

Court Confirms Docking Rights in Artificial Canals – Even When No Riparian Rights Exist

by Andrew Baumann and Seth Behn



Does a waterfront owner have riparian rights in a privately owned, man-made canal? If, not, what rights, if any, does a waterfront owner have to use the canal for docking and boating? The 15th Circuit Court in Palm Beach County answered both of these questions on Tuesday in a Final Order entered in the case of Christopher Galetka, et al. v. Troy Schaaf, et al., Case No. 50-2017-CA-007187.

Circuit Court Judge Paige Gillman carefully crafted a thorough analysis describing the rights that lot owners at the back of a dead-end, artificially dug, residential canal have to build docks and moor boats in that canal. In that Order, the Defendant, represented by Lewis Longman & Walker, successfully established the right to maintain his dock and boatlift in a private, artificial canal – even when common law riparian rights do not exist at that location.

The canal, located in the Town of Hypoluxo, is an artificial canal that was dug from dry land owned by the developer, who later dedicated the canals to the public on a Plat recorded in Palm Beach County in 1956. The Plaintiffs owned a total of 24 feet of waterfrontage at the very rear of the canal facing east. The Defendant owned a lot with 75 feet of waterfrontage facing south. The two lots meet at a 90-degree corner in the back of the canal. The Defendant had a boatlift at his property when the Plaintiff bought his property. Yet, the Plaintiffs proceeded to build a dock and boatlift that interfered with the Defendant’s boatlift. When the Defendant chose to redesign his dock to allow his boatlift to operate around the Plaintiffs’ boatlift, the Plaintiffs sued, arguing that the Defendant’s new dock would prevent him from mooring a second boat in the corner of the canal where the Plaintiffs’ seawall meets the Defendant’s seawall.

In the case of an artificially dug, privately owned canal, the waterfront property owners do not have the common law riparian rights that waterfront owners typically enjoy in most water bodies. The Circuit Court confirmed this point. However, in its Final Order, the Circuit Court determined that similar rights may still exist in these canals under a different source – the platting documents that created the neighborhood. Since the canal is part of a recorded plat, the Court held that unless the plat itself states otherwise, the title to land beneath the canal passes to each of the waterfront lots as they are sold by the developer. Therefore, the Plaintiffs and the Defendant each owned a portion of the canal in the dead-end corner. The real question relates to the location of the boundary between the portions of the canal owned by each of the parties.



The Circuit Court ruled that the boundary line extends from the corner outward in a 45-degree angle to the middle of the canal. The Plaintiff's dock, which extends into the Defendant's portion of the canal, has to be removed according to the ruling.

The Court's Order is widely applicable to thousands of lots along the residential, artificially dug canals throughout Florida. Many times, conflicts between docks arise at the dead ends of these canals where space for docks is limited. This Order should help guide property owners going forward on what their rights are. The Defendant was represented by Andrew Baumann and Seth Behn in the West Palm Beach office of Lewis, Longman & Walker.

For more information, contact, Andrew J. Baumann, Shareholder, at (561) 640-0820 or abaumann@llw-law.com or Seth C. Behn, Esq., AICP, at (561) 640-0820 or sbehn@llw-law.com.

