



South Florida Lawmakers Take On Sea Level Rise

By Mark Lynn

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It is time for the South Florida real estate community to understand that sea level rise is a reality that we will likely be dealing with increasingly over time. There may be an ongoing debate about the exact cause and nature of climate change, but there are two facts that are impossible to ignore.

The first is that sea levels (including those in South Florida) have risen at least eight inches over the past century and are projected to rise at least another foot this century. The second is that more than two million people and one million homes sit within four feet of the local high tide line.

In fact, South Florida has the fourth largest population vulnerable to sea rise in the world, according to a University of Miami study. This is not something that has been lost on our local governments or on our state legislature. In 2009 Broward, Miami-Dade, Monroe and Palm Beach Counties entered into the Southeast Florida Regional Climate Change Compact where those counties and many associated municipalities agreed to collaborate to develop a joint policy to promote federal and state action to address climate change impacts. The requested actions range from requests for increased

funding for infrastructure projects to designation of areas that are particularly vulnerable to the impacts of sea level rise.

In response to the priorities highlighted in the Compact, in 2011 the Florida legislature added to Chapter 163 the term “adaptation action area” and authorized local governments to enact code provisions developing an adaptation action area designation. An adaptation action area is a designation within the local government’s comprehensive plan which identifies one or more areas that experience coastal flooding due to extreme high tides and storm surge and are vulnerable to the related impacts of rising sea levels for the purpose of prioritizing funding for infrastructure needs and adaptation planning.

The City of Fort Lauderdale has instituted a pilot program to designate adaptation action areas and then implement public infrastructure projects to mitigate the risk of sea rise events posed to those areas.

The first leg of the pilot program involved an outreach effort where city officials visited community associations and other citizen groups to explain the benefits of adaptation action areas and the reasons for creating them.

The City is now embarking on “Phase 2” which is designation of these areas and implementation of public projects. Among the first projects arising from this new initiative is the installation of back-flow preventers in the Las Olas Isles community.

There are multiple similar projects going on throughout South Florida, including the installation of pumps in Miami Beach to mitigate the “king tides” and backflow preventers in the South Lake community in Hollywood.

Broward County has gone a step further by amending its comprehensive plan to recognize adaptation action areas. This means that when a property is considered for development, Broward County’s staff can take into account the vulnerabilities of the property to sea level rise events, and can recommend the construction of, or allocate resources toward, infrastructure necessary to mitigate that vulnerability.

These developments should not be seen as a threat as much as an opportunity for developers and innovators. Developers who are willing and able to construct resilient projects that can mitigate the impact of sea rise events stand to do very well in the coming decades. Similarly, companies that create cost-effective infrastructure projects that can assist cities and counties in addressing sea rise issues will become a valuable resource.

Mark Lynn has developed a comprehensive practice in real estate transactional law, with an emphasis on representation of developers in the acquisition, financing and development of commercial properties. Before joining [Greenspoon Marder](#), Mr. Lynn was a title examiner for First American Title Insurance Company and co-owner and managing attorney of a title agency in Aventura, Florida.