



Tribute to Christopher Byrd

A cherished member of the Environmental Law and Land Use Section, Christopher T. Byrd, 34, lost his fight with cancer on September 8, 2016. Chris had a distinguished career as an environmental advocate, working on cases involving the protection of coral reefs, the protection of springs and rivers and addressing the causes of climate change, an impressive body of work for a young lawyer. Chris embarked on private public interest environmental representation after a stint with the Florida Department of Environmental Protection, and turned his dismissal from the agency in 2013 into an opportunity to represent public interest clients with the formation of his own law firm, The Byrd Law Group, tackling land use and environmental cases involving environmental resource protection. Chris also played an important role in exposing to the national press Governor Scott's directive to state agencies to avoid using the term climate change and volunteered with national public interest groups advocating for climate action.

In addition to his contributions to the environmental law profession, Chris also served on the board of directors of the Fanconi Anemia Research Fund and spent many hours offering hope and guidance to families of children with whom he shared the rare genetic disease.

An active member of the ELULS, Chris was a member of the Executive Council, served as the chair of the Public Interest Committee, spoke as a panelist at the Annual Update and the University of Florida's Public Environmental Interest Conference and led the section's Young Lawyer's Committee. In honor of these contributions, the ELULS Section recently voted to rename the ELULS Public Interest Attorney Award the "Christopher T. Byrd Memorial Public Interest Attorney Award." A special tribute to Chris will be made at the upcoming Public Interest Environmental Conference at the University of Florida that will take place from February 9-11, 2017.

Greater than his many professional accomplishments, Chris was a loyal

friend who taught us how to attack each day with energy, grace, humor and love. Public Interest Committee Chair Robert Hartsell offers the following tribute:

"Chris was one of the most dynamic individuals I have ever known. He was intelligent, funny and could always light up the room with his brilliant smile and characteristic wit. The one thing that set Chris apart from everyone else was his stunning ability to make you feel like the most important person he knew. It was not until we were losing Chris to this horrible disease that I realized that his circle of friends was enormous. I was not in the minority. He touched thousands of lives for the better and each and every person was the most important person he knew. A champion for our environment and a leader in the struggle to defeat Fanconi Anemia, Chris lives on in all of our hearts. You will be missed my friend."



From the Chair

As I write this, less than a week has passed since the 2016 general election, the nastiest one in my memory. There are protests in the streets against the election of Donald Trump as our country's next President, as I suspect there would have been if the election had gone the other way. Many of our members have serious concerns that the progress that has been made to address climate change will be undone. Other members have clients who hope that they will get some relief from the byzantine layers

of regulation that sometimes make compliance a guessing game. There is no doubt that our country is in uncharted territory with this new President. One of the strengths of our Section is that we represent different clients with different interests, but we can and do come together and work constructively to improve our profession.

At the highest levels, we have already seen the start of one of the hallmarks of our democracy: the peaceful

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The Right to Blight

Charitable Donation Bins, The 1st Amendment & Fighting Blight

By: Patrick W. Krechowski

The next time you are sitting at a red light at a busy suburban intersection, instead of checking your smart phone, look out the window. Look beyond the other traffic, beyond the political signs, and beyond the fast food combo meal deal marquees. Chances are you will see a small, dumpster like container. Some have green recycle logos, some are decorated with American flags, some call for shoes, books and/or clothes; and some may be over-flowing with what can appear to be trash, broken furniture and torn plastic bags. You may see several bins lined up together in the corner of a parking lot. You may see a bin that appears abandoned on a vacant, weed-filled lot. However, once you notice the presence of these bins you will soon realize that they are everywhere. Almost every retail or commercial parking lot seemingly houses at least one of these shed sized bins.

What are they? Charitable donation bins. Who cares about them? Local governments, property owners, charitable organizations and, it turns out, the U.S. Constitution. Why are they a problem? In some instances donation bins can contribute to unsightly blight and unpermitted dumping. Despite clear labels on the bins, some donators leave behind furniture, appliances and bicycles. Some operators of donation bins do not service them regularly and ade-

quately, often resulting in bins overflowing with trash bags and boxes full of various items. Obviously, this can be a problem for local governments, business owners and neighborhoods. From the charitable donation industry perspective, there are nefarious operators that “dump and run” by placing their bins on both public and private property without owner permission. The bins will be left for a few days and by the time the owner or the local government notices and begins to proceed with removal; the bins are gone – taken to another location. Donation bins have also been stolen or hijacked – simply removed from their approved location and destroyed, relocated or never seen from again.

Most bona fide donation bin operators welcome some type of regulatory scheme. Having regulations on books gives the operators a better sense of what is permitted and what is prohibited. Regulations also allow bin operators to better explain to potential host property owners the dynamics and purposes of the operations. More importantly, a well-structured and well-enforced regulatory framework can weed out those operators that are less genuine or less responsible for the maintenance and operation of their donation bins. However, the nature and extent of those regulations can lead to judicial and legal scrutiny that many never would have

expected to apply to the solicitation of charitable donations by way of these roadside bins.

As we all know, the First Amendment of the United States Constitution provides that Congress cannot pass a law “abridging the freedom of speech” of citizens of the United States.¹ The Florida Constitution contains an analogous provision.² A long line of Supreme Court cases have repeatedly held that the solicitation of charitable donations qualifies as a form of constitutionally protected speech. In *Schaumburg v. Citizens for a Better Environment*, the Supreme Court explained that “[c]haritable appeals for funds, on the street or door to door, involve a variety of speech interests – communication of information, the dissemination and propagation of views and ideas, and the advocacy of causes – that are within the protection of the First Amendment.”³ In *Schaumburg*, a local government had an ordinance prohibiting door-to-door or on-street solicitation of contributions by charitable organizations that did not use at least 75 percent of their receipts for “charitable purposes.”⁴ When the Village denied an application for a solicitation permit by Citizens for a Better Environment (“CBE”) because it could not meet the ordinance’s 75 percent requirement, CBE filed suit

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CHAIR’S MESSAGE

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transition of power. On January 20th, 2017, Donald J. Trump will become the 45th President of the United States of America. Although he was not my choice for President, I hope that he succeeds, and I would hope that all Americans feel the same way.

It was a divisive election, and now, less than a week later, I see terri-

ble things posted on social media: members of both camps calling the other side names, questioning their patriotism, their intelligence, their sanity, and worse. I see family members refusing to speak to other family members. We are better than this.

If you have not read Janet Bowman’s tribute to Chris Byrd in this edition, I urge you to read it. Chris would not despair; he would move forward, doing what he knew was

right. Then I urge all of you to do the same, move forward, do what you know is right, and treat everyone you encounter, whether or not you agree with them,* as Chris would have: with kindness, with respect, and, whenever appropriate, with humor.

(*In no way am I suggesting support for any racist, anti-[any religion], misogynistic, anti-LGBTQ language, or the like. That deserves to be called out.)

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alleging violations of the First and Fourteenth Amendments and seeking declaratory and injunctive relief.⁵ The District Court granted summary judgment and the Court of Appeals affirmed, rejecting the argument of CBE that summary judgment was inappropriate because there was an unresolved factual dispute as to the true character of CBE's organization due to the fact that CBE challenged the facial validity of the ordinance on First Amendment grounds.⁶ The appeals court concluded that even if the 75 percent requirement may be valid, it was unreasonable on its face because it barred solicitation by advocacy-oriented organizations even where the contributions would be used for salaries and costs of gathering and disseminating the charity's relevant purpose.⁷

With respect to whether a governmental entity may restrict these rights, the *Schaumburg* Court explained that an entity "may serve its legitimate interests, but it must do so by narrowly drawn regulations designed to serve those interests without unnecessarily interfering with First Amendment freedoms."⁸ The Court made clear that a municipality's interests "can be better served by measures less intrusive than a direct prohibition on solicitation."⁹

The Supreme Court has additionally held that the government can regulate the collection activities of nonprofits so long as the regulations are reasonable, meaning the regula-

tion "must be done, and the restriction applied, in such a manner as not to intrude upon the rights of free speech and free assembly."¹⁰ Another relevant Supreme Court case further provides that where

a statute imposes a direct restriction on protected First Amendment activity, and where the defect in the statute is that the means chosen to accomplish the State's objectives are too imprecise, so that in all its applications the statute creates an unnecessary risk of chilling free speech, the statute is properly subject to facial attack.¹¹

The source of the "chill" is the direct punishment of citizens, such as the Plaintiff, through fines for engaging in charitable solicitation.¹² The Supreme Court has also noted that a statute that attempts to restrict speech must be narrowly tailored to achieve an important government interest without unnecessarily infringing on First Amendment rights.¹³

Two recent federal cases are particularly instructive. In the first, the Fifth Circuit addressed the appropriate standard of scrutiny when addressing public receptacles used to solicit charitable donations.¹⁴ In *National Federation of the Blind of Texas, Inc. v. Abott*, the State of Texas adopted an act requiring "for-profit entities" to make certain financial disclosures when collecting donated goods through "public donation receptacles", when making telephone or door-to-door solicitations, and when

making mail solicitations.¹⁵ Texas asserted that soliciting charitable donations was commercial speech and thus only required intermediate scrutiny, arguing the receptacles were no "more than a proposal of a commercial transaction: donate goods here."¹⁶ The Court strongly disagreed, finding the speech interests in *Schaumburg* were clearly implicated.¹⁷ The Court explained:

A generous [citizen] who chooses to donate goods is thus faced with a marketplace of charitable options; the public receptacles are not mere collection points for unwanted items, but are rather silent solicitors and advocates for particular charitable causes. Contrary to Texas's position, the public receptacles represent far more than an "upturned palm" or a mere "proposal of a commercial transaction [that says] donate goods here." Rather, the donation bins' solicitation is characteristically intertwined with informative and perhaps persuasive speech seeking support for particular causes or for particular views on economic, political, or social issues." *Schaumburg*, 444 U.S. at 632.¹⁸

Consequently, the Fifth Circuit rejected the assertion that speech surrounding public donation receptacles was merely commercial speech.¹⁹

In the second instructive case, the Sixth Circuit echoed the rule of law that charitable donation bins are charitable solicitations entitled to

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strong First Amendment protection as “speech advocating for charitable cause.”²⁰ In *Planet Aid v. City of St. Johns*, the City of St. Johns appealed the District Court’s order preliminarily enjoining the enforcement of the city’s ordinance that bans outdoor, unattended charitable donation bins.²¹ Within the ordinance language itself, the city explicitly stated that the prohibition was to “protect the health, safety and welfare of the citizens of the city by preventing blight, protecting property values and neighborhood integrity, avoiding the creation and maintenance of nuisances and ensuring the safe and sanitary maintenance of properties.”²² The city’s ordinance further stated that “unattended donation boxes in the city may become an attractive nuisance for minors and/or criminal activity.”²³ Finally, the ordinance stated that its intent was to “preserve the aesthetics and character of the community by prohibiting the placement of donation boxes.”²⁴ The City of St. Johns argued that because attended or non-outdoor donation bins are allowed, its ordinance was not “complete” or “total” for purposes of characterizing the ordinance as content-based.²⁵ The Court held that St. Johns’ argument “misses the mark” because the ordinance preemptively and prophylactically prevents all charities from operating outdoor, unattended donation bins within St. Johns in the interest of aesthetics and preventing blight.²⁶ Such an ordinance “implies, without any evidence, that charities would be negligent in failing to conduct timely pickups of donated goods, in maintaining the appearance of the bins, etc.”²⁷ The Court further stated that the St. Johns ordinance “assumes that lesser, content-neutral restrictions such as requiring weekly or bi-weekly pickups or inspections of all outdoor receptacles would be ineffective.”²⁸

Closer to home, there is a perfect example of how a city’s attempt to eliminate the blight that sometimes comes with donation bins can run afoul of Constitutionally protected rights. In the summer of 2015, the City of Jacksonville enacted an ordinance completely banning donation bins.²⁹ Jacksonville placed the prohibitive

language in its zoning code. The effect of the ordinance was a complete ban on the placement of donation collection bins within Duval County, including off-site storage, while also implementing a removal and destruction plan with the ability to recover associated costs.³⁰ In fact, the Jacksonville ordinance language was so strong that it prohibited the placement of “donation collection bins . . . in or on any lot, parcel or tract of land or body of water in any zoning district.”³¹

Go Green Charity Recyclers, Inc., was directly impacted by Jacksonville’s ordinance and after unsuccessfully attempting to resolve the matter with city staff and leaders, filed suit in federal court. Go Green initially sought a temporary restraining order to enjoin Jacksonville from enforcing its ordinance, but after the City agreed to temporarily stay enforcement of the ordinance pending a judge’s ruling, the motion became one for preliminary injunction.

In its Order, the U.S. District Court for the Middle District not only found that Go Green met the four prerequisites to secure a preliminary injunction, but specifically established “a substantial likelihood of success on its First Amendment claim based on the persuasive precedent of the Sixth Circuit’s recent decision in *Planet Aid v. City of St. Johns*”. The end result of the Go Green case was that the City Council of the City of Jacksonville repealed its donation bin ordinance in its entirety. In the months that followed, the City’s donation bin subcommittee struggled with crafting a regulatory scheme to address donation bins and some of the problems associated with them. Nevertheless, after the administration altered the mission of the parent committee, the issue now seems lost in the shuffle.

Other Florida cities have likewise attempted to address the regulation of donation bins. In 2014, the Town of Davie issued a Request for Proposals for “Textile Recycling Franchise” that solicited proposals for the purpose of “[a]warding an exclusive franchise for a textile recycling program based Town-wide”.³² The proposal and the awarded franchise agreement define the bin size, types of recyclable materials, amount of franchise fee and seem to apply to public and private property alike.³³ Regulations in Homestead, Florida, provide for one permit per non-profit organization,

limit one donation “drop box” per parcel, and require a label to be affixed to the drop box listing the name of the permittee, the permit number and its effective date, along with the address and phone number of the permittee.³⁴ Miami-Dade County restricts placement of donation collection bins to property owned and operated by a non-profit and requires that all bins be located at least seventy-five feet from any property line.³⁵ On the other hand, like Jacksonville had prior to the Go Green litigation, the City of Miami has a complete ban on the placement of donation bins in any zoning district of the city.³⁶

So the ultimate question becomes, what type of regulatory scheme can be constitutionally crafted to effectively control the operation of charitable donation bins in Florida? Fortunately, there is a direct line of case law beginning with *Schaumburg* and ending with *Planet Aid* that clearly explains the origins of the application of strict scrutiny to the regulation of charitable donation bins. As seen in the cases, any such regulation must be narrowly tailored to serve appropriate interests while avoiding the “chill” on free speech. However, actually crafting and implementing a regulatory scheme that passes constitutional muster but still has enough teeth to effectuate a community’s interests in eliminating the blight that is so often associated with donation bins can be a very difficult task.

While an outright ban is certainly unconstitutional, regulations preventing the placement of donation bins in residential zoning districts, or providing for setbacks from rights-of-way, traffic sight lines and property boundaries, are likely to survive scrutiny. Likewise, requiring that the donation bin operator provide evidence of property owner permission for the placement of a bin on his or her property is certainly permissible. However, is a requirement that the donation bin operator be a registered non-profit entity a regulation serving the interests of a community striving to eliminate blight? What is the connection between the corporate nature of the donation bin operator and its ability to properly operate and maintain a charitable donation bin? Is the fact that a donation bin operator makes a profit from its collection

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efforts mean that it cannot satisfy the interests of a local government? Similarly, is the requirement limiting the placement of one donation bin per parcel an infringement on free speech or a lawful effort to eliminate the proliferation of dumping?

Like any local government regulation, many variables come into play when crafting effective language. In the case of charitable donation bins this can involve the size of the bin, the method of accessing the bin (chute system or one-way door), frequency of emptying the bin, the actual identity and contact information of the bin operator, whether the bin is on wheels or is anchored to the ground, whether the bin is made of metal or wood, whether the bin is permanent or is serviced by a live person during certain hours, or how many bins any one operator may place within a city. That is just the language of the ordinance – which is always susceptible to challenge.

Moreover, very few cities have the financial resources and manpower

to actually implement and enforce an ordinance as complicated and as multi-faceted as what a charitable donation bin regulation is apt to be. Many Florida code enforcement and compliance departments are understaffed and can barely keep up with commercial and residential code violations as it is. Adding an ordinance that requires the same staff to identify, inspect, report, prosecute and potentially take corrective action against is most likely more than they can handle.

Endnotes

- 1 *U.S. Const. amend. I.*
- 2 *FL. Const. Art. I, Section 4.*
- 3 *Schaumburg v. Citizens for a Better Environment*, 444 U.S. 620, 633 (1980).
- 4 *Id.* at 620.
- 5 *Id.*
- 6 *Id.*
- 7 *Id.*
- 8 *Id.* at 637
- 9 *Id.*
- 10 *Thomas v. Collins*, 323 U.S. 516, 540-541 (1945).
- 11 *Sec'y of State of Maryland v. Munson Co., Inc.*, 467 U.S. 947, 967-68 (1983).
- 12 *Chase v. City of Gainesville*, 2006 WL 2620260 (N.D. Fla. 2006)(not reported in F.Supp.2d).
- 13 *Riley v. Nat'l Fed'n of the Blind of N. Caro-*

lina, Inc., 487 U.S. 781, 788 (1988).

14 *Nat'l Fed'n of the Blind of Texas, Inc., v. Abbott*, 647 F.3d 202 (5th Cir. 2011).

15 *Id.* at 206.

16 *Id.* at 212.

17 *Id.* at 212-13.

18 *Id.* at 213.

19 *Id.*

20 *Planet Aid v. City of St. Johns, MI*, 782 F.3d 318, 325 (6th Cir. 2015).

21 *Id.* at 321.

22 *Id.* at 322.

23 *Id.*

24 *Id.*

25 *Id.* at 330-31.

26 *Id.* at 331.

27 *Id.*

28 *Id.*

29 *City of Jacksonville, Ordinance 2015-327-E.*

30 *Id.*

31 *City of Jacksonville, Code of Ordinances, Sec. 656.421(a).*

32 *Town of Davie, Request for Proposals, Textile Recycling Franchise, B-14-92.*

33 *Id.*, and *Franchise Agreement Between Tone of Davie, Florida, and FLSC, LLC for Textile Recycling Collection, 2015.*

34 *City of Homestead, Code of Ordinances, Section 13-37(a).*

35 *Miami-Dade County, Code of Ordinances, Section 33-19.*

36 *City of Miami, Code of Ordinances, Section 22-161.*



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On Appeal

by Larry Sellers, Holland & Knight

Note: Status of cases is as of November 29, 2016. Readers are encouraged to advise the author of pending appeals that should be included.

FLORIDA SUPREME COURT

Hardee County v FINR II, Inc., Case No. SC 15-1260. Petition for review of the 2nd DCA's decision in *FINR v. Hardee County*, 40 FLW D1355 (Fla. 2d DCA June 10, 2015), in which the court held that "the Bert Harris Act provides a cause of action to owners of real property that has been inordinately burdened and diminished in value due to governmental action directly taken against an adjacent property," and certified conflict with the 1st DCA's decision in *City of Jacksonville v. Smith*, 159 So. 3d 888 (Fla. 1st DCA 2015) (question certified). Status: Jurisdiction accepted on August 18, 2015; oral argument date set for February 9, 2017. Note: the Florida Supreme Court also has accepted jurisdiction to review the question certified in *City of Jacksonville* (see below).

R. Lee Smith, et al. v. City of Jacksonville, Case No. SC 15-534. Petition for review of the 1st DCA's decision in *City of Jacksonville v. R. Lee Smith, et al.*, in which the majority of an *en banc* court determined that a property owner may not maintain an action pursuant to the Bert Harris Act if that owner has not had a law, regulation, or ordinance applied which restricts or limits the use of the

owner's property. 159 So. 3d 888 (Fla. 1st DCA 2015). Status: Jurisdiction accepted on May 22, 2015; suggestion of mootness denied on March 18, 2016; Oral argument date set February 9, 2017. Note: Legislation enacted during the 2015 regular session clarifies that the Bert Harris Act is applicable only to action taken directly on the property owner's land and not to activities that are authorized on adjoining or adjacent properties. See Chapter 2015-142, *Laws of Florida*.

FIRST DCA

Nipper v. Walton County, Case No. 1D16-512. Appeal from final judgment granting Walton County's request for an injunction, enjoining operation of commercial skydiving activity. The appellants originally filed a complaint against Walton County seeking a declaration that the county could not regulate a skydiving business on appellants' farm, asserting that Section 570.96, Florida Statutes, preempts the county from regulating the skydiving business because it constitutes "agritourism" as defined in statute. The county counterclaimed for injunctive relief, which was granted by the court. Status: Notice of appeal filed February 8, 2016.

Putnam County Environmental Council, Inc. v. SJRWMD, Case No. 1D15-5725. Appeal from final order of the Florida Land and Water Adjudicatory Commission determining that

St. John's River Water Management District's ("SJRWMD") fourth addendum to the 2005 water supply plan is consistent with the provisions in and purposes of Chapter 373, Florida Statutes. Status: Affirmed per curiam on August 30, 2016.

South Palafox Properties, LLC, et al. v. FDEP, Case No. 1D15-2949. Appeal of the Department of Environmental Protection ("DEP") final order revoking operating permit for construction and demolition debris disposal facility, DOAH Case No. 14-3674 (final order entered May 29, 2015). Among other things, the final order determines that the appropriate burden of proof is preponderance of the evidence, DEP has substantial prosecutorial discretion to revoke (as opposed to suspend) the permit, and that the mitigation is irrelevant. Status: Oral argument is set for January 19, 2017.

THIRD DCA

Village of Key Biscayne, etc., v. DEP, Case No.: 3D15-2824. Appeal from final order dismissing with prejudice the Village of Biscayne's petition for administrative hearing challenging DEP's notice of intent to issue an Environmental Resource Permit ("ERP") to install temporary floating docks in Biscayne Bay at the Miami Marine Stadium in Miami-Dade County. In its final order, DEP deter-

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ON APPEAL

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mines that the petition's allegation do not demonstrate actual injury-in-fact or real and immediate threat of direct injury to interests that are protected in this type of environmental permitting proceeding. In addition, the final order determines that allegations regarding economic investments and contractual objections are not the types of interests protected by this type of proceeding. Finally, the final order also determines that the petitioner's allegations regarding local comprehensive plans and zoning regulations are also not within the zone of interest of this type of environmental proceeding. **Status:** Affirmed on November 9, 2016.

Miami-Dade County, et al. v. Florida Power & Light Co., et al., Case No.: 3D14-1467. Appeal from final order of the Siting Board certifying two nuclear units at Turkey Point as well as proposed corridors for transmission lines. **Status:** Reversed and remanded to the Siting Board for further review on April 20, 2016; motion for rehearing and rehearing en banc denied November 22, 2016.

Charles N. Ganson Jr., as Personal

Representative, et al. v. City of Marathon, Florida, Case No. 3D12-777. Appeal of order granting summary judgment in favor of the City and State on Beyers' taking claim. **Status:** Affirmed in part and reversed in part, 38 Fla. D. 2286 (Fla. 3rd DCA), motion for rehearing en banc denied September 14, 2016. Judge Shepherd filed a lengthy dissenting opinion from the denial of the motion for rehearing en banc. Notice of intent to seek review by Florida Supreme Court filed on October 13, 2016.

FOURTH DCA

DEP v. Beach Group Investment, LLC, Case No. 4D14-3307. Appeal from order determining that plaintiff Beach Group Investments, LLC, prevailed in its claim for inverse condemnation based on DEP's refusal to issue the requested Coastal Construction Control Line permit. **Status:** Reversed on August 3, 2016. Notice of intent to seek review by Florida Supreme Court filed November 16, 2016.

FIFTH DCA

McClash, et al., v. SWFWMD, Case No. 15D15-t3424. Appeal of SWFWMD final order issuing ERP to land trust for its proposed project on Perico

Island in Bradenton, over a contrary recommendation by the Administrative Law Judge ("ALJ"). The ALJ recommended that the Southwest Florida Water Management District ("SWFWMD") deny the ERP because practicable modifications were not made to avoid wetland impacts and cumulative adverse effects and the project would cause significant environmental harm. In its final order, SWFWMD concludes that the mitigation proposed by the applicant is sufficient and that reduction and elimination of impacts to wetlands and other surface waters was adequately explored and considered. **Status:** Notice of appeal filed September 29, 2015.

St. Johns Riverkeeper, Inc., et al., v. SJRWMD, et al., Case No. 5D15-2831. Appeal from a final order of the SJWMD approving issuance of consumptive use permit for irrigation and support of a grass-fed cattle ranch. DOAH Case No. 14-2610 (final order entered July 15, 2015). **Status:** Affirmed per curiam on October 4, 2016.



December 2016 Case Law Update

Gary K. Hunter, Jr., Hopping Green & Sams

Applicants for a development application seeking approval of a project's site plan and several non-use variances must show that the development would be consistent with the comprehensive plan, per Fla Stat. section 163.3215(3). *The Realty Associates Fund IX, L.P., etc. v. Town of Cutler Bay, etc. et al.*, No. 3D15-2407 (Fla. 3d DCA September 21, 2016).

The Town of Cutler Bay approved a development application and issued a development order for GCF Investment, Inc. to build "The Shoppes at Cutler Bay" shopping center in May 2013. Realty Associates Fund IX, L.P. filed a complaint against the Town of Cutler Bay and GCF Investment, Inc. alleging that the proposed development was inconsistent with the Growth Management Plan (Compre-

hensive Plan) of the Town of Cutler Bay as required by Fla. Stat. section 163.3215(3). Publix Supermarkets, Inc. subsequently was joined as a defendant post-purchase of the majority of the property from GCF Investment, Inc. The defendants filed a motion to dismiss, which the trial court granted, finding that the project was located within a Mixed Use District, the project did not include a residential component, and that the provisions the Realty Associates Fund IX, L.P. had cited to within the Comprehensive Plan did not require a residential component within the site plan of the project. Realty Associates Fund IX, L.P. then filed a timely appeal.

The Comprehensive Plan for the Town of Cutler Bay contained three related provisions which required

residential uses to be included within new developments, with specific requirements for new developments within the Old Cutler Road Corridor, the proposed location for the new GCF Investment, Inc. development project. Policy FLU-EA required that areas designated as Mixed Use "shall contain commercial, office, residential, community, institutional, and recreation and open space uses integrated vertically or horizontally, in accordance with Policy FLU-1C." Additionally, Policy FLU-1C required that the Town of Cutler Bay's Development Regulations conform to and use the intensity and density standards as prescribed by the Future Land Use Map and explained in detail by Table FLU-1. Contained within Table FLU-1 was a require-

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ment that residential use must comprise no less than twenty (20) percent and no greater than eighty (80) percent of the total floor area of a vertical mixed use building and buildings on a development site or block face.

The Town of Cutler Bay, GCF Investment, Inc. and Publix Supermarkets, Inc. (together, "The Town") argued that the residential component only applied if the proposed development included residential uses from the beginning of the land use and stated that an interpretation requiring a minimum amount of residential use would be absurd. Realty Associates Fund IX, L.P. disagreed, arguing the plain language of the Comprehensive Plan required every new development to include at least twenty (20) percent residential use. The proposed project failed to include any residential use, so Realty Associates Fund IX, L.P. further argued that the Town of Cutler Bay's issuance of the development order and approval of the project conflicted and was inconsistent with the Comprehensive Plan.

The Court rejected the argument of the Town in favor of the plain language argument of Realty Associates Fund IX, L.P. stating that the plain meaning of the text controls if the language of the drafters of the Comprehensive Plan is "clear and unambiguous." The Court found the text of FLU-1C and the corresponding Table FLU-1 to be unambiguous regarding the requirement of a minimum of twenty (20) percent of uses allocated to residential and deemed the requirement as not absurd, citing the intent of the Comprehensive Plan. Further, the Court stated that the Town of Cutler Bay's intent in drafting and adopting the Comprehensive Plan was to create a "town center with residences, workplaces, shops, and civic activity centers in close proximity with one another." Thus, the Court noted that the intent was to indicate great importance of providing for each type of use within the Mixed-Use area of development, as well as incentivizing larger redevelopment projects in attempt to bring high quality mixed-use development to the Old Cutler Road Corridor.

Accordingly, the Court stated that

the residential minimum requirement must be followed to be consistent with the Comprehensive Plan as written, despite the power of the Town of Cutler Bay to amend the Comprehensive Plan per Fla. Stat. sections 163.3184 and 163.3187. Additionally, the Court specifically noted a 2010 memo written by the Town of Cutler Bay's Director of Community Development which indicated awareness of the implications of Table FLU-1 text as written, yet the Town of Cutler Bay did not amend the Comprehensive Plan prior to issuing the development order for the Old Cutler Road Corridor. Citing the Town of Cutler Bay's municipal power, the Court declined to usurp the power of the municipality and the Florida legislature in essentially changing the language of the Comprehensive Plan as would have been inferred through accepting the defendants' argument deviating from the plain language of Table FLU-1.

As a result, the Court held that the plain meaning of the text of Table FLU-1 required all new development projects in the Old Cutler Road Corridor to include the component of at least twenty (20) percent residential use and no more than eighty (80) percent residential use. Due to the absence of the residential requirement, the development order and project site plan were inconsistent with the Town of Cutler Bay's Comprehensive Plan. The Court declined to address additional counts of Realty Associates Fund IX, L.P.'s complaint, declined to address any additional arguments brought by the defendants, and reversed and remanded the trial court's decision for final judgment in favor of Realty Associates Fund IX, L.P.

Appellants lacked a legally sufficient basis for standing to assert an amended complaint involving five claims for declarative and injunctive relief in opposition of plans to lease and develop public land for the Flagstone Island Gardens Project in the City of Miami. The appellant had standing to raise a sufficient claim for a Citizens' Bill of Rights violation, but failed to bring a legally sufficient cause of action for that claim. *Herbits, et. al. v. City of Miami, et. al., Case No. 3D15-1039 (Fla. 3d DCA 2016).*

The City Commission of Miami

(City) enacted resolution 00-1081, which authorized a Request for Proposals (RFP) for a mixed-use development along the MacArthur Causeway on Watson Island. The resolution required that the RFP provide the City with a minimum of fair market value for long term lease payments (per City Charter section 29-B). Flagstone Island Gardens, LLC (Flagstone) was awarded the RFP by City Commission resolution 01-971 for its proposal of a \$281M Island Gardens Project, for which Flagstone was to provide nearly half of the funding. Flagstone was initially awarded a 45 year lease with two 15-year renewal options for an annual rent of \$2M minimum annually subject to annual increases based upon the Consumer Price Index and a percentage of receipts grossed annually.

At special election in November 2001, the City posed a public vote per section 29-C of the City Charter regarding the lease of the public land to Flagstone, which the voters approved. As of 2010, the City of Miami and Flagstone executed an "amended and restated agreement to enter into the ground lease" after three earlier amendments to the original ground lease. Despite a 2013 appraisal of lease payments estimated at \$7M, the City renegotiated and set the minimum guaranteed base rent at \$300K beginning in October 2010 and increasing to a maximum of \$2M annually, not to reach maximum amounts until October 2018 and beyond. These terms were provisional and non-binding, as they were not contained within written ground leases with terms actually commencing. As of 2013, Flagstone and the City had not entered into a ground lease, Flagstone had not taken possession of any property, nor had Flagstone paid any rent to The City.

In 2009, the City attorney approved a resolution to terminate the agreement to enter the ground lease with Flagstone, citing Flagstone's failure to pay rent and to discharge bonds or liens on the property. This resolution was still in discussion from 2010-2012 by the City. A 2012 complaint by an Assistant City Attorney stated that changes to the terms of the agreement would violate the 2001 vote. In addition, a private Flagstone attorney

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ney noted that any compensation to the City from Flagstone at a rate of less than \$2M would require a new RFP and new vote. This complaint also alleged concealment regarding modifications, value, and deadlines from the public at the initial vote.

The Court noted that the ground lease agreement and subsequent amendments ultimately seemed to result in an option to develop the property rather than lease the property from the city and pay rent. Subsequently, Stephen Herbits brought suit challenging the City zoning resolution R-04-0462 authorizing a major special use permit and other special use permits for construction improvements for the Flagstone project. Herbits' petition for cert was denied by the appellate division of the Miami-Dade Circuit Court in 2005. Herbits' additional petition with 1000 Venetian Way for administrative review was dismissed by the Board of Trustees with prejudice, with the First DCA affirming that Herbits failed to establish that substantial interests would be affected in the modifications to deed restrictions of submerged lands to be used as a marina within the Flagstone project.

Herbits then commenced the third amended complaint in December 2014, which added allegations of special injury applicable to all five counts contained within the complaint and included bearing disproportionate pricing, substantial adverse affects from traffic, negative short and long term environmental impacts, diminished public safety, lost or reduced property values, loss of public open space, and increased environmental risk. Again, the City and Flagstone moved to dismiss this version of the complaint, which the trial court granted with prejudice. The court found that the City Charter alleged violations (the first three counts) lacked specificity in sufficiently pleading special injury, rather than

alleging general injuries from the Flagstone project's land use impact. For Count IV, the court deferred to preemption by the Florida Public Records Act. As to Count V, the trial court found that the parties were not party to nor a third party beneficiary of the contract between the City and Flagstone, so they lacked a right to challenge. Accordingly, the court dismissed the complaint with prejudice. Herbits appealed once again.

On appeal, the court stated that the alleged violation of the City as to City Charter section 29-b (Count I) failed the nexus requirement of the "special injury rule" in that unless Herbits could show and prove his injury was "specially induced by the unlawful act" alleged, his proximity to the Flagstone property claims would not warrant equitable relief. Essentially, while the alleged violation that the City failed to obtain fair market value for the property might have adverse impacts on the taxpayers, it did not cause all of the other special injuries stated by Herbits. Those special injuries would be caused by the actual development of the property, not the lease to Flagstone for lower than market value. In addition, Herbits' complaint failed to show any legally binding lease terms for the project, date upon which Flagstone was to take possession, and that the RFP process was corrupt or deceptive. The Court also noted that Herbits had essentially already obtained relief in delaying the project for over a decade.

Further, Herbits failed to show his injuries were "different in kind" than those experienced by the other residents of the City of Miami in his proximity argument, as he only showed that they were different in degree affected. Accordingly, the Court affirmed the dismissal of Count I with prejudice. For Counts II and III, the Court also affirmed the dismissal with prejudice for failure to establish special injury, to meet the nexus requirement, and to establish standing. As in Count I, Herbits'

argument in Counts II and III both failed to show that the injury was special and different in kind or unique from the rest of the taxpayers, as well as failed to show the injury was directly caused by the City's altering of the lease with Flagstone. Similarly to Counts I through III, the Court also affirmed the dismissal of Count V with prejudice, once again stating that Herbits was a member of the general public and not party to the contract between Flagstone and the City, nor was Herbits a third party beneficiary to the contract. Therefore, Herbits had no right to challenge the agreements or seek declaration of termination of such agreement from the Court. For Counts I through III, the Court declined to analyze the legal sufficiency of these claims regarding the Citizens' Bill of Rights, reserving that analysis as part of an overall analysis of the Charter's provisions in Count IV.

Herbits' complaint also alleged violations of four provisions of the Citizens Bill of Rights: the right to truth in government, right to inspect public records, right to remedies for violations, and right to non-conflicting construction of the provisions of the Citizens' Bill of Rights itself. While the Court found that Herbits had legal standing here to bring a claim under the Citizens' Bill of Rights, he still failed to state a legally sufficient cause of action within his complaint. The Court also agreed with the trial court's dismissal with prejudice of Herbits' public records claims in Count IV, citing preemption under the definition of public records per Fla. Stat. section 119.001(12) and The Florida Public Records Act.

The Court also addressed the parties' arguments as to the definition of "general law" in regard to the Citizens' Bill of Rights, choosing to define "general law" in accordance with the Florida Supreme Court definition of general law itself, as well as its definition of what inconsistency with gen-

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Visit the Environmental and
Land Use Law Section's website at:

<http://eluls.org>

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eral law entails. General law operates universally or uniformly across the state and across subjects, or involves laws of state function or instrumentality. Inconsistency with state law is defined as contradictory legislative provisions that cannot exist with one another. Specifically, the Court disagreed with *Flagstone* and the City regarding contested section (D) of the Citizens' Bill of Rights, finding it did not add an additional judicial limitations element to taxpayer standing to the remedies afforded citizens per section (C). Thus, the Court also affirmed the trial court's dismissal of Count IV with prejudice despite *Herbits'* standing, because the Citizens' Bill of Rights only allows for remedy of truth in actual government violations. Remedy is not afforded for possible or prospective violations of ordinances such as those alleged by *Herbits*. Accordingly, the Court found *Herbits'* Count IV claim not actionable under the Citizens' Bill of Rights and ultimately affirmed the trial court dismissal of all five counts with prejudice.

Appellants lacked standing to petition for an administrative hearing regarding a dismissed petition for review of a final order issued by the Department of Environmental Protection. Appellants wished to challenge the DEP's issuance of a five-year ERP for temporary floating boat docks in Biscayne Bay, but did not have third party standing to challenge the permit under the Florida Administrative Procedures Act (APA). *Village of Key Biscayne, et. v. The Department of Environmental Protection, et. al. No. 3D15-2824 (Fla. 3d DCA November 9, 2016).*

The Department of Environmental Protection (DEP) approved and issued an Environmental Resource Permit (ERP) to the National Marine Manufacturers Association (NMMA). This ERP authorized the installation of approximately 830 temporary floating water slip docks for a period of twelve weeks at the Miami Marine Stadium in Biscayne Bay to facilitate an annual weekend boat show. The DEP issued the ERP pursuant to Section 373.414(1) of the Florida

Water Resources Act, finding that the proposed activity was not harmful to the water resources or was not inconsistent with the overall objectives of the district, was not contrary to public interest, and had reasonable assurance that the applicable state water quality standards would not be violated. The Village of Biscayne Bay (Village) filed a petition for administrative hearing to challenge the issuance of the ERP, which was dismissed by the DEP by final order determination of lack of standing by the Village.

The DEP found that the Village's petition to challenge the ERP must be dismissed for lack of third party standing because it failed the Substantial Interest Standing Test (SIST) as required by this type of permitting. To meet the requirements of the SIST, the Village was required to show that its interests were within the zone of interest of the proposed ERP and those substantial interests exceed the general interest of its citizens. Particularly, the Village failed to show injury-in-fact and that the injury was of the type which administrative hearings are designed to protect, both of which would have entitled the Village to the administrative hearing for which it petitioned. The Village alleged injury regarding economic investments and contractual obligations, which do not qualify as a real or immediate threat of direct injury to interests that are protected by ERP proceedings, so it failed to meet the second prong of SIST. The Village further alleged injury regarding compliance with comprehensive planning and land use restrictions of the area, but this allegation fails prong one of SIST because under the ERP guidelines, the DEP cannot deny an ERP for issues of alleged noncompliance with comprehensive plans as they fall outside of the zone of interest. The Village also alleged lack of review by the Board of Trustees of the Internal Improvement Trust Fund, stating that the land in question was sovereign submerged land owned by the State of Florida. The Court disagreed, citing the opposite was noted within the Notice of Intent and draft of the ERP. The Court found that these allegations also fell outside the zone of interest as required by prong one of SIST, so the Village lacked standing for this allegation as well.

In addition, the Court found that

standing under the Florida APA includes instances where the DEP has dismissed petitions for administrative hearing for a petitioner's lack of standing to challenge final agency action and that state agencies such as the DEP may dismiss petitions for administrative hearing for failure to show a sufficient basis for standing to bring the petition itself. Lastly, the Village further argued a violation of due process regarding a conflict of interest due to the involvement of the DEP's General Counsel (GC), as he determined the Village's lack of standing and not an administrative law judge. The Village alleged that the GC's direct involvement in the decision-making process allowed the GC to be both "judge and jury" regarding both the approval of the ERP and the denial of the Village's petition. However, the GC has delegated authority to make such decisions per FAC Rule 62-113.200(3)(b). While the Court expressed sympathy for the Village in this respect, reiterating the fundamental importance of due process and acknowledging the appearance of a conflict of interest, it noted that the judicial and administrative models did not need to match. Additionally, the Court stated that common practice and the APA itself allows for agencies to serve in the very capacities that the Village protests here, citing traditional deference to the authority of the agency by administrative law judges (ALJ) under section 120.569(d) of the Florida APA. Under this provision, the petition may be submitted for review by an ALJ only when the petition is in substantial compliance with the requirements outlined by paragraph (c) of that section. If the petition fails to be in substantial compliance, or is not timely filed, it will be dismissed.

The Court went on to comment on the difficulties faced by petitioners in obtaining an administrative hearing under the current system, speculating that eventual statutory modification may be warranted to limit the "scope of power of the unelected" such as the GC of the DEP. Ultimately, the Court stated that there was no fundamental error in the DEP's conduct in the Village's case. Accordingly, the Court affirmed the DEP's dismissal of the Village's petition to challenge the ERP at administrative hearing for lack of standing.

Stetson's Institute for Biodiversity Law and Policy Receives Environmental Award from American Bar Association

Submitted by Erin Okuno, Foreman Biodiversity Fellow,
Institute for Biodiversity Law and Policy, Stetson University College of Law

The American Bar Association's Section of Environment, Energy, and Resources selected Stetson's Institute for Biodiversity Law and Policy (Biodiversity Institute) to receive this year's Distinguished Achievement in Environmental Law and Policy Award. On August 7, 2016, Professor Royal Gardner, the Director of the Biodiversity Institute, accepted the award at the ABA Annual Meeting in San Francisco. The Biodiversity Institute's activities for 2015–2016 are highlighted below.

Contributing to international and national conservation efforts:

Stetson Law has continued its support of the Ramsar Convention on Wetlands, which is an intergovernmental treaty that promotes the wise use and conservation of wetlands. There are 169 countries worldwide that are Contracting Parties to the Ramsar Convention. Stetson is the only law

school that has a memorandum of cooperation with the Convention's Secretariat, first signed in 2010. In March 2016, Acting Secretary General Ania Grobicki and Dean Christopher Pietruszkiewicz renewed and extended the memorandum of cooperation, highlighting Stetson Law's support of wetland conservation. Professor Gardner served as the chair of the Ramsar Scientific and Technical Review Panel (STRP) for the 2013–2015 triennium and was reappointed as the chair for the 2016–2018 triennium. The STRP is the Convention's scientific advisory body.

In his capacity as chair of the STRP, Professor Gardner attended the Fourth Plenary Session of the Intergovernmental Platform on Biodiversity and Ecosystem Services

(IPBES-4), held in Kuala Lumpur, Malaysia in February 2016. The first IPBES thematic assessment on pollinators, pollination, and food production was accepted at the session. Professor Gardner also spoke on behalf of the Ramsar Convention at two events at the United Nations in New York. In November 2015, he presented at a meeting of the United Nations Secretary-General's Advisory Board on Water and Sanitation, where he discussed the role of wetlands in the water cycle. Professor Gardner returned to the United Nations in March 2016 to speak at a joint celebration of the International

working paper, titled "Bibliography of 2015 Scientific Publications on the Ramsar Convention or Ramsar Sites," is available on SSRN at <http://ssrn.com/abstract=2649137>. The project is a recognized activity under the Ramsar-Stetson memorandum of cooperation. Stetson Law students Miles Archabal and Jess Beaulieu provided research assistance for the project.

The Biodiversity Institute also continued to support the Secretariat of the Inter-American Convention for the Protection and Conservation of Sea Turtles (IAC). The Biodiversity Institute provided the IAC Secretariat with the results of a research project on the national legislation of the IAC Parties. This collaborative research project began in June 2014, when the Biodiversity Institute hosted a meeting of the IAC's Consultative Committee. Stetson students took a course on sea turtle protection laws in preparation for the IAC meeting, and as part of that course, the students began to research the laws of the IAC

member countries. After the course, the students' research findings were compiled, verified, supplemented, and completed. The IAC Secretariat posted the final research findings on the IAC's website at <http://www.iacseaturtle.org/marco-eng.htm> and gratefully acknowledged Stetson Law's contributions.

This spring at the National Mitigation and Ecosystem Banking Conference in Fort Worth, Erin Okuno reported on in-lieu fee (ILF) programs, which offset impacts to aquatic resources, and the extent to which they comply with the requirements of the 2008 federal compensatory mitigation regulation. Based on her talk, she was invited to present at a national ILF training program

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PROFESSOR GARDNER SPEAKING AT
THE UNITED NATIONS IN NEW YORK

Day of Forests and World Water Day, where he talked about the importance of mangroves and the ways in which the Ramsar Convention contributes to the wise use of mangroves and other wetlands.

Over the past year, Professor Gardner and Erin Okuno, the Biodiversity Institute's Foreman Biodiversity Fellow, identified scientific articles that discuss the Ramsar Convention or designated Ramsar Sites and were published in 2015. Summaries and links to the articles were provided to the members of the Ramsar Forum, which is the Convention's public email list with almost 2,000 members. In May 2016, the Biodiversity Institute drafted a working paper that provides a consolidated and categorized bibliography of all 225 articles. The

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organized by the Environmental Law Institute in Minnesota in July.

Closer to home, Professor Paul Boudreaux offered advice to the Defenders of Wildlife and others in connection with Florida's revisions of its regulations on protecting imperiled species. Stetson Law students were also engaged in Florida wildlife issues, as Research and Writing II students submitted comments to the U.S. Fish and Wildlife Service about a proposal to downlist the West Indian manatee under the Endangered Species Act.

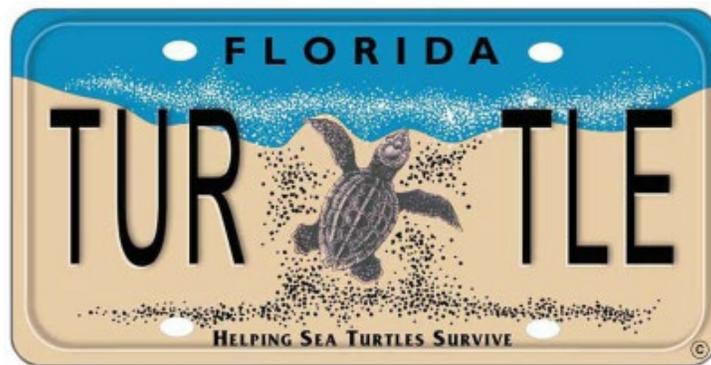
Using innovative methods to teach environmental law:

Stetson University College of Law was awarded a grant by the Sea Turtle Grants Program to offer a special course on Sea Turtle Law and Policy this summer for law students and graduate students who are pursuing degrees in marine science, environmental science, or environmental policy. Professor Gardner taught the one-credit, three-day course, "Topics in Biodiversity Law: Sea Turtles," on August 26–28, 2016. The special course educated law and other graduate students about threats to sea turtles and the local, state, national, and international legal and policy framework to protect them. A guided visit to Fort De Soto Park was part of the course. Scholarships funded by the Sea Turtle Grants Program were awarded to law students and environmental graduate students. The Sea Turtle Grants Program is funded from proceeds from the sale of the Florida Sea Turtle License Plate. Learn more at www.helpingseaturtles.org.

In Professor Lance Long's Environmental Advocacy course, students learned about the art and skill of persuasion in the environmental arena. Each student selects a particular environmental issue and then must design a project that consists of a FOIA request, media advocacy, and either a collaborative project with a public or private entity, a draft of a citizen's suit, or some type of legislative advocacy. This year's projects

included working with town councils to inform them of the potential environmental hazards of gypsum mines and sponsoring a mayoral candidate debate on specific environmental issues facing Gulfport. The class is a model of combining theory, skills, and experiential learning.

In spring 2016, Professor Gardner and Professor Long taught Research and Writing II—Environmental Law. The course is a special section of Research and Writing II that covers the same fundamental skills as other sections but in an environmental context, with an emphasis on real-world issues. The students researched and submitted public comments on the U.S. Fish and Wildlife Service's proposal to reclassify how the West Indian manatee is listed under the Endangered Species Act. The students also drafted an appellate brief about the Clean Water Rule, which was promulgated by the U.S. Envi-



ronmental Protection Agency and the U.S. Army Corps of Engineers (and is the subject of ongoing legal challenges). The students had the opportunity to continue their learning in the field by participating in a hiking and camping trip to Little Manatee River State Park.

Professor Gardner taught International Environmental Law and the Wetlands Seminar in the fall. Students in those courses also learned about environmental issues both inside and outside the classroom. The International Environmental Law class took a field trip to Tampa's Lowry Park Zoo, where the students gave brief presentations about endangered species and spoke with zoo director Dr. Lawrence Killmar. Students also met with Stetson Law alumna Debbie Brown, who is the Director of Human Resources at the zoo. The students in Professor

Gardner's Wetlands Seminar visited the Old Florida Mitigation Bank in Pasco County with site managers and regulators.

Professor Gardner and Erin Okuno taught an International Environmental Law, Policy, and Politics seminar at the University of South Florida Honors College in the spring, as part of the Stetson-USF 3-3 program. Students learned how international legal regimes address global environmental problems, and they engaged in two-party and multiparty negotiation exercises. The course culminated with oral arguments about shark finning in one of the courtrooms at Stetson's Tampa Law Center.

The Biodiversity Institute offered the Ecosystem Banking Workshop again this year. The workshop is a voluntary enrichment program in which students learn about market-based approaches that may be used to restore and enhance wetlands and their resources, protect habitat for endangered species, improve water quality, and decrease greenhouse gas emissions. This spring, the students presented their case studies on specific mitigation banks.

In summer 2015, fall 2015, and spring 2016, Stetson Law students participated in environmental law externships across

the country, where the students had opportunities to practice hands-on legal skills. Daniel Maharaj and Allison Dhand participated in the National Oceanic and Atmospheric Administration externship, Lydia Greiner and Rachael Curran participated in externships at the Center for Biological Diversity, and Allison Dhand, Benjamin Lute, Tea Zubic, and Timothy Stella participated in the Environmental Protection Commission of Hillsborough County externship.

Creating a dialogue about environmental challenges:

In April 2016, Stetson Law hosted the 16th International Wildlife Law Conference (IWLC-16) on its Gulfport campus. The conference began with an Edward and Bonnie Foreman Biodiversity Lecture, which was

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presented by Elizabeth Gitari, Former Legal Affairs Manager at WildlifeDirect in Kenya. She spoke about efforts to fight the illegal trafficking of elephant ivory. Marceil Yeater, Former Chief, Legal Affairs and Trade Policy, Secretariat of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), delivered a keynote address on the role of CITES.

IWLC-16 panel discussions addressed hunting, fishing, and other intentional and unintentional impacts on wildlife, as well as connections and collaborations across multilateral environmental agreements. A broad range of presenters included Professor Annecoos Wiersema (University of Denver), Professor Patricia Farnese (University of Saskatchewan), Jaclyn Lopez (Center for Biological Diversity), Ryan Tate (VETPAW), Dr. Wil Burns (American University and Founder and Emeritus Editor-in-Chief, *Journal of International Wildlife Law and Policy*), Melissa Lewis (Tilburg University), Professor Rommel J. Casis (University of the Philippines), and Professor Nadia B. Ahmad (Barry University). The 17th International Wildlife Law Conference will be hosted by the Institute of Environment Education and Research, Bharati Vidyapeeth University in Pune, India on January 6–9, 2017.

Stetson Law and the Environmental Law Institute co-sponsored the Third Annual ELI-Stetson Wetlands Workshop in November 2015. The theme of the workshop was “Wetlands Mitigation and Long-Term Stewardship: Financial Challenges and Title Issues.” Panelists and speakers discussed lessons learned and

best practices for long-term funding mechanisms for mitigation sites, as well as competing property rights and interests at mitigation sites. The workshop panelists were Jenny Thomas (U.S. EPA), Greg DeYoung

Land Use Law Section (ELULS) for the special grant it provided to Stetson Law to support the workshop.

Professor Boudreaux serves as the Editor-in-Chief of the *Journal of International Wildlife Law & Policy (JIWLP)*, and Professor Gardner and Erin Okuno are on the journal's editorial advisory board. Students at Stetson Law have the opportunity to serve as student editors for the journal, in which capacity they perform “cite and source” reviews of articles and other editing tasks. Select student articles may be chosen for publication in *JIWLP*. The journal's mission is to address legal and political issues concerning the human race's interrelationship with and management of wildlife species, their habitats, and the biosphere. An article by recent graduate Ethan Arthur was the basis for this year's Stetson International Environmental Moot Court Competition problem.

Thanks to the generosity of Bonnie Foreman, the Biodiversity Institute offered the Edward and Bonnie Foreman Biodiversity Lecture Series again this year. The lecture series is free and open to the Stetson and larger Tampa Bay communities. Over the years, scientists, attorneys, judges, policymakers, and other experts have presented at the lecture series. The lectures foster a dialogue about important environmental issues and have created meaningful connections and opportunities for students and other attendees. The speakers this last year included Carlton Ward Jr. (Photographer and Explorer, Florida), Mike Walker (Senior Enforcement Attorney, EPA, Washington, DC), Dr. Rodrigo Medellin (Senior Professor of Ecology, UNAM, Mexico), Randall Arauz (President, PRETOMA,



ATTENDEES OF THE THIRD ANNUAL ELI-STETSON WETLANDS WORKSHOP ON THE FIELD TRIP TO THE OLD FLORIDA MITIGATION BANK

(Westervelt Ecological Services), John Emery (SWFWMD), Bob Polin (NFWF), Professor Paul Boudreaux (Stetson University College of Law), Gray Stevens (EarthBalance Corporation), Seth Johnson (U.S. Army Corps of Engineers—Jacksonville District), Clay Henderson (Stetson Institute for Water and Environmental Resilience), and Palmer Hough (U.S. EPA). This year's workshop also featured a field trip to the Old Florida



PARTICIPANTS, COACHES, AND COMPETITION JUDGES WITH DEAN PIETRUSZKIEWICZ AND PROFESSOR GARDNER AFTER THE CHAMPIONSHIP ROUND AT THE INTERNATIONAL FINALS OF STETSON'S INTERNATIONAL ENVIRONMENTAL MOOT COURT COMPETITION

Mitigation Bank. In spring 2016, the *National Wetlands Newsletter* published a special issue based on the presentations and issues discussed at the workshop. The Biodiversity Institute is grateful to the Law School Liaison Committee of The Florida Bar's Environmental and

the years, scientists, attorneys, judges, policymakers, and other experts have presented at the lecture series. The lectures foster a dialogue about important environmental issues and have created meaningful connections and opportunities for students and other attendees. The speakers this last year included Carlton Ward Jr. (Photographer and Explorer, Florida), Mike Walker (Senior Enforcement Attorney, EPA, Washington, DC), Dr. Rodrigo Medellin (Senior Professor of Ecology, UNAM, Mexico), Randall Arauz (President, PRETOMA,

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Costa Rica), Dr. Anne Meylan (Senior Research Scientist, FFWCC, Florida), and Elizabeth Gitari (Former Legal Affairs Manager, WildlifeDirect, Kenya).

Stetson again hosted the International Finals of Stetson's International Environmental Moot Court Competition, the world's largest moot court competition devoted exclusively to global environmental issues. This year marked the 20th anniversary of the competition, which was founded by Stetson Law in 1996. The protection of elephants as cultural property was the focus of this year's moot.

Student teams submitted written memorials and presented oral arguments at regional rounds throughout the world. The top teams were invited to Stetson's Gulfport campus to compete in the International Finals in April 2016. This year's semifinalists were the Law Society of Ireland and National Law University, Jodhpur, India. The runner-up was the University of the Philippines College of Law, and the champion was the University of San Carlos, Philippines. The Biodiversity Institute is incredibly grateful for everyone's continued support of the competition and would especially like to thank the Law School Liaison Committee of ELULS for its financial support. The ELULS graciously co-sponsored the competition this year, and ELULS members participated as guest judges at the competition.

In October 2015, members of the Stetson Law community attended the conference "Sea Level Rise: What's Our Next Move?," which was held in St. Petersburg. Professor Boudreaux, Professor Long, and Stetson Law student Alex Stewart participated as conference debaters. Erin Okuno participated as a moderator and served as a member of the St. Petersburg/Pinellas County Working Group, which organized the conference. Stetson Law students Hayley Brew, Rachael Curran, Lauren Eliopoulos, and Lydia Greiner volunteered at the event.

In March 2016, Professor Long and Stetson Law students and alumni attended the Public Interest Environmental Law Conference in Eugene, Oregon. Professor Long presented a workshop entitled "Writing to Save the World," where he gave the attendees the eight most important persuasive writing techniques for environmental documents. Professor Long's workshop was based on research and statistical studies he has published about persuasion in legal advocacy. Stetson Law alumni Elise Bennett and Katie Cleveland Bright also participated in panel discussions at the conference.



STUDENT NETWORKING EVENT WITH ATTORNEYS FROM STEARNS WEAVER MILLER

Recognizing the accomplishments of students and recent graduates:

Vanessa Moore and Kira Ramirez, two students in the Research and Writing II—Environmental Law course, participated in the Carlton Fields First-Year Appellate Advocacy Competition in the spring. Vanessa won first place, and Kira won second place.

This spring, Professor Long and Erin Okuno coached two teams of students that competed in the Robert R. Merhige, Jr. National Environmental Negotiation Competition. Hayley Brew, Tiffany Fanelli, Anabella Rojas, and Ciara Willis traveled to compete in Richmond, Virginia. Both Stetson teams advanced to the semifinals at the competition.

Students in the environmental law concentration received several awards at spring graduation: Hayley Brew received the Raphael Steinhart Award, Allison Dhand received the Hearne Environmental Law Award, Lydia Greiner received the

Nader/Zrake Memorial Award, and Benjamin Lute received the Dean Richard Dillon Excellence in Real Property Award.

We are proud of our graduates who were recently hired for environmental law and policy positions. Tom Adams served as Assistant General Counsel at the Florida Department of Environmental Protection and is now working in the Governor's Office. Elise Bennett works as a Reptile and Amphibian Staff Attorney at the Center for Biological Diversity in St. Petersburg, and Katie Cleveland

Bright is the Special Assistant to the President at the Ocean Conservancy in Portland.

And special notes of gratitude:

The Biodiversity Institute would like to thank Dick and Joan Jacobs for endowing the "Dick and Joan Jacobs Environmental Law Externship Fund" at Stetson Law. Because of their generous support, this fund will enable students at Stetson Law to participate in meaningful environmental law internships and externships around the country and the world.

The Biodiversity Institute would also like to thank Hopping Green & Sams, P.A. for establishing a book award at Stetson Law that will be given each year to the student in Research & Writing II—Environmental Law who receives the highest grade in the course. Vanessa Moore was the inaugural student recipient of this award in the spring.

Finally, the Biodiversity Institute is grateful to Stearns Weaver Miller Weissler Alhadeff & Sitterson for sponsoring the recent "Careers in Environmental and Land Use Law" event at Stetson's Gulfport campus. Attorneys from the firm's multiple offices attended the event and shared their experiences and advice with students who are interested in pursuing careers in the field.

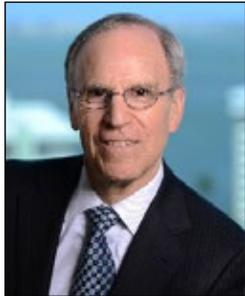
For more information about the Institute for Biodiversity Law and Policy or how to support its programs, please contact Erin Okuno at okuno@law.stetson.edu.

Florida State University College of Law November 2016 Update

by David Markell, Steven M. Goldstein Professor and Associate Dean for Research

This column highlights recent accomplishments of our College of Law alumni, students, and faculty. We also feature the events the Environmental, Energy, and Land Use Law Program has organized for the fall semester.

Recent Alumni Accomplishments



DAN THOMPSON



SILVIA ALDERMAN



DAVIS GEORGE MOYE



CAROLYN HASLAM



TERRY COLE

- **Carolyn Haslam** was honored with the Orange County Bar Association's Elizabeth Susan Khoury Guardian ad Litem Award of Excellence.
- **Paul Washington** recently became Board Certified in Construction Law.
- **Dan Thompson** has been selected by his peers for inclusion in the 23rd Edition of *The Best Lawyers in America* in the practice areas of: Administrative/Regulatory Law, Environmental Law, Litigation - Environmental and Water Law, and has also been named *Best Lawyers' 2017 Tallahassee Litigation - Environmental* "Lawyer of the Year."
- **Silvia M. Alderman** was honored as one of *The Best Lawyers in America* in the area of Environmental Law, Litigation - Environmental.
- **Terry P. Cole** was named one of *The Best Lawyers in America* in Environmental Law.
- **Davis George Moye** is serving

equipment, and works in licensing intellectual property and contract drafting and reviewing.

- **Ali Umut Akyuz** accepted a position as General Directorate of Combating Desertification and Erosion with Turkey's Department of Forestry and Water Affairs Ministry.
- **Steven Specht** is the Democratic candidate for the U.S. House of Representatives in Florida's First Congressional District.
- **Sarah Haston** recently accepted a position with the Department of Justice Torts Branch's Federal Tort Claims Act Litigation Section (FTCA Section).

Recent Student Achievements

Environmental Law Society (ELS)

- **The ELS** has created a Mentoring Directory and invites members of the Section whose practice includes land use, environmental, energy, or natural resources law to contact Travis Voyles (e-mail: tav14@my.fsu.edu) to participate. The ELS is hosting a **Fall 2016 Mentor/Mentee Mixer** at Proof Brewing Company, in Tallahassee, on November 9th at 5:30 P.M.

- ELS recently hosted a panel titled "A Day in the Life of an Environmental Lawyer." Panelists included **Robert Volpe**, Hopping Green & Sams; **Robert Pullen**, Florida Fish and Wildlife Conservation Commission; **Holly Parker**, Surfriider Foundation; and **Jason Lichtstein**, Akerman LLP.
- The Environmental Law Society hosted its second annual **Wakulla River Kayaking Trip** in October.



PHOTOS TAKEN FROM ELS' 2ND ANNUAL WAKULLA RIVER KAYAKING TRIP

- Four FSU Law students, **Britton Alexander**, **Alexandra Holliday**, **Sarai Aldana**, and **Grey Dodge**, have earned special recognition as Florida Gubernatorial Fellows. The Florida Gubernatorial Fellows Program offers students a unique opportunity to learn about Florida State government. **Britton Alexander** is working with the Department of Environmental Protection's Division of Air Resource Management this semester, and will move to another DEP



SPEAKERS FROM LEFT TO RIGHT: ROBERT VOLPE, ROBERT PULLEN, HOLLY PARKER, AND JASON LICHTSTEIN

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Division in the spring. **Alexandra Holliday** is working with the DEP's Division of State Parks and will work with the Water Management Division in the spring. **Sarai Aldana** is working with the Division of Emergency Management. **Grey Dodge** is working with the Department of Business and Professional Regulation.



FLORIDA STATE LAW'S FLORIDA GUBERNATORIAL FELLOWS. FROM LEFT TO RIGHT: ALEXANDRA HOLLIDAY, SARAI ALDANA, BRITTON ALEXANDER, AND GREY DODGE

- **Mallory Neumann** has been invited to attend the Harvard Food Law & Policy Clinic's Food Law Student Leadership Summit in Iowa this September, and is currently serving an internship with the Florida Department of Agriculture & Consumer Services Office of General Counsel.

Recent Faculty Achievements

- Our Fall 2016 faculty scholarship brochure, highlighting the extraordinary productivity of our College of Law's faculty, is now available online, at: https://issuu.com/fsu-collegeoflaw/docs/fsulaw_faculty_scholarship2016_web/1.
- **Erin Ryan** published an essay, "Multilevel Environmental Governance in the United States," in *ENVIRONMENTAL SCIENCE*, distilling the lessons of American experimentation with environmental federalism and multilevel governance for other nations. She was interviewed in a segment on *Capitol Update* about the Florida-Georgia-Alabama interstate water dispute presently before the U.S. Supreme Court, and she was quoted by *The Hill* in an article about proposals to defund climate-related earth science research by NASA.

- **Shi-Ling Hsu** presented his work in progress, "Human Capital in a Climate-Changed World," at the Sustainability Conference for American Legal Educators in Tempe, AZ, and at the 8th Annual Meeting of the Society for Environmental Law and Economics, in Austin, TX.
- **David Markell's** article, *Dynamic Governance in Theory and Application, Part I* (with Prof. Robert L. Glicksman) was published in 58 ARIZONA L. REV. 563 (2016). Prof. Markell participated in an invitation-only workshop in November at George Washington University Law School on possible organizational structures for environmental governance.
- **Hannah Wiseman** was recently quoted in a *PolitiFact Florida* article on Al Gore's assertion that Florida's anti-solar Amendment 1 would "trick voters into ending net metering." She was also quoted in an article published by *The Hill* in regards to Amendment 1.

Fall 2016 Events

Environmental Law without Courts Conference

On September 16, 2016, FSU Law brought together prominent administrative and environmental law scholars from across the country to explore different ways in which administrative agencies have implemented environmental policies largely without court supervision or intervention. For a full list of participants and the topics covered, please visit our Environmental Law without Courts conference webpage: <http://www.law.fsu.edu/news-and-events/2016-environmental-law-without-courts-conference>.



FROM LEFT TO RIGHT: TRAVIS VOYLES, PROFESSOR ROBIN KUNDIS CRAIG, DEAN SHI-LING HSU, JESSICA MELKUN, PROFESSOR SARAH LIGHT, PROFESSOR EMILY HAMMOND, PROFESSOR ROBERT GLICKSMAN, PROFESSOR SARAH LIGHT, PROFESSOR ERIC BIBER, PROFESSOR CHRISTOPHER WALKER, AND PROFESSOR MARK SEIDENFELD

Fall 2016 Distinguished Lecture

Robert Percival, Robert F. Stanton Professor of Law and Director of the Environmental Law Program, the University of Maryland Francis King Carey School of Law, served as the Fall 2016 Environmental Distinguished Lecturer on Wednesday, October 19.



PROFESSOR ROBERT PERCIVAL

Environmental Certificate & Environmental LL.M. Luncheon Speakers

Professor Blake Hudson, Burlington Resources Professor of Environmental Law and Edward J. Womac, Jr. Professor of Energy Law, Paul M. Herbert Law Center Louisiana State University, guest lectured to our Environmental Certificate and Environmental LL.M. students in October.

Professor Roberta Mann, Mr. and Mrs. L. L. Stewart Professor of Business Law, University of Oregon School of Law, will guest lecture to our Certificate and LL.M. students on November 16.



BLAKE HUDSON



ROBERTA MANN

Fall 2016 Environmental Externship Luncheon

Our Environmental Externship Luncheon, held in September, featured several leading attorneys, including: **Ben Melnick**, Department of Environmental Protection; **Judge Bram Canter**, DOAH; **Alisa Coe**, Earthjustice; **Rob Pullen**, Florida Fish & Wildlife Conservation Commission; **Patrick Kinni**, Deputy County Attorney, Leon

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County Attorney's Office; **Janet Bowman**, The Nature Conservancy; and **Anne Hollbrook**, conservation staff, Save the Manatees.

Networking Luncheon

Michael Gray, United States Department of Justice Environment and Natural Resources Division, and **Capitan Michael Palmer**, CAPT, JAGC, USN, Force Judge Advocate, Naval Education and Training Command, met with students interested in environmental

law and other topics in October.

Information on upcoming events is available at <http://law.fsu.edu/academics/jd-program/environmental-energy-land-use-law/environmental-program-events>. We hope Section members will join us for one or more of these events.



UF Law Update

Submitted by **Mary Jane Angelo**, Director, Environmental and Land Use Law Program

Colloquium experts survey "100 Years of Zoning"

"Let the sunshine in" might have been the motto of New York City 100 years ago. That is when the city government introduced the concept of zoning to assure that construction of skyscrapers still permitted the benefits of light and air at street level. Projects such as the Equitable Building convinced the city government to bring in the country's first zoning restrictions, which placed limits on building heights.



The annual Environmental and Land Use Law Capstone Colloquium at the UF Levin College of Law takes a broad and deep look at the legal concept of zoning with a lecture-series theme of "One Hundred Years of Zoning," featuring leading national experts in areas of law, planning, history, and sociology. The lectures are presented with support from the Richard E. Nelson Chair in Local Government, Professor Michael Allan Wolf, and run parallel with his seminar class.

Wolf explained how the capstone is designed to enrich the legal conversation. "By bringing experts in from a number of related disciplines to meet with students and faculty from the law school and other UF colleges, we have a unique opportunity to explore many facets of American zoning's fascinating saga," Wolf said.

Directors from other environmental law programs across the country, such as Jason Czarnecki, associate

dean and executive director of environmental law programs at the Elisabeth Haub School of Law at Pace University, recognize the unique value of the series. "The Environmental Capstone Series provides an amazing opportunity for scholars to engage law students in discussing the cutting edge environmental issues of our time, ranging from climate change to food security to energy policy," Czarnecki said.

Scholars and practitioners participating in the capstone include: Wil-

liam A. Fischel, professor of economics and Robert C. and Hilda Hardy Professor of Legal Studies at Dartmouth College; Nicole Stelle Garnett, John P. Murphy Foundation Professor of Law at the University of Notre Dame Law School; Christopher Serkin, associate dean for research and professor of law at Vanderbilt University Law School; Len Albright, assistant professor of sociology and public policy at Northeastern University, David Freund, associate professor and director of undergraduate studies at the University of Maryland; Nancy E. Stroud of Lewis, Stroud & Deutsch, P.L. in Boca Raton; Steven J. Wernick of Akerman LLP in Miami; and Jerold Kayden, Frank Backus Williams Professor of Urban Planning and Design at Harvard University.



Land-use legal solutions in the era of sea-level rise

By **Elizabeth Turner (JD 15)**

Few seaside beachgoers may realize that the sandy shores they enjoy are veritable land-use and environmental "battlegrounds," as described by UF Law Professors Alyson Flournoy and Thomas Ankersen (JD 86) in a UF Law faculty blog post. In Florida, for example, the wet-sand beach, or the area between the mean high-tide and low-tide water lines, are sovereign submerged lands, held in trust by the state for all Floridians. Now the modest blog post is blossoming into an academic article by Flournoy, and she is working with Ankersen, director of the UF Law

Conservation Clinic, to organize a January workshop at UF Law. It will bring together an interdisciplinary team of academics and other experts to discuss the issues of sea level rise in the context of public rights use and access.

The dry-sand beach is typically privately owned, but citizens may have the right to use the beach based on common law doctrines of custom and prescription. But now that battleground is shifting. The line between dry-sand and wet-sand is moving as sea level changes across years and decades, with the practical effect of

UF LAW SCHOOL UPDATE

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shrinking the private landowner's stake. The complex ways that the dividing line between public and private ownership are adjudicated grows even more complex as the interests of the state collide with the interests of the landowner.

It is a conflict that UF Law's environmental and land-use law scholars are trying to mediate with a new legal framework. Flournoy, a UF Alumni Research Scholar, is developing a scholarly article and planning an interdisciplinary workshop to explore how to apply common law doctrines to beach ownership and beach use in an era of sea level rise. "The hope is that this will provide some useful analysis for courts and local governments to find ways to align public and private values as they apply to common law and additional legislative revisions to address sea level rise," Flournoy said. Flournoy recognizes the daunting nature of her task and that her research won't actually stop the seas from rising or protect property owners from losing out as water encroaches.

So what motivates her to pursue this research? "The reason I've been focused on it and sort of obsessed with these common law doctrines is that they provide the backdrop against which local government policies are going to be developed," Flournoy said. One of her biggest challenges is the issue of uncertainty, which, according to Flournoy, is already coming into play as landowners and governments try to determine the effects of sea level rise on people's rights. "It's bad for landowners and users of the beach, and can lead to social transaction costs in terms of litigation to determine how these doctrines apply," Flournoy said. "For local governments, it creates uncertainty because they don't know the baseline against which any legislative change will be measured." She pointed to the 2010 Supreme Court decision, *Stop the Beach Renourishment v. Florida Department of Environmental Protection*. "We are already seeing increasing conflicts between waterfront landowners and the government, like in *Stop the Beach* and between waterfront landowners and beachgoers, especially in coastal communities in

the Panhandle," Flournoy said.

Also at play are the doctrines of accretion, in which the boundary migrates with changes in the mean high-tide water line, and the doctrine of avulsion, in which the boundary remains fixed after quick changes, such as those caused by a storm surge from a hurricane. While these doctrines already tend to promote uncertainty and litigation, the problem is magnified in the context of sea level rise. Flournoy asks in her research

how to apply very old law in an era of changing technology, new information and greater access to information, and significant change to environmental circumstances. Herein lies the problem, which even Flournoy acknowledges will create lose-lose situations for property owners and the public going forward. Flournoy points out that "with respect to losses, that's not something the law is causing – that's what the sea is causing."

Flournoy hopes that her research project will provide stakeholders, such as landowners, governments, and businesses, greater clarity about how the common law should be applied. "For example, landowners who want to buy or sell real estate along the coast need to understand how sea level rise may affect their investment over the next 30 to 50 years," Flournoy said. And don't forget the tourists. "Businesses, government, and citizens need to try to understand the impact sea level rise may have on Florida's tourism economy and how it will affect the ability of citizens and tourists to enjoy Florida's beaches," she said. Local governments similarly need ideas about frameworks that will make economic sense. "As local governments put increasing time and resources into adaptation planning to meet the challenges of sea level rise, they can benefit from clarity on the common law backdrop against which they are acting, whether they want to engage in land

acquisition, regulation, infrastructure investment, or disaster planning," Flournoy said.

The workshop under development by Flournoy and Ankersen will deploy scenario analysis to evaluate possible future events by considering alternative outcomes. Large corporations,



government agencies and non-governmental organizations have used scenario analysis to inform decisions and planning in the face of uncertainties. For the academics, it

will "broaden our thinking about possible outcomes in light of these uncertainties," Flournoy said.

Flournoy hopes to bring legal scholars from Florida and other coastal states, such as California, Virginia and North Carolina, as well as experts in the fields of land use planning, economics, coastal engineering, policy and governance to the workshop. She and Ankersen are designing parameters for the workshop by working with the Florida Climate Institute, a multi-disciplinary network of national and international research and public organizations, scientists and individuals that are hosted at the University of Florida. The workshop is funded by the Florida Sea Grant and the Frederick and Victoria Leonhardt Family Endowment for Law to the UF Law Environmental and Land Use Law Program.

Meanwhile, Ankersen is working on a project to determine whether voluntary sales of conservation easements by coastal property owners is an effective tool to help protect critical habitat for endangered sea turtles that nest along Florida's east coast beaches. The project is funded by the National Fish and Wildlife Foundation, the Sea Turtle Conservancy and the Disney Conservation Fund.

Keep up with UF Law's environmental program

UF Law's Environmental Law program is on Facebook and Twitter. Check out UF Law's faculty blogs and the UF Law website for more information.



MEMBERSHIP APPLICATION
ENVIRONMENTAL AND LAND USE LAW SECTION
 WEBSITE: WWW.ELULS.ORG

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MEMBERSHIP OPTIONS / DUES

The Florida Bar dues structure does not provide for prorated dues; your Section dues cover the period from July 1 to June 30. Your application and check should be mailed to The Environmental and Land use Law Section, The Florida Bar, 651 E. Jefferson Street, Tallahassee, FL 32399-2300.

I AM... (check one)	MEMBERSHIP OPTION	ANNUAL DUES
	ATTORNEY – Admitted to Florida Bar	\$40
	AFFILIATE – Professionals and Faculty	\$50
	AFFILIATE – Students	\$20

I understand that all privileges accorded to members of the section are accorded affiliates and law students, except that affiliates may not advertise their status in any way, and neither affiliates nor law students may vote, or hold office in the Section or participate in the selection of Executive Council members or officers.

CERTIFICATION: I hereby certify that I have never been denied admission to any bar, or been the subject of any proceeding questioning my moral character, disbarred from any legal bar, convicted of a felony, expelled from any University or Law School, or investigated for fraud, misappropriation or mismanagement of funds.

SIGNATURE: _____ DATE: _____