

6-1-1992

Appendix to Amicus Curiae Brief: Selected Provisions of the South Carolina Beachfront Management Act

Recommended Citation

Appendix to Amicus Curiae Brief: Selected Provisions of the South Carolina Beachfront Management Act, 25 Loy. L.A. L. Rev. 1254 (1992).
Available at: <http://digitalcommons.lmu.edu/llr/vol25/iss4/10>

This Symposium is brought to you for free and open access by the Law Reviews at Digital Commons @ Loyola Marymount University and Loyola Law School. It has been accepted for inclusion in Loyola of Los Angeles Law Review by an authorized administrator of Digital Commons@Loyola Marymount University and Loyola Law School. For more information, please contact digitalcommons@lmu.edu.

APPENDIX

SECTION 48-39-30. LEGISLATIVE DECLARATION OF STATE POLICY.

- (A) The General Assembly declares the basic state policy in the implementation of this chapter is to protect the quality of the coastal environment and to promote the economic and social improvement of the coastal zone and of all the people of the State.
- (B) Specific state policies to be followed in the implementation of this chapter are:
 - (1) To promote economic and social improvement of the citizens of this State and to encourage development of the citizens of this State and to encourage development of coastal resources in order to achieve such improvement with due consideration for the environment and within the framework of a coastal planning program that is designed to protect the sensitive and fragile areas from inappropriate development and provide adequate environmental safeguards with respect to the construction of facilities in the critical areas of the coastal zone;
 - (2) To protect and, where possible, to restore or enhance the resources of the State's coastal zone for this and succeeding generations;
 - (3) To formulate a comprehensive tidelands protection program;
 - (4) To formulate a comprehensive beach erosion and protection policy including the protection of necessary sand dunes;
 - (5) To encourage and assist state agencies, counties, municipalities and regional agencies to exercise their responsibilities and powers in the coastal zone through the development and implementation of comprehensive programs to achieve wise use of coastal resources giving full consideration to ecological, cultural and historic values as well as to the needs for economic and social development and resources conservation.
- (C) In the implementation of the chapter, no government agency shall adopt a rule or regulation or issue any order that is unduly restrictive so as to constitute a taking of

property without the payment of just compensation in violation of the Constitution of this State or of the United States.

- (D) Critical areas shall be used to provide the combination of uses which will insure the maximum benefit to the people, but not necessarily a combination of uses which will generate measurable maximum dollar benefits. As such, the use of a critical area for one or a combination of like uses to the exclusion of some or all other uses shall be consistent with the purposes of this chapter.
- (E) It shall be the policy of the State to coordinate the coastal planning and management program effort with other coastal states and organizations of coastal states.

SECTION 48-39-250. LEGISLATIVE FINDINGS REGARDING THE COASTAL BEACH/DUNE SYSTEM.

The General Assembly finds that:

- (1) The beach/dune system along the coast of South Carolina is extremely important to the people of this State and serves the following functions:
 - (a) protects life and property by serving as a storm barrier which dissipates wave energy and contributes to shoreline stability in an economical and effective manner;
 - (b) provides the basis for a tourism industry that generates approximately two-thirds of South Carolina's annual tourism industry revenue which constitutes a significant portion of the state's economy. The tourists who come to the South Carolina coast to enjoy the ocean and dry sand beach contribute significantly to state and local tax revenues;
 - (c) provides habitat for numerous species of plants and animals, several of which are threatened or endangered. Waters adjacent to the beach/dune system also provide habitat for many other marine species;
 - (d) provides a natural healthy environment for the citizens of South Carolina to spend leisure time which serves their physical and mental well-being.

- (2) Beach/dune system vegetation is unique and extremely important to the vitality and preservation of the system.
- (3) Many miles of South Carolina's beaches have been identified as critically eroding.
- (4) Chapter 39 of Title 48, Coastal Tidelands and Wetlands, prior to 1988, did not provide adequate jurisdiction to the South Carolina Coastal Council to enable it to effectively protect the integrity of the beach/dune system.

Consequently, without adequate controls, development unwisely has been sited too close to the system. This type of development has jeopardized the stability of the beach/dune system, accelerated erosion, and endangered adjacent property. It is in both the public and private interests to protect the system from this unwise development.

- (5) The use of armoring in the form of hard erosion control devices such as seawalls, bulkheads, and riprap to protect erosion-threatened structures adjacent to the beach has not proven effective. These armoring devices have given a false sense of security to beachfront property owners. In reality, these hard structures, in many instances, have increased the vulnerability of beachfront property to damage from wind and waves while contributing to the deterioration and loss of the dry sand beach which is so important to the tourism industry.
- (6) Erosion is a natural process which becomes a significant problem for man only when structures are erected in close proximity to the beach/dune system. It is in both the public and private interests to afford the beach/dune system space to accrete and erode in its natural cycle. This space can be provided only by discouraging new construction in close proximity to the beach/dune system and encouraging those who have erected structures too close to the system to retreat from it.
- (7) Inlet and harbor management practices, including the construction of jetties which have not been designed to accommodate the longshore transport of sand, may deprive downdrift beach/dune systems of

their natural sand supply. Dredging practices which include disposal of beach quality sand at sea also may deprive the beach/dune system of much-needed sand.

- (8) It is in the state's best interest to protect and to promote increased public access to South Carolina's beaches for out-of-state tourists and South Carolina residents alike.
- (9) Present funding for the protection, management, and enhancement of the beach/dune system is inadequate.
- (10) There is no coordinated state policy for post-storm emergency management of the beach/dune system.
- (11) A long-range comprehensive beach management plan is needed for the entire coast of South Carolina to protect and manage effectively the beach/dune system, thus preventing unwise development and minimizing man's adverse impact on the system.

SECTION 48-39-260. POLICY STATEMENT.

In recognition of its stewardship responsibilities, the policy of South Carolina is to:

- (1) protect, preserve, restore, and enhance the beach/dune system, the highest and best uses of which are declared to provide:
 - (a) protection of life and property by acting as a buffer from high tides, storm surge, hurricanes, and normal erosion;
 - (b) a source for the preservation of dry sand beaches which provide recreation and a major source of state and local business revenue;
 - (c) an environment which harbors natural beauty and enhances the well-being of the citizens of this State and its visitors;
 - (d) natural habitat for indigenous flora and fauna including endangered species;
- (2) create a comprehensive, long-range beach management plan and require local comprehensive beach management plans for the protection, preservation, restoration, and enhancement of the beach/dune system. These plans must promote wise use of the

- state's beachfront to include a gradual retreat from the system over a forty-year period;
- (3) severely restrict the use of hard erosion control devices to armor the beach/dune system and to encourage the replacement of hard erosion control devices with soft technologies as approved by the South Carolina Coastal Council which will provide for the protection of the shoreline without long-term adverse effects;
 - (4) encourage the use of erosion-inhibiting techniques which do not adversely impact the long-term well-being of the beach/dune system;
 - (5) promote carefully planned nourishment as a means of beach preservation and restoration where economically feasible;
 - (6) preserve existing public access and promote the enhancement of public access to assure full enjoyment of the beach by all our citizens including the handicapped and encourage the purchase of lands adjacent to the Atlantic Ocean to enhance public access;
 - (7) involve local governments in long-range comprehensive planning and management of the beach/dune system in which they have a vested interest;
 - (8) establish procedures and guidelines for the emergency management of the beach/dune system following a significant storm event.

SECTION 48-39-280. FORTY-YEAR RETREAT POLICY.

- (A) A forty-year policy of retreat for the shoreline is established.