

Ebb and Flow
Lake Level Dynamics along the
Lake Michigan Shore
*Implications for Shoreline Management,
Policy, and Law*

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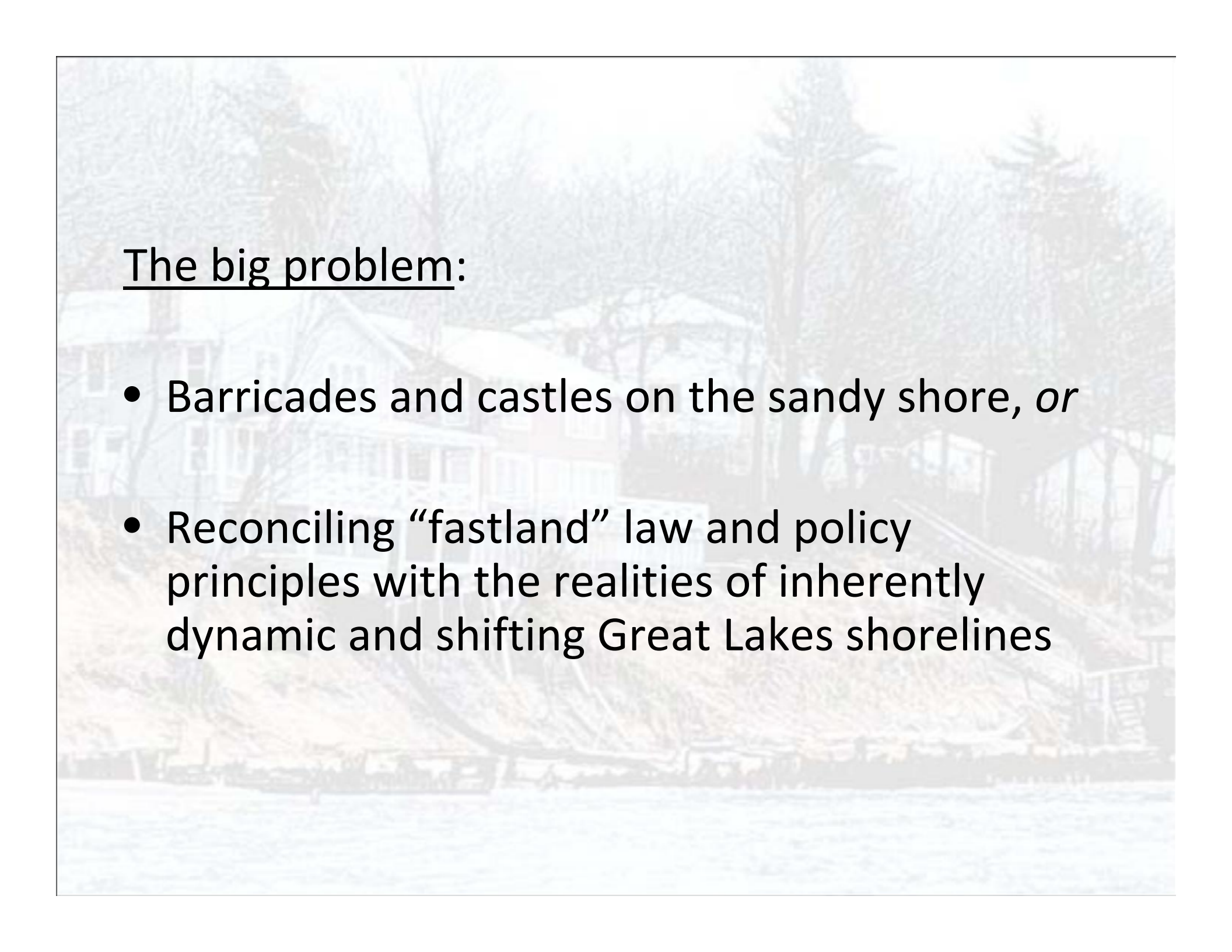
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The big problem:

- Barricades and castles on the sandy shore, *or*
- Reconciling “fastland” law and policy principles with the realities of inherently dynamic and shifting Great Lakes shorelines



Two big issues (public imperatives):

1. Public Trust Shorelands

2. Shoreline Management, to avoid:

- Destruction of important coastal ecosystems
- Placement of structures in high hazard areas
- Resulting need to build hardened structures that undermine natural shoreline dynamics
- Resulting public costs from disaster relief

Challenges: *Public Trust*

- Determine:
 - Dividing line between *public trust land* and *private property*
 - Types and extent of access/uses implicated
- Reconcile:
 - Public trust obligations, fastland laws and principles, shoreland owner expectations

Challenges: *Shoreline Management*

- Determine:
 - Dividing line between the *dynamic beach* and *stable/permanent upland*
 - Effects of shoreline modifications on the normal functioning of shoreline systems
- Reconcile:
 - Public health, safety, and fiscal obligations, fastland laws and principles, shoreland owner expectations

Basic Management Approaches (& Challenges)

1. Limit public infrastructure / support for near shore development

- *Runs counter to land development norms, landowner expectations, and fiscal pressures on local government to promote development*

2. Regulate near shore/shoreline development

- *Runs counter to norms and fiscal pressure*
- *Complicated by spatially, jurisdictionally, and administratively fragmented government*
- *Raises the specter of regulatory takings claims*

Common Management Tools

1. Shoreline Access (Public Trust):

- Public acquisition of shoreline (fee or easement)
- Common law / constitutional provision for public access

2. Shoreline Management

- Set back / buffer requirements
- Shoreline structure restrictions
- Habitable structure restrictions / requirements
- “No repair” policy
- Formal “shoreline retreat” policy
- Formal integrated coastal management policy

The Lake Michigan Shore

1. Public Trust (via *Glass v Goekel*)

- Public Trust boundary delineated at ~ visible line
- Public trust access clearly includes strolling (but what else?)

2. Shoreline Management:

- Part 323 (Shorelands Protection & Management):
- Part 325 (Submerged Lands)
- Part 353 (Sand Dunes Protection and Management)