

City of Treasure Island v. Tahitian Treasure Island, LLC, No. 2D14-5406, 2017 WL 4847650
(Fla. 2d DCA Oct. 27, 2017)

Second DCA Clarifies Meaning of “Vehicular Traffic” Under Coastal Zone Protection Act

The City of Treasure Island (the “City”) appealed a final summary judgment in favor of Tahitian Treasure Island, LLC and five other appellees concerning vehicle activity on the City’s beach. The trial court found that all of the City’s activities allowing vehicular parking and driving on the beach violated section 161.58(2), Florida Statutes, which prohibits “vehicular traffic” on “coastal beaches.” The Second DCA affirmed in part, reversed in part, and remanded for further proceedings.

The Appellees are beachfront hotels. The City uses an area on the beach to host several events each year. To accommodate the event attendees, the City creates temporary parking areas that are situated on a sandy portion of the beach. To access these parking areas, a vehicle must drive along sandy paths that lead the vehicles onto the beach and into the temporary parking areas. During City-hosted events, vehicles that are event-related, such as vendor vehicles and those that help with event set-up and break-down, are also allowed to drive and park on the beach. All of this activity is authorized by City ordinance.

The Appellees challenged the vehicular activity arguing that it violates and is prohibited by the Coastal Zone Protection Act because it is within the meaning of “vehicular traffic.” Because the statute does not define “vehicular traffic,” the court used tools of statutory construction and concluded that “vehicular traffic” means “the movement of vehicles as though it were happening along a public street or highway.” To define the term as “any movement of vehicles,” as the trial court suggested, would limit the statutory authority granted to the Florida Department of Environmental Protection to permit activities on the beach under Part I of Chapter 161, Florida Statutes.

The court held that the vehicular activity associated with the beach parking areas for event attendees constitutes “vehicular traffic” because the beach paths that must be used to access the parking areas are open to the public, are regulated as public ways, and use a portion of the beach as if it were a public street. The court refused to limit the term to “Daytona Beach-style driving” as the City had argued. However, the court reached the opposite conclusion regarding the vehicular activity that is related to City-hosted events. The court held that this activity, such as the movement of vehicles across the beach for the purposes of event set-up and break-down, is not “vehicular traffic” within the meaning of the statute because it does not involve the use of a beach as a public highway. Therefore, the trial court erred in declaring that the City’s ordinance that allows for this activity is invalid.