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When I sell my lakefront property, can I keep the right to place a pier?

As our Wisconsin summer comes to an end and cottages and lakefront homes are prepared for the next season, questions often arise as to how one might obtain or retain the right to place a pier in a lake. Because lake access, pier placement, and boat slip rights are so valuable, lakefront property owners often view these rights as a source of supplemental income and upland land owners view them as coveted rights to acquire. When lakefront owners consider selling their property, they often inquire as to whether they might retain the right to use their former property for pier placement after they have sold.

While often challenged, Wisconsin law is quite clear that the placement of piers is a right possessed only by the owner of the lakefront property. Prior to 1994, it was common for upland landowners to place piers and moor boats based on easement rights that had been granted to them by a lakefront property owner. But, in 1994, Wisconsin's legislature reacted to a Wisconsin Supreme Court decision by explicitly prohibiting the granting of pier placement rights to anyone other than the lakefront property owner. Some pre-existing easement rights are "grandfathered" but only in very limited circumstances.

Under Wisconsin's public trust doctrine, the navigable waters of the state are held in trust for the enjoyment of all. Structures cannot be placed or erected in these waters. Owners of lakefront property hold special "riparian rights" which allow a limited right to place a pier off of their property. But this right is granted only to the owner of that lakefront land.

This summer, Wisconsin courts reaffirmed that riparian rights cannot be transferred to anyone by the lakefront owner. In one case, the court found that the right to "use" a pier could not be conveyed any more than the right to "place" a pier. The court also found that although a landowner can grant permission to go across their lakefront property to access a lake, that landowner cannot grant a right to go beyond the edge of the lake to use a pier.

In still another case, the court found that a seller of lakefront property cannot "reserve" a right to continue placing a pier after they have sold their land. This reservation of a riparian right is prohibited just as is a conveyance of such a right.

The value of lakefront property and the rights that come with it are quite significant. The regulations that affect that property are numerous and complex. Principles such as the "grandfathering" of pier rights, the scope of riparian right regulation, and the application of those laws and regulations to specific fact situations are the domain of our experienced land use attorneys. Feel free to call us with any questions you might have.



[Dean Richards](#)
Reinhart Boerner Van Deuren s.c.
N16 W23250 Stone Ridge Drive
Waukesha, WI 53187
262-951-4561
drichards@reinhartlaw.com

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		<u>Associated Bank</u>	<u>Grandbridge Real Estate Capital LLC</u>	<u>US Bank</u>	<u>Bank of America</u>
Apartment/Multi Family Loans	Rate	L*+ 200-250	6.10% - 6.60%	L*+175-200	L*+175-225
	Term	Up to 10 Years	10 Years	Up to 5 Years	5 Years
	LTV	80%	80%	Up to 80%	80%
	Amortization	Up to 30 Years	Up to 30 Years	Up to 30 Years	Up to 30 Years
Retail/ Office Loans	Rate	L*+ 220-275	6.55% - 6.95%	L*+175-225	L*+175-225
	Term	Up to 10 Years	10 Years	Up to 5 Years	5 Years
	LTV	75%	75%	Up to 80%	80%
	Amortization	Up to 25 Years	Up to 30 Years	Up to 30 Years	Up to 30 Years
Commercial Loans	Rate	L*+ 220-275	6.55% - 6.95%	L*+175-205	L*+175-225
	Term	Up to 10 Years	10 Years	Up to 5 Years	5 Years
	LTV	75%	75%	Up to 80%	80%
	Amortization	Up to 25 Years	Up to 30 Years	Up to 30 Years	Up to 30 Years

*L equals the Libor swap rate for the applicable period

Maturity	Today	Last week	Last month
5 year Treasury	2.69%	2.63%	2.89%
10 year Treasury	3.78%	3.61%	3.63%

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