Broughton & Vollbach Law Office
Attorneys for John & Eleanor Krisan, and
Wilford & Mary Lee
808 W. Cedar Street, P.O. Box 1159
Standish, Michigan 48658
989-846-2770

IRVING T. NELSON
In Pro Per
727 S. Grand Traverse
Flint, MI 48502-1101

Gerard F. Drabant, P.C.
Attorney at Law
41 Lake Street, P.O. Box
15
Roscommon, MI 48653
TEL (989) 275-4365
FAX (989) 275-4613

FIRST AMENDED FINDINGS OF FACT AND INTERIM ORDER

At a session of said Court held in the
Court Building, City of Standish,
County of Arenac, State of Michigan
on the 24th day of August, 2006.

HONORABLE KENNETH J. MYLES, Circuit Court Judge

This matter has come before the court for trial and evidence has been taken on the record, based upon the testimony submitted, exhibits admitted, and the law, the court makes the following findings and rulings:

1. The Wallace & Orr Park Subdivision plat was created in 1905 and is entirely located within Sims Township, Arenac County, Michigan (the "Plat").
2. The Plat contains blocks and lots as well as many streets that run from the west boundary of the subdivision to an area on the east side of the subdivision called the "Promenade Beach".
3. The Promenade Beach extends to the water's edge of Lake Huron but the blocks, lots, and streets do not.
4. The Plat contains a street named Crescent Avenue which has a 66 foot width and runs north and south through the subdivision.
5. The Plat contains a tier of lots that have Crescent Avenue as a western boundary and the Promenade Beach as an eastern boundary, hereafter referred to as "Front Lots".
6. The Plat contains many more lots to the west of Crescent Avenue and hereafter, these shall be referred to as "Back Lots".
7. All of the streets located within the Plat and the Promenade Beach were previously dedicated to the public.

Gerard F. Brabant, P.C.
Attorney at Law
241 Lake Street, P.O. Box
35
Roscommon, MI 48653
TEL (989) 275-4365
FAX (989) 275-4613

8. The Arenac County Road Commission has maintained and improved all or portions of Crescent Avenue, "A" Street, 10th Street, 14th Street, and 28th Street and, therefore, these roads were informally accepted by the Arenac County Road Commission and are under their jurisdiction since maintenance and acceptance of a portion of a platted street in a subdivision constitutes acceptance of the entire street, even those portions that remain unimproved. Tenth Street, 14th Street, and 28th Street do not go the water's edge. They end at the Promenade Beach. The public may use these roads, but the beach is private, not public. All of the other road ends are kept open for the lot owners to access the beach. None of the road ends are being closed.

9. None of the other platted streets or the Promenade Beach were either formally or informally accepted by any unit of government.

10. "A" Street was not on the Plat of the Wallace & Orr Park Subdivision when created, but came into existence through historical use. "A" Street shall be located on an amended plat as a one-way street in its current width and location.

11. A portion of 31st Street, between Arenac Road and "A" Street, has had a number of structures located within it and, since 31st Street was never accepted, it should be vacated on an amended plat between Arenac and "A" Street, as long as all property owners will have access to their lands since there are no other reasonable objections to this vacation.

12. Crescent Avenue needs to be vacated and relocated in certain locations where property owners own land on both sides of Crescent Avenue and the Plat shall be amended to reflect this adjustment based on there being no reasonable objections to the adjustment.

13. Crescent Avenue, between 4th Street and Michigan Avenue, shall be located on the amended plat based upon the stipulations of the parties and as previously documented by the surveyor, there having been no reasonable objections to this location.

Gerard F. Drabant, P.C.
Attorney at Law
241 Lake Street, P.O. Box
35
Roscommon, MI 48653
TEL (989) 275-4365
FAX (989) 275-4613

14. There are many other encroachments on other streets and on the Promenade Beach, some of which are permanent in nature, such as homes and other buildings, sidewalks, stairs, and seawalls; all other encroachments are non-permanent.

15. In regard to vacation of all other east-west streets in the subdivision that have not been previously addressed in this opinion, and order, as well as others previously vacated or converted into a park, this court finds there are reasonable objections to the full vacation of all remaining streets in that these streets are necessary for access to Back Lots and to the Promenade Beach, taking into consideration the continuous growth in the subdivision which will, in turn, create an increase of use of the streets to the beach. All of these other east-west streets are private streets belonging to the residents of the subdivision. These streets just as 10th, 14th and 28th street do not go to the waters edge. They end at the Promenade Beach. However, this court does find there should be a partial vacation of a private or public street where there is a permanent structure, but only to the extent of the footprint of such respective structures. The footprint includes not just the foundation of such permanent structures, but any overhangs of such structures. All non-permanent encroachments shall be removed forthwith.

16. The Promenade Beach is not a public beach; it is a private beach for the lot owners in the subdivision. This court finds there are no reasonable objections to vacating that portion of the Promenade Beach starting at the currently platted east boundary lines of the Front Lots and continuing to a point where the seawalls are located to the east. The east side of the seawall shall be the new eastern boundary of those lots bounded by a seawall. When there is no seawall in front of a Front Lot, the new Front Lot line for such lot shall be established by the connecting nearest adjacent Front Lot's seawalls by a straight line, which shall be established by the surveyor. This new line established by the surveyor shall be the new eastern boundary property

Gerard F. Brabant, P.C.
Attorney at Law
241 Lake Street, P.O. Box
35
Roscommon, MI 48653
TEL (989) 275-4365
FAX (989) 275-4613

line for said Front Lot. Such vacation is in favor of the Front Lot owners as this court finds this area of the Promenade Beach to have been used almost exclusively by the Front Lot owners for several decades and prior to the Land Division Act.

17. The new Promenade Beach will consist of the sandy portion of the current Promenade Beach subject to the partial vacation where there is a permanent structure, but only to the extent of the footprint of the respective structures. All non-permanent encroachments other than stairs and seawalls shall be removed forthwith.

18. Front Lot owners and Back Lot owners have the same rights to the use and enjoyment of the new Promenade Beach, as both groups have always used this area. Such use and enjoyment shall be for usual and ordinary beach activities.

19. The Front lot owners, because of the locations of their lots, have littoral or riparian rights and each Front Lot owner may maintain a seasonal dock, with a hoist or hoists, as long as it does not interfere with others' use of the Promenade Beach.

20. Back Lot owners may together or cumulatively maintain one seasonal dock in the water along the edge of the Promenade Beach opposite each road end for the use by all Back Lot owners as long as such use does not interfere with other people's use of the Promenade Beach. Boats may temporarily and periodically tie up to such docks, but there are no rights on the part of anyone to have a hoist at such docks.

21. Neither Front Lot owners nor Back Lot owners may store docks or hoists on the Promenade Beach at any time.

22. The court has continuing jurisdiction over the parties entitled to relief as set forth in this opinion and order; further, Sims Township is hereby ordered to prepare a preliminary amended plat consistent with this opinion and judgment as well as with any and all agreements

Gerard F. Brnbant, P.C.
Attorney at Law
241 Lake Street, P.O. Box
35
Roscommon, MI 48653
TEL (989) 275-4365
FAX (989) 275-4613

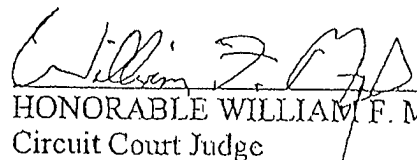
previously placed upon the record in this matter and pursuant to all current laws including, but not limited to, the Land Division Act. Sims Township shall serve this preliminary amended plat upon all parties. Should any party have any objections to the preliminary amended plat that cannot be cured without a hearing, then such objections shall be reduced to writing and shall be filed and shall be noticed for hearing within 30 days from the date of service of the amended plat.

23. As a final matter, this court has equity jurisdiction in this case and, therefore, it is the finding of this court that there shall be no motorized vehicles allowed on the Promenade Beach except for purposes of beach maintenance and the installation and removal of seasonal docks and hoists and for emergency purposes.

24. Nothing within this Order is intended to affect the public trust in the bottomlands in the State of Michigan, including the right of the public to walk the beach below the ordinary high-water mark as recognized in Glass v Goeckel, 473 Mich 667 (2005).

25. Except as to those matters which cannot be resolved until the presentation of a preliminary amended plat as prepared by Sims Township, this opinion and order shall be deemed to be a final order. This opinion and order does not take care of all issues and the court retains jurisdiction to address issues as may arise out of the preparation of the preliminary amended plat.

Dated: 24th August 2006


HONORABLE WILLIAM F. MYLES
Circuit Court Judge

Gerard F. Brabant, P.C.
Attorney at Law
241 Lake Street, P.O. Box
35
Roscommon, MI 48653
TEL (989) 275-4365
FAX (989) 275-4613