SPECIAL PERMIT CONSIDERATIONS FOR SOVEREIGN LANDS AND AQUATIC PRESERVES

Steve Lewis
Tim Rach
Matt Butler
(56) “SOVEREIGNTY SUBMERGED LANDS” means those lands including but not limited to, tidal lands, islands, sand bars, shallow banks, and lands waterward of the ordinary or mean high water line, beneath navigable fresh water or beneath tidally-influenced waters, to which the State of Florida acquired title on March 3, 1845, by virtue of statehood, and which have not been heretofore conveyed or alienated. For the purposes of this chapter sovereignty submerged lands shall include all submerged lands title to which is held by the board.

FROM 18-21.003, F.A.C.
http://labinsw2010.freac.fsu.edu/LABINS/index.html
<table>
<thead>
<tr>
<th>STA. NAME</th>
<th>BENCH MARK ELEVATIONS</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>NAVD 29</td>
</tr>
<tr>
<td>CAJANAS 1979 1975</td>
<td>+5.50</td>
</tr>
<tr>
<td>NO 7 1976</td>
<td>+5.28</td>
</tr>
<tr>
<td>4967 A 1979</td>
<td>+6.54</td>
</tr>
<tr>
<td>4967 B 1979</td>
<td>+6.57</td>
</tr>
<tr>
<td>4967 C 1979</td>
<td>+5.72</td>
</tr>
<tr>
<td>CAJANAS 2 1979</td>
<td>+6.11</td>
</tr>
<tr>
<td>CAJANAS 2 NO 8 1979</td>
<td>+5.74</td>
</tr>
</tbody>
</table>

DATE: 07-01-2003
TIDE STATION NUMBER: 8724967
TIDE STATION NAME: MARCO ISLAND - CAJANAS PASS
TIDAL Epoch: 1983-2001

ELEV OF TIDAL DATUMS BASED ON 1929 & 1988 DATUMS

<table>
<thead>
<tr>
<th>TIDAL DATUM</th>
<th>NAVD 29 FEET</th>
<th>NAVD 29 METERS</th>
<th>NAVD 88 FEET</th>
<th>NAVD 88 METERS</th>
</tr>
</thead>
<tbody>
<tr>
<td>MSW</td>
<td>+2.00</td>
<td>+0.610</td>
<td>+0.69</td>
<td>+0.211</td>
</tr>
<tr>
<td>MHW</td>
<td>+1.75</td>
<td>+0.534</td>
<td>+0.44</td>
<td>+0.135</td>
</tr>
<tr>
<td>MLW</td>
<td>+0.63</td>
<td>+0.191</td>
<td>+0.68</td>
<td>+0.208</td>
</tr>
<tr>
<td>MNL</td>
<td>+0.45</td>
<td>+0.131</td>
<td>+0.66</td>
<td>+0.202</td>
</tr>
<tr>
<td>MLN</td>
<td>-0.46</td>
<td>-0.141</td>
<td>-1.17</td>
<td>-0.340</td>
</tr>
<tr>
<td>MLL</td>
<td>-1.06</td>
<td>-0.322</td>
<td>-2.37</td>
<td>-0.721</td>
</tr>
</tbody>
</table>

ML = 2.21 29/ft  0.675 29/m  2.21 88/ft  0.675 88/m
“The shore of navigable waters which the sovereign holds for public uses is the land that borders on navigable waters and lies between ordinary high and ordinary low water mark. This does not include lands that do not immediately border on the navigable waters, and that are covered by water not capable of navigation for useful public purposes, such as mud flats, shallow inlets, and lowlands covered more or less by water permanently or at intervals where the waters thereon are not in their ordinary state useful for public navigation.”

“The fact that a part of the cove was made navigable by artificial means after it became private property did not take away the right of the owner to control the fishing privileges therein subject to law.”

Clement v. Watson 58 So. 25 (1912)
http://ca.dep.state.fl.us/mapdirect/?focus=erp
http://ca.dep.state.fl.us/mapdirect/?focus=erp
Map Direct: Environmental Resource Permitting

http://ca.dep.state.fl.us/mapdirect/?focus=erp
KNOW ALL MEN BY THESE PRESENTS: That the undersigned, the Trustees of the Internal Improvement Fund of the State of Florida, under and by virtue of the authority of Section 323 of the Revised General Statutes of Florida, and according to the provisions and procedure provided for in Section 561 of the Revised General Statutes of Florida, and for and in consideration of the sum of one hundred sixty & 00/100 ($160.00) dollars, to be paid by

South Lake North Inlet District

Palm Beach County, Florida, receipt of which is hereby acknowledged, have granted, bargained, sold and conveyed to the said South Lake North Inlet District and its successors in and assigns, forever, the following described lands, to-wit:

Beginning at a point on the Mean shore of Lake Worth in Township 40 South, Range 43 East, which is 637 feet North (measured at right-angles to) the South line of said Section 15;

thence, running West on a line which makes an angle of 90° with the Ocean Boulevard or County Road, a distance of 1,076 feet;

thence, North at an angle of 90° to said line, a distance of 405 feet;

thence, East at an angle of 90°, a distance of 1,700 feet, more or less, to the Northwest boundary of the property now owned by the South Lake North Inlet District;

thence, South a distance of 400 feet, more or less, to the Point of Beginning, the area being a strip of land 400 feet in width and 1,700 feet in length, more or less, and containing 16 acres;

said lands being and lying immediately West of lands now owned by South Lake North Inlet District.

Lying and being in the County of Palm Beach, State of Florida.

(This conveyance is made on the condition that the area above described is to be used for the benefit and use of the public as authorized by the provisions of the South Lake North Inlet District, and shall said area be used for any purposes other than these herein expressed, this conveyance shall automatically revert and become the property of the Trustees of the Internal Improvement Fund of the State of Florida, the Grantors herein.)

http://ca.dep.state.fl.us/mapdirect/?focus=erp
253.129 Confirmation of title in upland owners.--The title to all lands heretofore filled or developed is herewith confirmed in the upland owners and the trustees shall on request issue a disclaimer to each such owner.

History.--s. 9, ch. 57-362; s. 13, ch. 59-1.

253.12(6) Where any person, state agency, county, city, or other political subdivision prior to June 11, 1957, extended or added to existing lands or islands bordering on or being in the navigable waters as defined in this section by filling in or causing to be filled in such lands, the board shall upon application therefore convey said land so filled to the riparian owner or owners of the upland so extended or added to. The consideration for such conveyance shall be the appraised value of said lands as they existed prior to such filling.

Jacksonville Shipyards Case:
Improvements (piers, docks, wharves, dry docks, railroad trestles, and dredging) in instant case made prior to May 29, 1951 (date of repeal of Butler Act), were “permanent improvements” under Butler Act, providing for acquisition of title to submerged lands by bulkheading, filling, or permanently improving. Rule 16Q-21.14 (now Rule 18-21.014), purporting to require that upland owner have disclaimer confirming title, is in derogation of statute and therefore invalid. Jacksonville Shipyards, Inc. v. Department of Natural Resources, App., (1st) 466 So. 2d 389 (1985)
253.12(9) All of the state's right, title, and interest to all tidally influenced land or tidally influenced islands bordering or being on sovereignty land, which have been permanently extended, filled, added to existing lands, or created before July 1, 1975, by fill, and might be owned by the state, is hereby granted to the landowner having record or other title to all or a portion thereof or to the lands immediately upland thereof and its successors in interest. Thereafter, such lands shall be considered private property...

...A showing of dates by which certain lands were filled or added to may be made by aerial photograph or other reasonable method...

...The boundary between state-owned sovereignty lands and privately owned uplands is ambulatory and will move as a result of non-avulsive changes...

...This subsection shall not grant or vest title to any filled, formerly submerged state-owned lands in any person who, as of January 1, 1993, is the record titleholder of the filled or adjacent upland property and who filled or caused to be filled the state-owned lands.
258.40 Scope of preserves.--

(1) The aquatic preserves established under this act shall include only lands or water bottoms owned by the state as set forth in s. 253.03 and such lands or water bottoms owned by other governmental agencies as may be specifically authorized for inclusion by appropriate instrument in writing from such agency. Any privately owned lands or water bottoms shall be deemed to be excluded therefrom; however, the board may negotiate an arrangement with any such private owner by which such land may be included in the preserves.

(2) Any publicly owned and maintained navigation channel or other public works project authorized by the United States Congress designed to improve or maintain commerce and navigation shall be deemed excluded from the aquatic preserves established under this act.

(3) All lands lost by avulsion or by artificially induced erosion shall be deemed excluded from the provisions of this act.

History.--s. 1, ch. 75-172.
SSL Determination Example
SSL Determination Example

Quad map from LABINS

Project Site
SSL Determination Example

1932 United States Coast and Geodetic Survey Map
SSL Determination Example

1932 United States Coast and Geodetic Survey Map

Project Site
SSL Determination Example

Project Site

1929 United States Coast and Geodetic Survey Map
SSL Determination Example

1858 Township Map

Project Site
Riparian Rights Example

2004 AERIAL
Riparian Rights Example

2006 AERIAL
Riparian Rights Example

2009 AERIAL
Riparian Rights Example

2009 AERIAL
Riparian Rights Example

2012 AERIAL
Riparian Rights Example

2012 AERIAL