

**"IT WASN'T DONE THE WAY THAT A REAL ESTATE ATTORNEY WOULD HAVE IT BE DONE, AND I DON'T KNOW THE REASON IT WAS DONE THAT WAY."**

*-City Attorney Thomas Trask*

# A LOSS OF BEACH ACCESS? BELLEAIR BEACH FEARS BEING EXCLUDED FROM FUTURE RENOURISHMENT PROJECTS

**B**ELLEAIR BEACH—This small coastal community could lose one of its public beach access points, and city leaders fear that might shut them out of future beach renourishment projects.

A Gulf-front condominium complex wants to take back a 50-year easement it granted the city in 1996, alleging Pinellas County has failed to restore and maintain the beach in accordance with the terms of the easement.

Lawyers for the Tortugas De Mar condo complex, at 2500 Gulf Blvd., assert the easement was invalidated by the county's emergency sand dune project two years ago.

County attorneys and city officials disagree.

The 4-foot-wide sidewalk easement is on the south end of the complex and is easy to miss, identified only by a small sign along Gulf Boulevard that reads "Beach Access City of Belleair Beach."

The condo association's attorney, Bennett L. Rabin, sent a certified letter in June to Pinellas and Belleair Beach, saying the association was exercising its "reversion rights" under a resolution that granted the easement to the city.

The continued validity of the public easement was contingent upon the U.S. Army Corps of Engineers and/or the State of Florida and/or the County

*Mayor Dave Gattis said he hopes the issue "doesn't ruin our chances of getting beach nourishment."*

*Photo from City of Belleair Beach.*

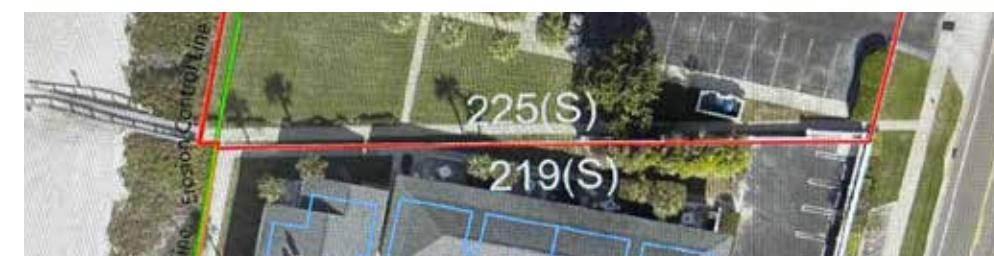


of Pinellas to restore and maintain the beach seaward of the established erosion control line so as to provide reasonable protection from storm events," Rabin wrote.

"As of 2023, the County's activities within the coastal construction zone, departing materially from the original restoration plan, have disrupted these conditions, resulting in the cessation of the easement's public purpose and use as defined," he continued. "The Association is exercising its right of reversion . . . effective 30 days from receipt of this notification. The easement and all related improvements shall revert to the Association, and the County's rights therein shall cease."

Assistant county attorney Maria White sent a response saying the county disagrees with Rabin's legal interpretation and that the easement "remains valid and in effect."

"The county has continued its ongoing beach restoration efforts seaward of the [erosion control line] in the subject area," White wrote on July 11. "Therefore,



*The Tortugas De Mar Condominium Association wants to take back this beach access easement it granted Belleair Beach in 1996. Aerial from Pinellas County Property Appraiser's Office.*

no condition exists which would trigger a reversion of the easement area or otherwise render the easement invalid or ineffective."

Rabin elaborated in a follow-up letter July 22, saying the reversion was triggered by the \$37 million beach restoration project the county initiated after Hurricane Idalia in 2023. The project consisted of building 10-foot-high dunes between Belleair Beach and St. Pete Beach.

Rabin claimed the county violated a state permit authorizing the work when it "overbuilt" a berm adjacent to the 30-unit condo complex, which "resulted in a direct and unlawful obstruction of the Association's access to the water" and amounted to a "wrongful taking."

The fact that it happened two years ago "in no way extinguishes or impairs" the association's reversion rights, as provided in the resolution, he wrote.

The resolution states the easement temporarily reverts back to the condo association 30 days after the city and the county receive written notification, which was sent June 27. It states the easement can be reinstated if certain conditions are met.

Last week, City Manager Kyle Riefler told Beach Scene, "It is the City of Belleair Beach's position that the easement is still valid and in effect."

Rabin did not respond to an email asking about the easement's status last week.

At a Belleair Beach City Coun-

Rocks Beach, has four beach accesses. Only one, at Morgan Park, has public parking.

There are other parking areas for the public, but most are farther away along the causeway that links the beach and the mainland. There is no public parking allowed along two-lane Gulf Boulevard or the side streets.

The county is responsible for building the beach accesses along its coastline, while municipalities maintain them.

"I really hope this doesn't ruin our chances of getting beach nourishment," Mayor Dave Gattis said. "Because it would be very easy for them just to skip us, like they skipped Belleair Shore."

Belleair Shore, Belleair Beach's neighbor to the south, does not provide for public access.

City Attorney Thomas Trask told the council the original agreement was a resolution-based easement without formal recording, limiting the city's recourse.

"It was a resolution that was adopted by this council a number of years ago saying, 'We will do this and you do that,'" Trask said. "It wasn't done the way that a real estate attorney would have it be done, and I don't know the reason it was done that way."

Condo owners would directly benefit from a restored beach, so Gattis questioned whether they were aware of the possible consequences of taking back their easement.

Council member Kimberly Shaw Elliott asked about taking the property for public use under eminent domain, although that option was met with what appeared to be reluctance.

"It's for the benefit of the entire community," she said.

Gattis said he hopes the issue doesn't stymie the county's upcoming \$125.7-million beach restoration project, which includes Belleair Beach. The work is scheduled to start in September.

"We need [the sand] for our protection," the mayor said, citing significant damage from last year's hurricanes.

cil meeting in July, council members discussed the potential implications of the easement's revocation — including disqualification from future federally funded beach renourishment projects for having too few public beach accesses.

The federal government does not renourish beaches that are not publicly accessible.

Belleair Beach, which is two miles long between Clearwater and Indian