

Fla. Dep't of Transp. v. Lauderdale Boat Yard, LLC, 2022 WL 39407 (Fla. 4th DCA 2022).

Florida Fourth DCA Clarifies Conditions for Riparian Rights and Holds that Owner of Servient Tract May Not Have Conditions Imposed on Property Unless Party to the Case

In the 1980's, Choate owned property which included uplands and submerged lands along the New River, with riparian rights along the entire riverfront. Choate used the property as a boatyard, which Choate and its predecessors dredged and improved by constructing a boatlift and an artificial covered basin. In 1985, the Florida Department of Transportation ("FDOT") won a condemnation action for a portion of the Parent Tract of Choate's property ("Parcel 104") in order to construct the I-595 Bridge. In addition to the condemnation, FDOT obtained a sovereign submerged land easement for a property adjacent to Parcel 104, known as Parcel 108. When the bridge was completed, Choate replatted his remaining upland property to create Tract A.

Lauderdale Boat Yard ("LBY") obtained Tract A from Choate in 2016. There is no indication as to whether Choate intended to retain any ownership interest in the dredged, submerged lands (called here the "Choate Remnant Parcel"). LBY, like Choate, continued to use Tract A as a boatyard. A year later, the FDOT informed LBY that it had no riparian rights of access to the New River since those rights were condemned in the 1985 judgment. FDOT further informed LBY that it planned to add travel lanes to the I-595 Bridge, and the supports for the bridge would restrict LBY's access from the boatlift to the New River.

In 2019, LBY sought declaratory judgment against FDOT that Tract A had riparian rights of access to the New River. Choate was not a party to the legal proceedings. The main issue was whether LBY had riparian rights of access from the boatlift to the South Fork of the New River. The trial court ruled in favor of LBY with two alternative rulings. First, the trial court found that the mean high-water line was located at the boatlift seawall, and that all submerged land between the seawall and the New River were subject to LBY's riparian access rights. Alternatively, the trial court found that the mean high-water line was the boundary of Parcel 108 and the Choate Remnant Parcel; therefore, LBY had riparian rights of access emanating from that boundary with an implied easement of necessity over the Choate Remnant Parcel. The Fourth DCA reversed on both grounds.

The Fourth DCA, in reversing the first ruling of the trial court, held that the boatlift seawall cannot be the mean high-water line because it would allow LBY's riparian rights of access to prevail over Choate's rights as a possible submerged landowner. Further, the Fourth DCA found that the State of Florida never held the submerged land in trust; it cannot be treated as sovereign land merely because it was artificially submerged—"riparian rights do not ordinarily attach to artificial water bodies or streams"

The Fourth DCA, in reversing the second alternative ruling of the trial court, held that riparian rights only attach to property ownership that extends to the mean high-water line. There was nothing in the record to show that Tract A extended to the purported mean high-water line; the

record simply showed that Tract A abutted navigable waters, which was insufficient. Because Choate was not present in the proceedings, there was no evidence about what property interests were conveyed in the sale of Tract A.

The trial court's alternative ruling suffered from two "fatal flaws." First, the trial court, in granting an implied easement by way of necessity, ordered an equitable remedy that was not requested by either party in any of the proceedings. Second, the trial court erroneously imposed an implied easement over property "ostensibly owned by Choate," even though Choate was not a party to the case and did not have a chance to be heard. The owner of a servient tract may not have conditions imposed on their property unless the owner is a party to the case. Thus, the case was reversed and remanded for further proceedings.