Court battle backs local zoning rules

By Tim Richard
Staff Writer

Opponents of state boat launches won a major legal battle when the state Court of Appeals said the Department of Natural Resources must follow township zoning rules.

"A welcome breath of fresh air ... Local government still exists," said Jeff Lyon, attorney for Burt Township in northern lower Michigan's Cheboygan County.

Burt Township's victory — which DNR could challenge before the Supreme Court — shows Oakland County local units they may have a new tool for battling public boat launches on lakes.

Currently boat launch opponents are supporting House Bill 4363, sponsored by Rep. Penny Crissman, R-Rochester, to require public hearings before DNR can develop a launch. Crissman's bill would tilt the hearings in favor of homeowners' groups which could pack the hearing. DNR, Michigan United Conservation Clubs and the boating industry oppose her bill.

Burt Lake, at 16,700 acres, is one of Michigan's largest inland bodies of water. DNR has one first-class ramp (able to handle the largest recreational boats) at Burt Lake State Park at the south end.

In 1989 DNR obtained options on two lots on the northwest shore, almost 10 miles away. Burt Township's zoning administrator requested that DNR apply for township approval because the area was zoned R-1 residential. DNR replied that, as a state agency, it didn't need approval.

The township obtained an injunction blocking DNR's project from Cheboygan Circuit Judge Robert Livo. DNR appealed. Appellate judges Mark Cavanagh of Royal Oak and Maureen Pulte Reilly of Grosse Pointe Park upheld the injunction.

The issue was whether every state department can place a facility where it wants. The Court of Appeals said some can — and some can't, and DNR can't. It reviewed the law, one statute and case at a time:

■ **Prisons** — The state could build a prison in Detroit because "the Legislature had intended to grant the Department of Corrections immunity from local zoning ordinances when establishing state penal institutions."

■ **Gas and oil wells** — The Township Zoning Act says townships may not regulate or control oil and gas wells.

■ **State universities** — They have "exclusive jurisdiction" in the construction of their buildings.

■ **Schools** — not exempt from local zoning ordinances.

■ **State Police** — "not immune from the provisions of local zoning ordinances."

But the Legislature, in the Natural Resources and Environmental Protection Act (NREPA), didn't clearly exempt DNR from local zoning. "In the absence of any evidence that the Legislature intended to give the DNR exclusive jurisdiction over its subject matter, we cannot find it immune from local zoning ordinances," said the appellate opinion.

DNR argued the state constitution says, "The conservation and development of the natural resources of the state are hereby declared to be of paramount public concern ..."

But the appeals court said that, while the Legislature assigned DNR the task of providing outdoor recreational facilities, it assigned similar responsibilities to local units, such as townships. "Accordingly, we cannot conclude that the constitution compels a finding that the DNR is exempt form local zoning ordinances."

The court said townships may not totally prohibit a land use. "Accordingly, defendant (DNR) will have recourse if a township attempts to engage in exclusionary zoning."

Judge Helen N. White of Detroit issued a strong dissent, raising the probability that DNR will appeal to the Supreme Court.

OAKLAND JOURNAL

Oakland Journal is a roundup of Oakland County news and notes collected from government, school, civic, community and neighborhood sources. Please write: Oakland Journal, c/o Oakland County editor, Observer & Eccentric Newspapers, 805 E. Maple, Birmingham, MI 48009. Our fax number is (248) 644-1314.

4-H COURSE
A 4-H Dale Carnegie Course will be held for those ages 15 to 19 who have been in 4-H for at least a year. The "Take Charge" course will run every Saturday from 12:30-4:30 p.m. from Jan. 31 to April 25 at Hope Methodist Church in Southfield. The course is designed to help 4-H members increase their leadership and communication skills.

SECRETARIES WELCOME
Oakland County Chapter of Professional Secretaries International will welcome prospective members at its annual dinner meeting at 6 p.m. Tuesday, Jan. 20, at the Fox and Hounds Restaurant, 1560 Woodward Avenue at Long Lake Road in Bloomfield Hills. Cost is $18 for members and $20 for non-members. Members will plan for hostessing the 1999 Michigan Division Annual Meeting. Contact is Cheryl Manginpane at (248) 203-3025.

FATHERS FOR EQUAL RIGHTS
Fathers for Equal Rights of American, a non-profit group for support, information and advocacy, will meet on Wednesday, Jan. 21, at the Oak Park Community Center, 14300 Oak Park Boulevard, one-half mile south of I-696 and one block west of Coolidge. Doors open at 7 p.m. and the meeting lasts from 7:30-10 p.m. There is a $5 donation at the door. For more information, call (248) 354-3080.

CONCERT BENEFIT
Oakland County Cable Communications Corporation will tape at no cost the Rackham Symphony Choir's "Hearts and Voices for the Homeless" concert at 8 p.m. on Friday, Jan. 23, at First Presbyterian Church of Royal Oak, 529 Hendrie Boulevard. The concert will benefit Doorstep Homeless Shelter, a division of Metro Emergency Services. For information about the concert, call (313) 341-3466.

RARE BOOKS
Robert Gaylor, curator of rare books at Oakland University, discusses the history of book making from the earliest handscribed works. If you have a book that you think may be rare or valuable, bring it along for assessment. Event is from noon to 1 p.m. Thursday, Jan. 16. For more information, call (810) 858-0415.

KID'S FAIR
Oakland County Parks will provide fund for Kid's Fair '98 at The Palace of Auburn Hills on Sunday, Jan. 25. Parks staff will host in-line skating demonstrations and the Bumpa Bounce, a giant inflatable bouncer. Adults can pick up coupons for discounted entry to The Fridge, a refrigerated toboggan run and sign up to win an Oakland County Parks Summer Fun Passbook. Oakland County Parks are located at Booth 14. The Kid's Fair run from 11 a.m. to 4 p.m. Adults are admitted free and children up to age 12 are $4. Children must be accompanied by an adult. For more information, call (248) 858-0906, TDD: (248) 858-1684. Website is www.co.oakland.mi.us.

AAUW MEETS
The Oakland Branch of the American Association of University Women will here state Rep. Nancy Quales, D-Southfield, speak about her first year in Lansing when they meet at 12:30 p.m. Monday, Jan. 26, at the Salvation Army Church, 3015 N. Main, Royal Oak, between 12 and 13 Mile roads. Visitors and prospective members are welcome. Call (248) 362-2131 for more information.

POSTERS ABOUT WOMEN
The Diversity Committee of Oakland Community College's Orchard Ridge Campus will host a post exhibit in honor of African-American History Month, Jan. 26 through Feb. 20. Entitled "Black Women: Achievements Against the Odds," the exhibit consists of posters on loan from the Michigan American Association of University Women. It will be located in the campus' J Building, sub-plaza level (first floor). Hours are 9 a.m. to 8 p.m. Monday through Friday. Admission is free and open to the public. The campus is located at 27055 Orchard Lake Road, just south of I-696 in Farmington Hills. For more information, call the Womencenter at (248) 471-7602.

Hospital offers rehab support

St. Joseph Mercy - Oakland offers services designed to meet the health care and education needs of the community. The following programs pertain specifically to rehabilitation services. For dates, times and locations, call the Mercy Health Line at 1-800-372-6094.

Rehabilitative programs include adaptive golf clinic, amputee support and education group, cardiopulmonary rehabilitation, traumatic brain injury support group, center for functional rehabilitation, driver rehabilitation, martial arts therapy and fitness, occupational therapy, spinal cord support group, and stroke folks.

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Heather Williamson Messenger
June 16, 1955 - Jan 3, 1998

Heather Williamson Messenger died suddenly in Chaplin, Ct. She is survived by her son Dane, parents Barb and Dan Williamson of Northville; brothers Dan, Jr of Wheaton, Il; and (Flash) Gordon of Clearwater, FL; and sister Hannah of Northville.

Heather was born in Detroit, educated at Southfield-Lathrup High, received her bachelors degree from Northern Mich Univ and master's degree from Univ of Oregon. At the time of her death she was the Executive Editor of *Laser Focus World*, a PennWell Publishing Co. magazine.

The family will receive friends **Saturday, Jan 17 between 1:00 and 4:00** at Bushwood Golf and Restaurant, 39430 Dun Rovin, Northville. The facility is off Haggerty Road between 5 Mile and 6 Mile roads.

The family requests that in lieu of flowers donations in her honor be sent to Kids in Crisis; One Salem Street, Cos Cob, CT 06807.

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For more information, call Henry Ford Hospital's Department of Urology at (313) 523-2722.
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