



HOMEOWNER DRAINAGE LAWS (An Overview)

Ohio laws governing water rights are complex. They have to be determined by case law, which is constantly evolving. Serious disputes between landowners are often settled in court on a case-by-case basis. The laws are not easily summarized. However, most people who work in the area of drainage or water management would agree that the following principles apply to landowners.

- A landowner is entitled to the reasonable use of the water that flows across his / her land as long as the water is returned to its natural watercourse. This includes ponding water behind a dam for personal use or making drainage improvements to protect structures.
- A landowner is generally required to accept the water that flows onto his/her property in a natural water course so long as no additional water from another watershed has been added to such flow. Subsurface drainage (clay or tile) that has been installed for more than 21 years is considered a natural watercourse.
- A landowner is generally obligated to outlet a natural watercourse onto his/her down-stream neighbor at the same point the water left the property prior to any development of the site. Changing the flow of water in a manner that causes damage to an up stream or downstream neighbor may result in legal liabilities for those damages.
- At this time, the authority to issue orders or resolve conflicts over water rights or drainage problems between neighbors lies with the common pleas court. The exception may be the few cities, which have drainage or stormwater ordinances.
- The Hamilton Soil and Water Conservation District can provide guidance on drainage issues for individual landowners. Hamilton SWCD will not mediate conflicts between neighboring landowners.
- The county petition ditch process provides a mechanism for landowners to cooperate with the county commissioners and engineer to solve drainage problems. The landowners in a watershed then pay for the construction and continued maintenance based on their acres of benefits derived from the drainage improvement.

Resources and References:

- This is a brief summary of “Water Right in **Ohio**”, Wright, Paul L., et. Al. AGDEX 817, a bulletin available through OSU Extension Offices.
- The same information is found Bulletin 822, "**Ohio Drainage Laws: A Brief Overview**", Brown, Larry C. and Stearns, Jodi L. published by OSU Extension Office. To get a copy and more information check their website at www.ohioline.ag.ohio-state.edu or call (614) 462-6700.