



February 29, 2024

Midland Circuit Court Case 24-2751-AA

There was an appeal filed in Midland Circuit Court by an attorney for the Heron Cove Association representing about 550 “ownership units” of about 642 properties along the 4 Lakes. Their numbers may look a bit larger as “couples” are named for most parcels, with some owning multiple parcels, with some duplicate property numbers listed, and some with no parcel numbers provided. The data indicates there are about 550 separate “ownership units” of parcels represented. Heron Cove is located on Wixom Lake.

Their legal document names the MIDLAND COUNTY BOARD OF COMMISSIONERS, and GLADWIN COUNTY BOARD OF COMMISSIONERS, and the FOUR LAKES TASK FORCE.

Their legal document explains the Heron Cove Association is a Michigan nonprofit corporation organized to:

“promote the general welfare of its members, owners of any property along or near Secord, Smallwood, Wixom, and Sanford Lakes, including backlot properties with dedicated access. . . ., or any property in or touching the Four Lakes Special Assessment District in or around Gladwin and Midland Counties, Michigan.” It is comprised of property owners and those with property interests within the Four Lakes Special Assessment District or adjacent to it. Individual appellants are members of the Heron Cove Association who own or have interest in property within the Four Lakes Special Assessment District. Each appellant has standing to claim this appeal, and proceeding in one appeal is the most expeditious use of judicial resources. The members appealing and their addresses and Parcel IDs are listed in Exhibit C.”

They claim:

“The Counties began construction on the improvement before they approved the cost and the special assessment roll by resolution” and that their “properties derive little to no special benefit or gain in market value from the assessment beyond that provided to the community as a whole.”

They ask:

- a. That the court vacate the special assessment rolls;
- b. That the court order a reapportionment of the special assessment roll so that the assessments are proportional to the increase in market value derived from the improvement;
- c. Any other relief the court finds just and equitable.

WHAT DOES THIS MEAN?

- 1) The Heron Cove Association is a closed group made up of select property owners across all 4 Lakes. The about 550 property “owner units” represent themselves and no one else.
- 2) Heron Cove claims that all work done to date on all 4 dams should not have started until after the recent special assessment hearing. Meaning that they believe ALL work should have been delayed until now, over 3-1/2 years after the flood event. This would not only have resulted in lengthy delay in the return of the lakes, it could have also resulted in the forfeiture of the \$200 Million from the State of Michigan, which was provided based on a “completion date of September 30, 2026”.
- 3) Heron Cove property owners believe their property receives no benefit in value from the dams. They believe the value of their property would **not** decline if, for example, Wixom and Sanford Lakes remained as they are today, with

no possibility of ever returning to an ALL SPORTS Lake. And with their dams removed, Secord and Smallwood resembling a ribbon of water surrounded by acres of nuisance trees growing on the lake bottom never to return to an ALL SPORTS Lake.

- 4) Heron Cove asks the court to vacate or cancel the special assessment rolls, which will prevent the FLTF from obtaining the loans required to continue construction on Secord, Smallwood, Sanford, and Wixom, halting all construction.
- 5) Heron Cove asks the court to reapportion the special assessment roll. Legally this would take several years to accomplish thus further delaying the return of Secord, Smallwood, Sanford, and Wixom, with no guarantee the court would establish a different special assessment district.
- 6) With no funding to continue the projects and construction abandoned, there would be no assurance that the construction would restart. If construction does restart, completion of the dams would be delayed by multiple years.

KEY MILESTONES AND TAKE AWAYS:

- 1) The counties approved the assessment for both Operations/Maintenance and Construction budgets at the July 12, 2022, joint county meeting of Gladwin and Midland. This approved the projects to move from stabilization and engineering to construction funded by grants with pull ahead projects approved by EGLE permits, final submission of EGLE construction permits, public bid at Secord and Smallwood and bid award at both. This allowed the permitting process and then construction at all 4 dam sites to begin.
- 2) Construction costs have escalated over the past 2+ years due to a tight construction market driven by federal infrastructure spending, double digit compounding annual inflation and escalating interest rates. Costs by contractors are projected looking forward as these projects extend into 2025-26. FLTF has been very transparent in explaining why and to illustrate the impacts to the overall project.
- 3) Property values around the 4 Lakes have appreciated since the breach and ordered draw down. While there are several factors, the key one is the confidence Buyers have in the FLTF plan to restore these Michigan ALL SPORTS Lakes. There is a premium paid for lake front property as measured in price per square foot sold. Professional realtors focused on the 4 Lakes are best positioned to predict future values of "lake front property with no lake".
- 4) Heron Cove's request to vacate or change the special assessment district could cause multiple years of delay and millions in costs and payments related to legal fees and construction restart costs. These additional costs will be paid for by everyone in the special assessment district.
- 5) Heron Cove's action will make it extremely difficult for the FLTF volunteers to obtain additional grants, and will divert their energies from cost containment measures securing permits.

SUMMARY

A group of about 550 property "owner units" across all 4 Lakes formed a nonprofit corporation to make a joint appeal to the Midland Circuit Court. Based on their legal document they believe there is "little to no value" to their property for the ALL SPORTS Lake. They believe all work on the dams done to date should not have occurred. They seek to stop the funding to continue the work on Secord, Smallwood, Sanford, and Wixom. They seek a reapportionment of the special assessment district which will delay construction for years and greatly increase costs in legal fees and construction expenses. Their appeal does not address or provide solutions for the additional costs in terms of time and money their delay will cause. It does not offer an alternative plan to fund the construction needed to return the lakes and it is questionable, at best, whether the members of the Heron Cove desire a return of the lakes.

In closing, Heron Cove is an organization that states it only cares for “the general welfare of its members.” It does not address the well-being of our community at large. Imagine what could be possible if these people put their time, resources, passion, and money toward seeking additional grants to lower the assessments for all property owners?

The link below will take you to their legal document. This is a public document submitted to the court to share their appeal along with the members of the Heron Cove Association. We will update you as to the legal issues and arguments as we become aware of them.

[CLICK HERE](#) to read the legal filing document submitted to the court

The RestoreTheLakes team, partnering with the 4 Lake Associations, townships, counties and FLTF will continue to seek additional support to reduce the assessment costs for ALL PROPERTY OWNERS, even the Heron Cove Association members.

