



Smallwood Lake
Association

WIXOM LAKE
ASSOCIATION



MI Supreme Court GRANTS Amicus Brief From 4 Lake Associations

March 7, 2025 - The 4 Lake Associations (Secord, Smallwood, Wixom, and Sanford) filed an amicus brief with the MI Supreme Court to provide the Court with additional property owners' insight into the HCA legal action with the Four Lakes Task Force (FLTF) and Counties of Midland and Gladwin.

On Friday, March 7, 2025, the MI Supreme Court Chief Justice issued this order:

"On order of the Chief Justice, the joint motion of Secord Lake Association, Inc., Smallwood Lake Association, Inc., Wixom Lake Association, Inc., and Sanford Lake Association to file a brief amicus curiae is **GRANTED**. The amicus brief submitted on March 5, 2025, is accepted for filing."

An amicus curiae brief, or "friend-of-the-court" brief, is a legal document filed by a person or group that is not a party to a case but has a strong interest in the matter. The purpose of an amicus brief is to provide the Court with information to assist the Court reaching a decision, and to ensure that the outcome of the case does not only affect the parties involved.

This 2-1/2-page overview will summarize the key points outlined in the 166 pages submitted to the Court. You can read the amicus brief materials here:

[*Motion to File Amicus Brief*](#)

[*Lake Associations Amicus Brief to MI Supreme Court*](#)

[*Amicus Brief Appendix Materials*](#)

The 4 Lake Associations have always agreed that the statute provides property owners with an opportunity to appeal their special assessment to the Circuit Court. After having their appeal **DENIED** at the Midland Circuit Court due to "lack of credible evidence," and then **UPHELD** by the MI Court of Appeals, HCA chose to appeal the Courts' decision to the MI Supreme Court.

HCA had their day in court - - twice! Each time their arguments presented and DENIED by both the Midland Circuit Court and the MI Court of Appeals. Both Courts provided lengthy opinions regarding HCA's **lack of "credible evidence."** The MI Court of Appeals citing in part, "Nevertheless, the appellants [HCA] appear to misinterpret the presumption of validity that is inherent in municipal special assessment decisions."

HCA requests the MI Supreme Court review the lower courts' decisions, it is not a new trial or a "do over." Whatever evidence, or lack thereof, HCA presented to the Circuit Court is what the MI Supreme Court will review should they decide to accept the application for leave (to review the lower courts' decision).

Most people do not understand HCA is not attempting to eliminate the special assessment, as it recognizes the special assessment must occur to comply with the Inland Lake Level Act and the May 2019 Court order.

Heron Cove Association (HCA)?

Today HCA appears a smaller number of people than the initial Midland Circuit Court filing. In the MI Court of Appeals filing, HCA admits membership and the quantity of people appealing is continuously shrinking as multiple people request removal.

HCA provided a roster of names in their application to the MI Supreme Court which is confusing as almost 300 people listed may have dropped out and perhaps others should have been removed.

The amicus brief contains a sworn affidavit from a property owner where he and his wife are listed multiple times in the HCA filing with the MI Supreme Court (with two different spellings of their name) and they **never** provided any money or signed up to be party to the HCA appeal.

HCA Legal Action Caused Suspension of Construction

The HCA legal action does not allow the FLTF to seek municipal bonds to complete the projects and curtails the efforts of FLTF to secure additional grants at the state and federal level. Due to HCA legal action construction at Secord, Wixom and Smallwood suspended in 2024 and Sanford scheduled to suspend shortly.

HCA Construction Suspension Will Increase Cost to ALL Property Owners in the FLSAD

The cost of delay created by HCA legal action will impact all property owners in the FLSAD based on a FLTF projected cost of \$20 million due to the delay.

TIME is a Non-Renewable Resource That is Being Taken Away

The cost of delays in terms of time is devastating as property owners have waited since summer 2020 for the lakes to return. Based on recent timelines shared by FLTF, the return of the lakes could be delayed by another 2 years due to ongoing HCA delays. Time is a non-renewable resource stolen from all of us.

Property Owners Understand the Need to Retain Property Values

The Lake Associations highlight a survey conducted by FLTF indicating 88% of property owners seek the return of the lakes to retain property values and the life people along the lakes enjoy. The survey also indicates if the lakes do not return, about 50% of property owners indicated they would sell. This would be detrimental to property values along the 4 Lakes.

There is Confidence in the FLTF Plan to Restore The Lakes

FLTF has secured over \$240 million in government funds, demonstrating their ability to secure grants.

The plan installed by FLTF over the past 5 years, along with on-going construction on the four dams, provided confidence in the return of these Michigan All Sports Lakes and real estate values did not plummet. Buyers continued to purchase properties along the 4 Lakes as they have confidence in the FLTF plan. The HCA appeal has cooled the real estate market as buyers do not like uncertainty.

While HCA contends no benefit or value to their properties with the lake restored, they have yet to provide any evidence via real estate appraisals over the past 12+ months. Court records confirm HCA continues to make excuses regarding their inability to secure real estate appraisals to support their claims.

Real Estate Sales Debunk HCA Claims of No Impact to Property Values

The amicus brief provides a detailed analysis of nearly 300 properties sold over almost 5 years. It provides ‘fact based’ perspective for the difference in fair market value between property with a lake, and property without a lake. Using “price per square foot” as an accepted benchmark in the real estate industry, there is a 62.5% premium buyer’s place on waterfront property.

Meaning for example, a 1,000- square foot home with similar number of bedrooms, baths, outbuildings, and features would sell for \$176,320 with the improvement (lake) as compared to \$108,530 without the improvement (lake). This analysis debunks the HCA argument that there is no benefit to property values with the return of the lakes.

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All 4 Lake Associations (Secord, Smallwood, Wixom, and Sanford) support the FLTF in (1) continuing to manage costs to the lowest level possible in the capital special assessment, (2) seeking additional funding, and (3) restoring all four lakes.

Legal Counsel We appreciate the legal leadership of attorney Bruce Townley (Secord Lake Association) and his team of lawyers: Stuart Remley (Secord Lake Association), Sean Cleland (Smallwood Lake Association), and Tami Johanson (Secord Lake Association) for their collaborative work. The firm Zeigler, Townley & Associates, P.C., located in Troy, MI, is the law firm representing the 4 Lake Associations.

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