

Coastal Voice/special edition

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The decision

In a much anticipated finding, the U.S. Supreme Court In a unanimous decision concluded the Florida Supreme Court did not take private property without just compensation in violation of the U.S. Constitution in its ruling governing the restoration of our beaches.

The case centered on an appeal of a Florida Supreme Court decision by a Walton County group formed in 2004 to challenge a local beach restoration plan. Owners objected that the renourished beach seaward of a state-set erosion control line and behind their homes would become public land, as is mandated by state law.

ASBPA president Harry Simmons stated, "While the case before the court was technically a Florida matter, the results of the case have implications for coastal communities nationwide. ASBPA is dedicated to the efforts of our members in Florida and elsewhere who are working hard to maintain, protect and enhance the coasts of America. We believe the state of Florida was correct in its approach to restoring beaches, and are very happy that the high court agrees."

The full text is online at <http://www.supremecourt.gov/opinions/09pdf/08-1151.pdf>

More background on the case is available at:

http://scotuswiki.com/index.php?title=Stop_the_Beach_Renourishment,_Inc._v._Florida_Department_of_Environmental_Protection

The outcome

From the SCOTUS Blog:

In *Stop the Beach Renourishment v. Florida Department of Environmental Protection* (08-1151), the Court affirms, in an **opinion** by Justice Scalia. Justice Kennedy writes separately, concurring in part and in the judgment, joined by Justice Sotomayor; Justice Breyer concurs in part and in the judgment, joined by Justice Ginsburg. Justice Stevens did not participate in the decision.

- *Holding:* The Florida Supreme Court did not take property without just compensation, in violation of the federal Constitution in its ruling governing the restoration of beach front land.

— Courtesy Akin Gump Strauss Hauer & Feld LLP

Florida reaction:

A statement from Florida Department of Environmental Protection Secretary Michael W. Sole:

“We are extremely pleased with today’s order from the United States Supreme Court which upholds Florida’s position regarding the importance of beach restoration. Florida’s Beaches and Shore Preservation Act implements the State’s constitutional duty to protect Florida’s beaches, and achieves a reasonable balance between public and private interests in the shore.

“This unanimous decision affirms the Florida Supreme Court’s conclusion that Florida Department of Environmental Protection implementation of the erosion control program and beach nourishment provides a significant level of storm protection benefits for upland properties and infrastructure, restores the recreational beach, and achieves a reasonable balance of public and private interest in the shore.

“Beaches have multiple benefits including protection from storm surges, providing habitat for plants and animals, enhancing property values, providing recreational space and providing employment, wages, and income to the state. For every dollar invested in beach restoration, the State receives a \$6 to \$8 economic return in state taxes from the more than 27 million visitors that visit the states beaches annually.”

Background:

In August 2009, the ASBPA executive committee voted unanimously for ASBPA to financially support the joint amicus brief filed by the Florida Shore & Beach Preservation Association, the Florida Association of Counties and the Florida League of Cities in the U.S. Supreme Court case entitled "Stop the Beach Renourishment v. The Florida Department of Environmental Protection et al."

Other amicus briefs in support of the Florida decision included those from:

- Brevard County, Florida
- Surfrider Foundation
- Coastal States Organization
- American Planning Association and the Florida Chapter of the American Planning Association
- The Florida Association of Counties
- The Florida League of Cities
- States of California, Arkansas, Delaware, Illinois, Iowa, Louisiana, Maine, Maryland, Massachusetts, Michigan, Mississippi, Montana, Nebraska, Nevada, New Hampshire, New Jersey, Ohio, Oregon, Rhode Island, South Carolina, South Dakota, Tennessee, Virginia, Washington, West Virginia and Wyoming
- United States of America
- National Association of Counties
- National League of Cities,
- U.S. Conference of Mayors
- International City/County Management Association
- International Municipal Lawyers Association