



High Court to decide who owns our beach?

Future of Captiva Beach Nourishment hangs in the balance. Come to the CEPD Town Hall meeting

A critical matter, long thought settled, finds the Supreme Court of the United States (SCOTUS) weighing the future of Florida beaches against personal property rights under the 5th and 14th amendments. In particular, Captiva Island's renowned beach nourishment program and beach front property owner rights are brought into question. [SCOTUS blog for background info: http://tr.im/our_beaches_at_risk]

The questions:

- Who owns the beach?
- Will all (or most) beach front deeds and titles survive intact?
- Will CEPD beach nourishments continue?
- Will this affect Captiva property values?

Legislation being challenged: long standing Florida statute 161, the "Beach and Shore Preservation Act (BPA)" [see <http://tr.im/cepdbspa>], is the foundation for the Captiva Erosion Prevention District's (CEPD) enabling legislation for beach nourishment activities.

A small group of Walton County property owners, known as "Stop the Beach Renourishment," petitioned SCOTUS to overturn Florida's Supreme Court which previously decided in favor of Walton County and FL DEP (winter, 2008.) As the court deliberates on *Stop the Beach Renourishment v. Florida* (08-1151), the pending decision raises important questions for Captiva, Sanibel and most Florida beach related communities. Should SCOTUS hold with the petitioners, beach front owners and would be owners will need to be assured that title insurance and deeds remain unimpaired by the possible outcomes. Without CEPD beach management processes known as beach nourishment and the erosion deterring rock groins at Redfish and Blind Passes, will Captiva's beach once more fall into a critical state of erosion similar to the pre-1990's Captiva beach? Should the court decide against existing state legislation, will ancillary funding for CEPD become a distant memory? If the future of beach ownership is affected, will the CEPD nourishment process come into doubt?

Captiva's not too distant past saw prized beaches, houses and roads imperiled by aggressive erosion; indeed area beachfront homes have washed away in our lifetimes. Prior to the CEPD nourishment program in the late 1980's, Captiva's beach eroded severely after Redfish Pass opened in 1929. By 1959, the CEPD was founded to address the matter of critical erosion, yet it took another 25 years and many failures before Captivans finally agreed upon the current working solution. As

much as 500 feet of gulf front Captiva disappeared; this included the "Old Gulf Road" (seaward and parallel to Captiva Drive). Captivans were confounded for years over feasible erosion prevention measures. Even as the owners of South Seas resort pioneered nourishing the north end beach adjacent to the resort, the middle and south end Captiva beachfront was "on the rocks." The remaining County road, Captiva Drive, washed out near Tween Waters as Captiva remained bitterly divided. Finally, this contentious period known as "the sand wars," ended with beach nourishment supporters prevailing over the opponents to nourishment. CEPD became empowered by Captiva to nourish the beach. Future decisions on nourishment will be decided by Captiva voters.

The beach nourishment process is indeed involved and costly. Over twenty years and after three successful nourishments, the CEPD pumped a total of four million cubic yards of sand onto our beaches. Despite that ongoing erosion continues a net sand gain is achieved. However, the erosion process is only partially abated by the nourishment process. Since 1988 and over the ensuing 20+ years, at approximately eight year intervals, the nourishment process has been the method of protecting Captiva's shoreline. During those halcyon decades, Captiva property values multiplied more than six fold from a base value of \$225 million in 1985. The beach nourishment has added sand and over a billion dollars in property value was also created on Captiva. Captiva beach exists, as we now know it, because of several beach nourishments. But, the pending court decision may inhibit ancillary government funding from supporting CEPD's beach nourishment.

Without doubt, the process requires ongoing maintenance. Captivans have to decide whether to maintain CEPD's beach program and whether or not to do beach nourishments. But, the pending court decision may inhibit ancillary government funding from supporting CEPD's beach nourishment. The future cost of nourishment may be born entirely or at least substantially by Captiva property owners.

The most recent nourishment project occurred in 2005/6 and was supplemented in 2008. The process resulted in 1.3 million yards of sand having been placed on Captiva (and the northern end of Sanibel). Exacerbated by the many storms of the period, the project cost \$25 million dollars. Captiva property owners were assessed \$5.6 million with an unprecedented \$1 million to reduce assessments funded from CEPD reserves (by unanimous vote of the CEPD board); with ancillary funding of \$18+ million having been obtained from federal, state and county sources.

To learn more about the critical SCOTUS case which will determine the ownership of Captiva's beach attend the CEPD town hall meeting: March 3rd, 6pm, Wakefield Room, courtesy of Tween Waters. Other topics: the Supreme Court case, what's happening with Blind Pass, and the next beach nourishment process? Can't come? There is another meeting on March 31st, at 10am, same place. Or Join CEPD's E- mail list at mycepd@gmail.com