



Smallwood Lake  
Association

WIXOM LAKE  
ASSOCIATION



## Lake Associations File Amicus Brief with Michigan Appellate Court Asking Court to UPHOLD the Midland Circuit Court Ruling

As property owners, we have the right to voice our position to the Court as the Heron Cove Association (HCA) legal action is dramatically impacting all property owners within the Four Lakes Special Assessment District (FLSAD).

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

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. You can read the brief here: [www.RestoreTheLakes.org](http://www.RestoreTheLakes.org)

The 4 Lake Associations have always agreed the statute provides property owners 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," HCA chose to appeal the court's decision to the Michigan Court of Appeals.

### **What is Heron Cove Association (HCA)?**

The HCA appears to be a small number of people organized solely to fund and file lawsuits. HCA has no public website, no office, and no storefront. HCA has not issued a single publication, webinar, posting, letter, advertisement, or any public information whatsoever. HCA has never offered a solution.

There is no public HCA membership, no hierarchy of decision makers and no means whatsoever to determine the size of the organization. In court filings, HCA admits membership and quantity of people appealing is continuously shrinking as multiple people request removal. HCA refuses to provide any updated membership or appellant information unless forced by the Court to do so. This was indicated in the HCA brief to the Court dated September 5, 2024.

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.

### **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 funds from State and Federal governments, 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 had confidence in the FLTF plan.

While HCA contends no value to their properties with the lake restored, they have yet to provide any evidence via real estate appraisals over the past 9 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

From the beginning of the journey to rebuild the dams, the objective of property owners is to own property with a fair market value of lakefront or lake access property. And, as progress continued, the property values maintained on the hope of the return of the lakes. As Judge Beale acknowledged at the Circuit Court Hearing, it is clear and common sense that a lake front property has a higher market value than the same property no longer on a lake.

To illustrate the waterfront premium, the chart below summarizes MLS properties sold over almost 6 years sorted by 'non-waterfront' and 'waterfront' located in the three townships of the Secord Lake community.

MLS Properties Sold in the 3 Townships Surrounding Secord Lake - Bourret, Clement and Secord**												
Calendar Year	Non Water Front					Water Front					Waterfront vs Non Water	
	# Properties Sold	TOTAL SALES \$	Average	TOTAL SQ FT SOLD	Price Per Sq Ft Sold	# Properties Sold	TOTAL SALES \$	Average	TOTAL SQ FT SOLD	Price Per Sq Ft Sold	Difference Price per Sq Ft	% Difference
2019	7	\$960,000	\$137,143	10,930	\$87.83	40	\$8,173,100	\$204,328	55,924	\$146.15	\$58.31	66.4%
2020	10	\$1,577,800	\$157,780	15,692	\$100.55	16	\$2,915,000	\$182,188	20,425	\$142.72	\$42.17	41.9%
2021	27	\$3,614,100	\$133,856	31,440	\$114.95	55	\$13,035,001	\$237,000	76,532	\$170.32	\$55.37	48.2%
2022	25	\$2,858,411	\$114,336	25,848	\$110.59	38	\$9,712,000	\$255,579	53,219	\$182.49	\$71.91	65.0%
2023	16	\$2,480,402	\$155,025	22,122	\$112.12	36	\$10,074,455	\$279,846	46,691	\$215.77	\$103.64	92.4%
2024*	10	\$1,180,011	\$118,001	10,712	\$110.16	18	\$4,715,800	\$261,989	22,982	\$205.20	\$95.04	86.3%
	<b>95</b>	<b>\$12,670,724</b>	<b>\$133,376</b>	<b>116,744</b>	<b>\$108.53</b>	<b>203</b>	<b>\$48,625,356</b>	<b>\$239,534</b>	<b>275,773</b>	<b>\$176.32</b>	<b>\$67.79</b>	<b>62.5%</b>

\* January 1 to September 16, 2024  
 \*\* The northern section of Smallwood Lake is within Secord Township. All properties sold during this timeframe within Secord Township are included in this analysis.

A focused analysis of almost 300 properties sold provides meaningful perspective for the difference in fair market value between property with the lake, and property without the 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.

This analysis debunks the HCA arguments there is no benefit to property values with the return of the lakes.

**HCA Legal Action Will Cause Suspension of Construction**

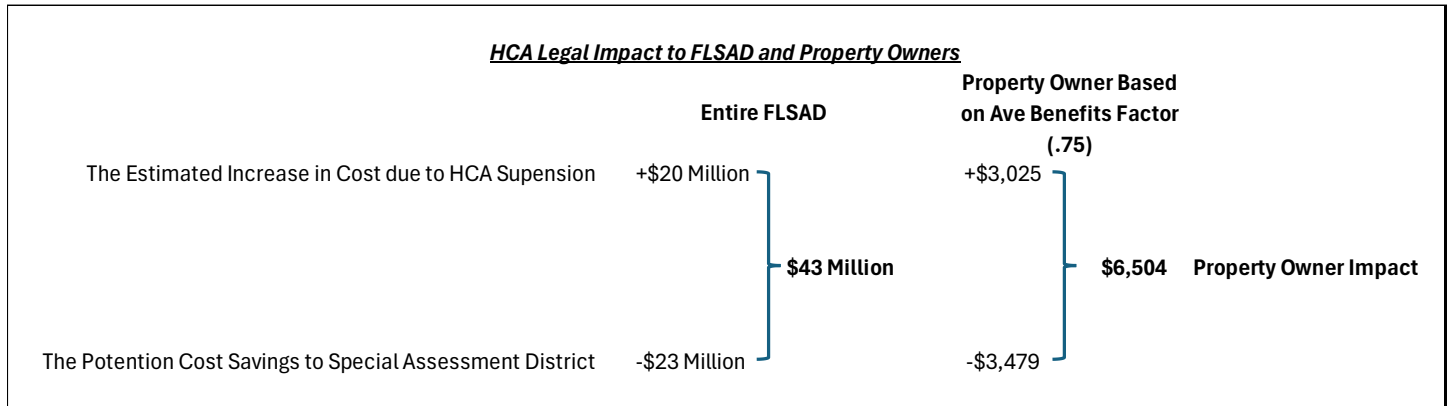
The HCA legal action does not allow the FLTF to borrow money or issue municipal bonds to complete the projects and curtails the efforts of FLTF to secure additional grants at the state and federal level. Due to HCA legal action construction on the 4 dams will suspend by the end of this year.

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

The cost of delay created by the HCA legal action will impact all property owners with higher capital assessment costs estimated at \$3,025 on average based on a FLTF projected cost increase of \$20 million with a delay to April 2025.

The HCA legal challenges do not allow the FLTF to realize the \$23 million in cost reductions to the FLSAD mentioned in their July informational update which could have reduced assessments on average of \$3,479.

The irony of the HCA legal challenges, the difference in these two numbers. The HCA for all their banter about reducing costs is doing just the opposite - - increasing costs for all property owners including themselves.



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

The cost of delay in terms of time is devastating as property owners have waited since the summer 2020 for the lakes to return. Time is a non-renewable resource the HCA legal action is taking from all of us.

**The 4 Lake Associations Seek the Michigan Court of Appeals to AFFIRM the Midland Circuit Court Decision**

For these reasons, and others stated succinctly in the amicus brief, the 4 Lake Associations request the MI Court of Appeals AFFIRM the Trial Court’s Denial of Appellant’s appeal seeking relief from the FLTF Special Assessment District Apportionment.

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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**

Many people contributed to this project from all 4 Lake Associations. We appreciate the legal leadership of Bruce Townley (Secord Lake Association) and his team of Stuart Remley (Secord Lake Association), Sean Cleland (Smallwood Lake Association), and Tami Johanson (Secord Lake Association) for their collaborative work. The firm of Zeigler, Townley & Associates, P.C. located in Troy, MI is the law firm representing the 4 Lake Associations. < END >