

# Adirondack Daily Enterprise

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## Both sides hold firm in marina dispute

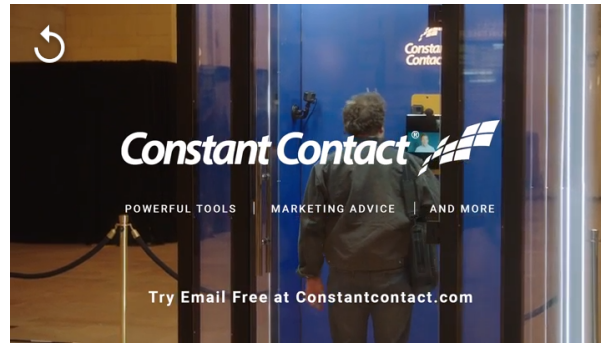


The Lower Saranac Marina on Crescent Bay is seen in November 2017. (Enterprise photo — Glynis Hart)

SARANAC LAKE — Two members of ACME of Saranac LLC, a group fighting expansion of the Lower Saranac Marina, say a compromise on the projected size of the marina's expansion could end several years of litigation.

However, they said no reduction in planned boat slips was offered in meetings they had with Mike Damp, the managing member of LS Marina, and Keith Stoltz, an investor in the project.

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*“I don’t think the marina has any interest at all in reducing, in terms of numbers. I think their position is pretty clear,”* said William Curran, an ACME member and a neighbor of the project on Lower Saranac Lake’s Crescent Bay. *“That would be a remedy, but somebody has to start that conversation and it certainly isn’t the folks at the marina.”*

Damp contested this statement, saying the marina has offered compromises that address the neighbors’ concerns.

*“They refuse the compromises we offer and show no willingness to meet again,”* Damp wrote in an email. *“It is evident that the Acme members are not interested in settling this case or compromise.”*

LS Marina would like to expand its main marina in Crescent Bay from 70 boat slips and 12 mooring balls to 175 slips. At its annex property in Ampersand Bay, it wants to increase the boat slips from 80 to 110.

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Underwater land dispute

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In seeking state approval for the project, it was discovered that LS Marina did not own an 11-acre plot of underwater land in Crescent Bay, into which it wanted to expand. ACME bought that submerged property in 2017, effectively stopping the project from proceeding, except through the court.

LS Marina filed civil proceedings to claim the 11-acre underwater land through adverse possession. That is how an entity may gain ownership over a neglected piece of land if it publicly moves onto the plot and improves it. State law requires that such an entity must have possessed the land for 10 years or more. It is LS Marina's position that in the course of the 100-year-old marina's lifespan, it has fulfilled those requirements on this land.

*"This case is very, very narrow. Who owns the land: LS Marina or ACME of Saranac? Does LS Marina have a right to the land by adverse possession: yes or no?"* Curran said. *"The court is not saying anything about the noise or the number of boats."*

LS Marina LLC had been seeking a summary decision, or a decision without a trial.

*"It's certainly within our rights, if we have grounds for an objection, to object,"* Curran said. *"But to put it on the safe side, that's why a court's deciding this."*

Judge John Ellis of the state Supreme Court in Franklin County found the dispute trial-worthy, based on the date of a 154-foot dock being built *"in or about 2006,"* as its date of entry onto a portion of the claimed area, according to documents from the decision on July 6, 2018.

LS Marina has appealed the decision, and Norfolk has said he expects to hear back this summer. If the case goes to trial, Norfolk said it will likely happen in the fall.

*"Even if the court decides against our position on this, we aren't dead in the water,"* Curran said. *"You have two entities that are pretty certain they're going to stick with this."*

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Opposing viewpoints

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Members of ACME have repeatedly said they are not against the marina improvements — only the scale of them.

*“No one has ever written or said publicly or privately, to my knowledge, that they did not want a marina to be there,”* Curran said. *“The issue is the number of slips.”*

*“I’m interested in it being renovated, improved,”* said Charlie Wilcox of ACME, another Crescent Bay neighbor, *“but what they want is just excessive. ... That would change the nature of the lake pretty significantly.”*

Damp said the company has improved the quality of the lake and plans to continue to do so.

*“We took a 95-year-old delinquent, failed marina that had been a detriment to the environment for decades and transformed it into a modern, environmentally-friendly marina,”* Damp wrote.

*“While their concerns are misplaced, Lower Saranac Lake is a public lake and the marina had long existed before they decided to have a home or second home in Crescent Bay,”* said Matthew Norfolk of Briggs and Norfolk, the Lake Placid law firm representing LS Marina. *“They cannot expect to have Crescent Bay be their own private lake and keep others out.”*

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Stoltz’s role

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Members of ACME said that in meetings they had with Stoltz, he said he owns the 99% of the LS Marina company. Damp said that is not the case.

*“He is an investor in the marina. I am the managing member of LS Marina,”* Damp wrote. *“It was my plan to purchase the old Duso’s marina and transform it into a state-of-the-art commercial marina. Keith merely invested in the project.”*