

THE *2000 BAUM FAMILY TRUST V BABEL*
DECISION AND OTHER SIGNIFICANT
PLAT COURT CASES

**(THE SPRING MEETING OF THE
INTERNATIONAL RIGHT OF WAY ASSOCIATION)**

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I. ***2000 Baum Family Trust v Babel***

A. The general issues involved.

1887 PA 309:

The map so made and recorded in compliance with the provisions of this act shall be deemed a sufficient conveyance to vest the fee of such parcels of land as may be therein designated for public uses in the city or village within the incorporate limits of which the land platted is included, or if not included within the limits of any incorporate city or village, then in the township within the limits of which it is included in trust to and for the uses and purposes therein designated, and for no other use or purpose whatsoever (emphasis added).

B. Plat examples.

- See Exhibit A.

C. The Charlevoix County Circuit Court proceeding.

- See Exhibit B.

D. The other earlier Michigan Court of Appeals decisions.

- *McCardel v Smolen*, 71 Mich App 560; 250 NW2d 496 (1976), reversed on other grounds, 404 Mich 89; 273 NW2d 3 (1978);
- *Kempf v Ellixson*, 69 Mich App 339; 244 NW2d 476 (1976);
- *Michigan Central Park Assn v Roscommon County Road Comm'n*, 2 Mich App 192; 139 NW2d 333 (1966);
- *Sheridan Drive Assn v Woodlawn Back Property Owners Assn*, 29 Mich App 64; 185 NW2d 107 (1970);
- *Jonkers v Summit Twp*, 278 Mich App 263; 747 NW2d 901 (2008)

E. *2000 Baum Family Trust v Babel*, 284 Mich App 544 (2009).

1. The Decision.
2. The Motion for Reconsideration.

F. The Concerns

1. Thousands of lots would be affected

2. Other case law (road ends) potentially affected:

Jacobs v Lyon Twp (after remand), 199 Mich App 667; 502 NW2d 382 (1993).

Higgins Lake Property Owners Assn v Gerrish Twp, 255 Mich App 83; 662 NW2d 387 (2003).

Higgins Lake Shores Lakefront Property Owners v Lyon Twp, Michigan Court of Appeals decision issued December 2, 2008; 2008 WL 5076595 (Docket No. 278894).

Magician Lake Homeowners Assn, Inc v Keller Twp Bd of Trustees, Michigan Court of Appeals decision issued July 31, 2008; 2008 WL 2938650 (Docket No. 278469).

Higgins Lake Property Owners Assn v Gerrish Twp, Michigan Court of Appeals decision issued October 20, 2005; 2005 WL 2727702 (Docket Nos. 262494, 262533, and 262717).

Kleiner v Wachowicz, Michigan Court of Appeals decision issued February 12, 2004; 2004 WL 258259 (Docket Nos. 244053, 244328).

Douglas v Harting, Michigan Court of Appeals decision issued December 18, 2008; 2008 WL 5273425 (Docket No. 277892).

G. The Michigan Supreme Court Decision.

- *2000 Baum Family Trust v Babel*, 488 Mich 136 (2010).

II. *Tomecek v Bavas*, 482 Mich 484; 759 NW2d 178 (2008)

- A. The fact situation.
- B. The legal implications.

III. Plat Vacations in General

- A. Must court action be pursued to vacate roads?
- B. Replats.
- C. Must be done right!
- D. Costs.

I. MCL 560.263 - DIVISION OF PLATTED LOTS:

560.263 Partition or division of lots, outlots, or other parcels of land in recorded plats

Sec. 263. No lot, outlot or other parcel of land shall be further partitioned or divided unless in conformity with the ordinances of the municipality. The municipality may permit the partitioning or dividing of lots, outlots or other parcels of land into not more than 4 parts; however, any lot, outlot or other parcel of land not served by public sewer and public water systems shall not be further partitioned or divided if the resulting lots, outlots or other parcels are less than the minimum width and area provided for in this act.

IV. General Riparian Issues

V. Resources

- A. The Michigan Lake & Stream Association's website—www.mlswa.org.
- B. The *Michigan Riparian Magazine*'s website—www.mi-riparian.org.
- C. Cliff Bloom's website—www.lawweathers.com, click attorneys, click Clifford H. Bloom, click articles and publications.
- D. The dedicated Law Weathers' municipal website at www.michiganmunicipallaw.com.
- E. The ICLE seminar of February 3, 2011 entitled "Total Redevelopment in the World of the Land Division Act—Platted and Unplatted Property."

EXHIBIT A

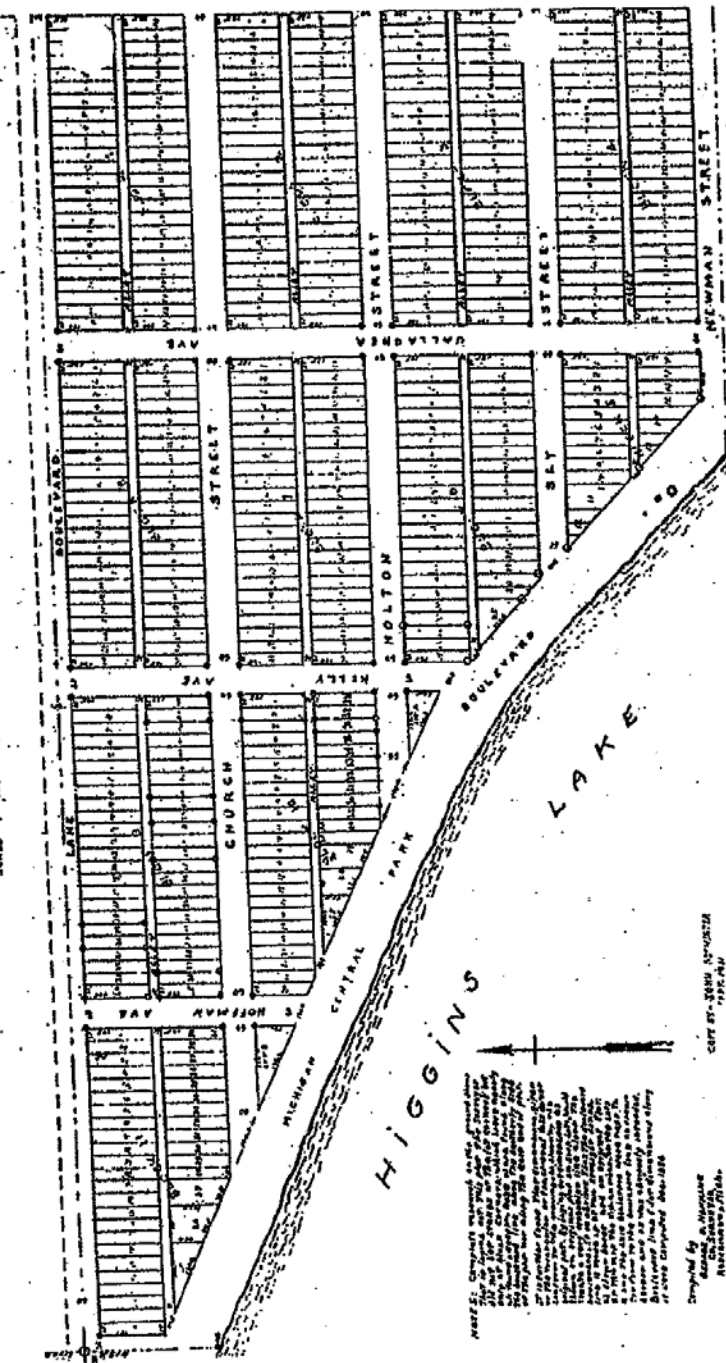
**FIRST ADDITION
MICHIGAN CENTRAL PARK**

GOV'T. LOTS 5 & 6, SEC. 16, T24N.R3W
GERRITSON TOWNSHIP, ROSCOMMON COUNTY, MICHIGAN

SCALE 1" = 300'

ALL RIGHTS RESERVED BY THE
PLATTEE - GEORGE W. HIGGINS
PLANNED BY - GEORGE W. HIGGINS
RECORDED AT THE REGISTER'S OFFICE
OF ROSCOMMON COUNTY, MICHIGAN
ON FEBRUARY 10, 1924

RECORD - THIS PLAN WAS RECORDED IN THE
REGISTER'S OFFICE OF ROSCOMMON COUNTY,
MICHIGAN, ON FEBRUARY 10, 1924, IN
BOOK 10, PAGE 100.



NOTE: COMEY & COMPANY, INC., ENGINEERS
AND ARCHITECTS, 100 N. WABASH ST., CHICAGO,
ILL. HAS BEEN EMPLOYED BY THE PLATTEE
TO PREPARE THIS PLAN AND TO CONDUCT
THE SURVEY THEREON. THE PLATTEE
HEREBY CERTIFIES THAT THE SURVEY
WAS MADE IN ACCORDANCE WITH THE
REQUIREMENTS OF THE MICHIGAN
STATUTES AND THAT THE PLATTEE
IS NOT AWARE OF ANY DEFECTS
IN THE SURVEY OR IN THIS PLAN.
GEO. W. HIGGINS
PLATTEE

Prepared by
GEORGE W. HIGGINS
REGISTERED PLATTEE
ROSCOMMON COUNTY, MICHIGAN

SHEET
NO THREE OF
WOODLAWN

Reservoir to
Mabiquan

