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Worthwhile Legal News and Commentary

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Appellate Court of Maryland leaves unresolved issue of whether riparian owners have right to unobstructed view.

17 Jul 2024

The Appellate Court of Maryland recently declined to decide whether riparian owners have a right to unobstructed water views, noting that other states have approached the issue differently. In *Buck v. Steele*, the court reminded litigants that legal arguments to create new law must be predicated upon actual facts and one cannot skip over the basic building blocks of a case.

In *Buck*, Rosalie Buck owned waterfront property in a subdivided community containing 31 lots in Port Tobacco, Maryland. The original 1921 deed from the developer to Ms. Buck's predecessor provided that the water rights and privileges were reserved to the developer and in common with all lot owners within the subdivision. In 2019, Mark Steele purchased an improved lot adjacent to Ms. Buck's property. At the time of his purchase, Mr. Steele had unobstructed views across Ms. Buck's property to Port Tobacco Creek. Shortly after Mr. Steele's purchase, Ms. Buck erected a fence for the sole purpose of blocking Mr. Steele's view. The trial court ordered removal of the portion of the fence which blocked Mr. Steele's view finding that Mr. Steele held riparian "rights and privileges in the waterfront, including the right to the view of Port Tobacco Creek."

Recognizing that Maryland has not addressed the issue of whether or not unobstructed views is within the bundle of riparian rights recognized in the state, the Appellate Court turned to other states for guidance. It noted that in Florida the right of an unobstructed water view is within the rights afforded to riparian owners; whereas, other states, such as Idaho, Indiana, and Michigan, do not include rights to unobstructed views within riparian owners' rights. After its analysis of other states' positions on the matter, the Appellate Court concluded that Maryland's silence on the matter to-date would continue as Mr. Steele was not a riparian owner and could not assert riparian rights in any event. Mr. Steele only owned an interior lot which did not border on the water. In the litigation over whether Maryland would recognize unobstructed views as being within a riparian owner's rights, the parties had apparently neglected to determine whether or not the parties were both riparian owners. Had the original developer intended to prohibit fences or other obstructions to the interior lots' owners, it could have placed an express restriction in the deeds. It did not.

Jackson & Campbell, P.C. represents title insurers and insureds in Maryland, Virginia, and Washington, D.C. and we strive to keep our clients and other title professionals up to date on various developments in the law. Additionally, we present no-cost in-house updates of the nation's most noteworthy cases and national trends following the spring and fall American Land Title Association's Title Counsel meetings.

If you have any questions about this case or laws impacting real estate in and around the Washington, D.C. region, feel free to contact us. Our Real Estate Litigation and Transactions Practice Group is ready to assist.

Chris Glaser.

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APPELLATE COURT OF MARYLAND LEAVES UNRESOLVED ISSUE OF WHETHER RIPARIAN OWNERS HAVE RIGHT TO UNOBSTRUCTED VIEW.

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