

Dear Oak River Resident,

I'm responding to your note of March 13, 2020 on behalf of the Oak River Dam and Insurance Committee. I apologize for having taken so long to do so. Let me assure you that all of us on the subdivision board and the dam committee share your concerns. I don't think anyone recognized that buying a home in Oak River meant they were buying a share in the dam and its maintenance. None of us are happy to pay for that maintenance, and all of us will share in the cost equally.

Private Dam ownership is well established in Michigan. An unpublished case, for the City of Corunna vs. Department of Environmental Quality, Michigan Court of Appeals Case No 316841, October 21, 2014 states the following:

A deed conveying a riparian parcel automatically conveys the bottomlands to the thread of the stream unless the deed states otherwise. *Heeringa vs. Petroelje*, 279 Mich.App. 444, 450; 760 N.W.2d 538 (2008). Additionally, "Any erection which can lawfully be made in the water within those lines belongs to the riparian estate. And the complete control of the use of such land covered with water is in the riparian owner" *Id.* at 451, quoting *Ryan v Brown*, 18 Mich. 196, 207 (1869). Accordingly, a deed that is silent regarding the transfer of riparian rights, including the ownership rights to "any erection" on the riparian estate, nonetheless transfers those rights.

The legislative privilege granted the builders the right to construct and operate the dam. Although the legislation expressly reserved the right of the State to withdraw the privilege, this does not mean that the state held an ownership interest in the dam. The legislative approval for a private party to construct a dam did not include any assertion of a state ownership interest in the dam. The deed conveying ownership to the Oak River Subdivision Association is posted on our website. There is no question that we own the dam.

We have contacted the state regarding possible funding to repair the dam. There isn't any available. To be eligible, there has to be public access to the land, and this is not the case for our subdivision commons area. In addition, the state has a very limited budget for this work, and many qualified projects are not funded. The message is clear. We are responsible for the cost of repair.

As I said earlier, none of us look forward to spending the money. We all wish that the state, county or city would make the repairs. Unfortunately, this isn't going to happen, and we need to act before a problem occurs that exposes us to much greater liability.

Thanks for your letter and your concerns.

Dave Lancaster