

## Michigan Supreme Court to Review Use of Drone Searches Without a Search Warrant

June 16, 2023 - Todd Maxon owns 5 acres of land in Long Lake Township, Michigan. He uses the property to store a variety of older vehicles, which he is working to restore. All of the vehicles are parked out of public view, and what he does out of public view is really nobody's business. Unfortunately for Maxon, the township's zoning commission doesn't see it that way and they have been in a long running zoning dispute with him. And as a part of that dispute, they used drones to search his property repeatedly without ever obtaining a search warrant. Michigan's Supreme Court has now agreed to take a look at those searches and determine if they are actually legal.

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Maxon's run-ins with the township zoning authorities began in 2007. That's when the town sued him for a zoning violation and they lost. The township was forced to drop the suit and cover all of his legal fees. But that didn't end the dispute. Eventually, the town decided to use a drone to fly over his property and photograph it, looking for zoning violations. The drone flights happened repeatedly over a two-year period of time and the pictures taken by the drone were used in a court case which Maxon lost.

The court actually determined that even if the flights and the pictures they gathered had been obtained unconstitutionally, they could still be used against Maxon for purposes of civil code enforcement. But Maxon's attorneys - working for the Institute for Justice - appealed that ruling and now Michigan's high court will weigh in.

What the township did to Maxon is a pretty clear violation of the 4th Amendment prohibition on unreasonable searches. Whether or not the Michigan Supreme Court will see it that way is still to be determined. But if they don't rule in favor of Maxon, the case could move to federal court. The case will be taken up in the court's next term. A trial date has not been set yet.

by Jim Malmberg

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