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Court delves into Florida beach dispute

A group of homeowners in Florida have sued state and county officials for a beach renovation project they say has deprived them of their property rights. Steve Henn reports.

TEXT OF STORY

KAI RYSSDAL: A lot of people out there would probably love to have a house right on the beach someplace. Unobstructed access to the surf and the sand. Tomorrow the Supreme Court is going to take up a case that's mostly about that sand as Marketplace's Steve Henn reports.



U.S. Supreme Court building (Getty Images)

STEVE HENN: Owning a house on the beach is a beautiful thing, but in most parts of the country it's also a big risk. That's because your property line is tied to the water line, which shifts naturally.

JULIA WYMAN: When you buy a home on the water you sometimes get a little, you sometimes lose a little. And that's why that's sort of a dynamic boundary.

Julia Wyman is a lawyer representing coastal states. She says in many places if a storm washes away your front yard, c'est la vie. Florida is a bit different. There, the state can set a so-called erosion control line at the high-tide mark.

WYMAN: It's a fixed line in the sand if you will.

Above that line is private property. Below it is a public beach. And it's that line in the sand that's led to this Supreme Court case. Every year, Florida officials dump tons of sand along miles of coast to preserve the state's top tourism draw: its beaches. But the program also creates strips of new public beach.

Ilya Shapiro is an attorney at the Cato Institute. He says that's a problem.

ILYA SHAPIRO: It has the potential of converting people's beach-front property into beach-view property and that's definitely a difference.

Meaning a beach-front house isn't really on the water anymore and instead looks out on a public beach open to anyone. So six years ago, a half-dozen home owners in Walton County, Fla., sued to stop the state and local authorities from creating new public beach land between their homes and the Gulf of Mexico. They argued the state was taking away their exclusive access to the water without compensation. The Florida Supreme Court disagreed.

Lawyer Doug Kendall filed a brief in support of state authorities.

DOUG KENDALL: What the state has done is provide an enormous benefit to these property owners by guaranteeing, notwithstanding any hurricanes or erosion that nature may bring, that we will rebuild the beach in front of your property

and spend millions of dollars to do so.

If the Supreme Court sides with homeowners, Julia Wyman, the lawyer for coastal states, says it would force Florida to pay waterfront property owners whenever new public beaches are created.

WYMAN: It would, I'm sure, add a layer of cost, certainly.

And it could tie the state's hands at a time when the climate is changing, and she fears more intense storms and rising sea levels.

WYMAN: We're going to be constantly facing these new threats, and allowing the states to best deal with these threats really is in the best interest of the nation as a whole.

Wyman says states should be allowed to protect the coasts, and federal courts should stay out of it.

In Washington, I'm Steve Henn for Marketplace.

COMMENTS

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By sandi campbell
12/02/2009

Having grown up in Florida, I've seen the beach-front homeowners expect the taxpayers to rebuild their properties multiple times after storms. I think they want their cake and be able to eat it, too. Don't re-nurish the beaches and let the sea take their fancy houses in the next storm and listen to them howl.

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