

U.S. Supreme Court to Examine Florida Beach Case

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Florida's sandy white beaches and the rights of property owners are colliding in a case pitting the two against each other before the U.S. Supreme Court later this week.

At hand is the issue of whether the Florida Supreme Court stripped coastal property owners of their rights by upholding a state policy to rebuild miles of beaches across the Florida Panhandle.

More than 40 years ago, the Florida Legislature enacted the Beach and Shore Preservation Act in response to coastline damage caused by hurricanes. The act authorized the state to rebuild beaches that were being threatened by erosion. But the state's preservation efforts started causing a debate over where a person's beachfront property line really was.

Part of the legislation to fix the beaches involves language establishing a property line for the beaches. The legislation instructed the state to fix an erosion control line, which would become the new permanent boundary between the private land and the state land. Often, this is set at the mean high water line, a boundary that fluctuates as the beach grows or erodes. But while the mean high water line would fluctuate, the erosion control line would not.

So even if the beach grew, individual ocean front property would not.

A group of Walton County homeowners filed suit against the state arguing that because the erosion control line did not follow the other one, it would leave a strip of land between their property and the Gulf of Mexico that could be considered a public beach. This would reduce the value of their property, which had originally been billed as beachfront.

The state, they argued, had not properly compensated them for the loss of property value.

The Florida Supreme Court, in a 5-2 decision, ruled in 2008 that the state had not violated property owners' rights with the re-nourishment project.

"In addition to its duties under the public trust doctrine, the State has an obligation to conserve and protect Florida's beaches as important natural resources," former Justice Kenneth Bell wrote in the opinion.

On Wednesday, the U.S. Supreme Court will have a chance to weigh in on the issue, which some judicial watchers say could have national implications. Twenty six states have filed a joint brief supporting Florida.

The Walton County landowners, the 26 states said, are "proposing an ill conceived new doctrine that would undermine the state's well established and traditional authority to determine the scope of their own property laws."

More than 20 groups have filed amicus briefs on the case. Environmentalists, property rights groups and different levels of government have all weighed in on the case so far.

The Florida Association of Counties, the Florida League of Cities and the Florida Shore and Beach Preservation Association, which also filed a brief supporting the state, cautioned that the program might be discontinued if the state was forced to pay every beachfront property owner in the state as part of the environmental program.

"The outcome of this case will decide whether the beach restoration program will continue in Florida, as well as similar programs in the rest of the country," the group argued in its brief.

But, the CATO Institute, a conservative think tank in Washington D.C., sees it differently, and wrote that the state should not avoid paying landowners for a loss in property value that was caused by the government.

"The government should not be encouraged, or permitted, to avoid paying just compensation by way of formalistic trickery," the Institute lawyers wrote.