

MSC Opinion: An action to quiet title based on adverse possession need not be filed under the Land Division Act

6. June 2011 By Jeanne Long

On June 3, 2011, the Michigan Supreme Court granted leave to appeal and decided *Beach v Lima*, No. 139394. There, the Court “consider[ed] whether a plaintiff who seeks to establish an adverse possession claim that would affect property in a recorded plat must file a claim under the Land Division Act (LDA), MCL 560.101 *et seq.*, if the plaintiff is not expressly requesting that the plat be vacated, corrected, or revised. The question posed accordingly is whether a nonrecord property holder seeking to establish marketable title by proof of adverse possession must bring such an action under the LDA, rather than solely as an action to quiet title. The Court answered no, holding that an action by a nonrecord property-holder to establish a substantive property right arises independently of an LDA action to vacate, correct, or revise a recorded plat because the LDA only applies *after* such a property right has been recognized. Accordingly, an action to quiet title based on adverse possession need not proceed under the LDA.

In dissent, Justice Markman, joined by Justice Cavanagh, would hold that an action to quiet title based on adverse possession must proceed under the LDA because it is inherently an action to “vacate, correct, or revise a recorded plat or any part of a recorded plat” that arises under the LDA.