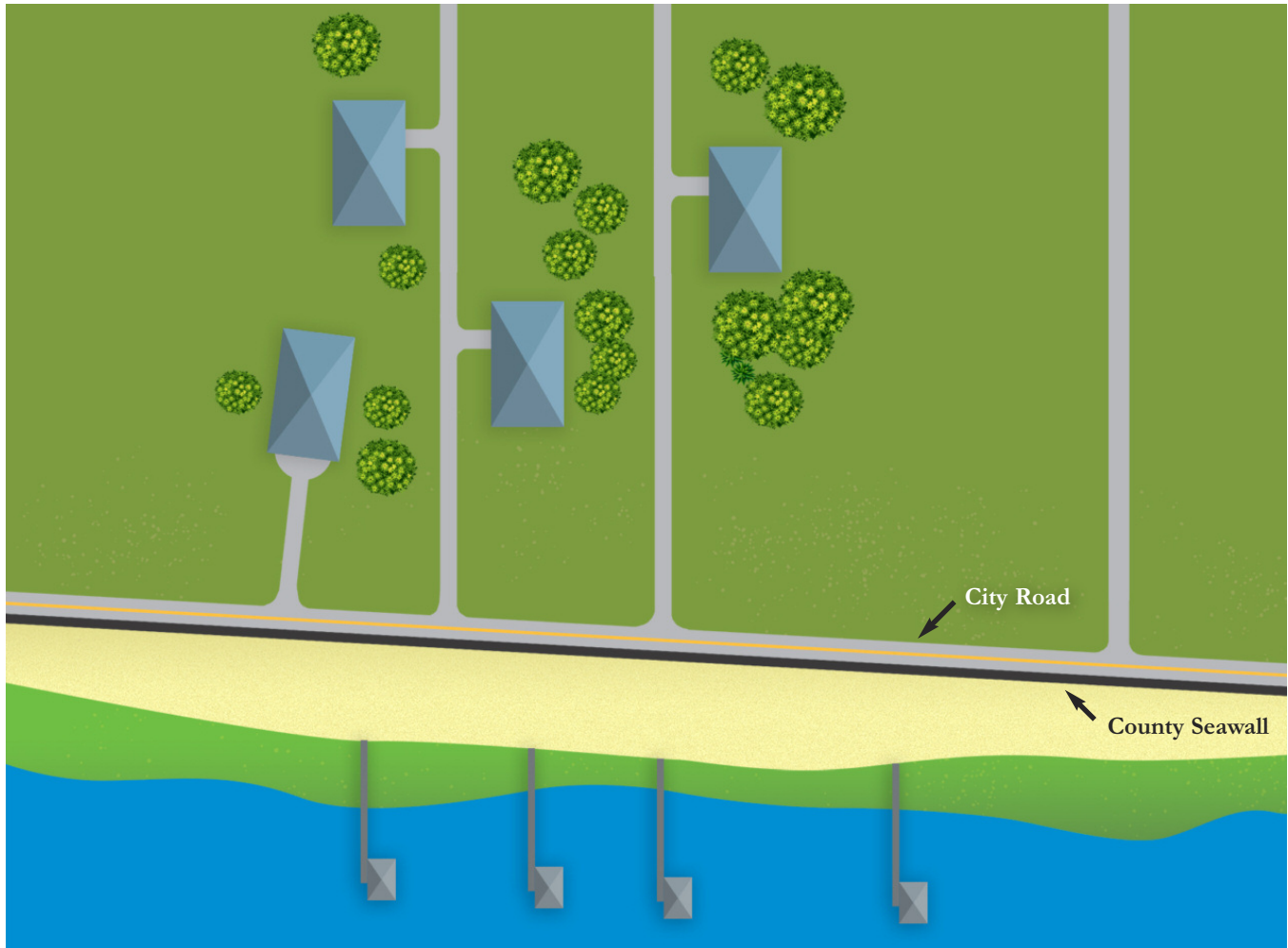


Mississippi Supreme Court Clarifies Ownership of Artificial Beach

Kristina Alexander



Just what part of a beach belongs to the landward property owners and what part to the State of Mississippi? Two neighbors in Ocean Springs, Mississippi went to court to find out.

Land ownership comes with a deed of title describing the metes and bounds of the property. A deed doesn't always answer the question of who owns what, however, especially when water is involved, because water can move the boundary line. When water recedes, adding land to property, that is known as an accretion. Where property is reduced because water shifts upland, that is known as a reliction. In this case, the notion of accretion proved important, especially the distinction between natural accretion and man-made.

Two Ocean Springs property owners each had deeds giving them title to neighboring properties up to “the water’s edge.” The properties are crossed by a city road and a county seawall, but continue across a sandy beach to “the water’s edge.” The owners say they each have paid taxes on the beach property adjoining their land and thought it was theirs. But then, almost ten years ago, the City of Ocean Springs proposed building a sidewalk on the beach, known as East Beach. The landowners objected and sued. The court hearing the dispute of who had title to the beach, found in favor of the landowners. The court held that the state had title only up to the mean high water line because the beach was made by nature. That turned out not to be true.

The issue of beach ownership in this case came down to whether the sandy beach above mean high tide was artificially-created. In Mississippi, beach ownership is determined in part based on a 1989 law called the Tidelands Act, in which the Mississippi Legislature directed the state to produce a map of the Mississippi shoreline to establish which tidelands were owned by the state in trust for the public. The map was finalized in 1994. Despite having a law and a map to establish what tidelands are state owned and what are privately owned, the law and the map did not answer all the questions regarding ownership. While it is true that the official map establishes what the state owns, there can be disputes for changes in the shoreline that do not match the map. Under common property law, the upland owner would acquire title to the accreted land. However, Mississippi case law, which supersedes common law, holds that if the tidelands are artificially created, the state has title, not the upland landowner.¹ (For more on this, and how Alabama law is different, see, “[Jurisdiction on the Coast and at Sea](#),” in Water Log.)

In the case of the Ocean Springs landowners versus the state, the first court punted on the issue of beach creation, saying that as far as the court knew, it was a natural beach.² The state appealed, and the Supreme Court reversed and sent the case back for a trial. This time, the trial court found the beach was man-made, “that there had not been any natural beach along the prior shoreline” before the construction of the seawall by Jackson County and the road by the city.³ Sand had been brought in to make the beach.

Another appeal, this time by the landowners, brought the case before the Mississippi Supreme Court again.

According to the Supreme Court on this appeal, “the dispositive issue is whether or not East Beach was a natural beach or whether it was an artificial beach created along a shoreline without any prior natural beach.”⁴ Testimony and documents introduced at trial indicated that no sand was visible above high tide decades ago but that had changed. A witness reported seeing government workers build the beach by pumping in and trucking in sand. This supported the allegation that the beach was not natural. Because evidence indicated it was an artificial beach created when the state added sand, the court ruled the upland landowners did not have title. The Supreme Court also resolved the issue of the ownership of a sea wall and road on the landowners’ property. The court held the county and city held prescriptive easements to their respective property. 🐼

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Endnotes

1. Miss. State Highway Comm’n v. Gilich, 609 So. 2d 367 (Miss. 1992).
2. Susan Ruddiman, *East Beach property ruling in Ocean Springs could have broad implications to other beaches*, The Mississippi Press (Sept. 6, 2012).
3. Harris v. Mississippi, 2016-CA-01057-SCT, 2018 WL 5839607, *5 (Nov. 8, 2018).
4. Harris v. Mississippi, 2018 WL 58399607, *5.



IN SUM.

A Summation of the Facts and Figures of Interest in this Edition

★ Lead limit in bottled water (per FDA):	5 ppb
★ Lead action level in tap water if found in at least 10% of samples (per EPA):	15 ppb
★ Number of contaminants in private wells regulated under federal law:	0
★ Number of private well users in Mississippi (est.):	353,434
★ Number of residences checked for hookworm in Lowndes County, AL:	24
★ Number of people testing positive for hookworm from those homes:	19