

Chmielewski v. St. Pete Beach, No. 16-16402, 2018 WL 2225053 (11th Cir. May 16, 2018)

Eleventh Circuit Affirms \$1,489,700 Verdict In Favor of Beachfront Property Owners in Takings Suit Against the City of St. Pete Beach

In *Chmielewski v. St. Pete Beach*, property owners sued the City when it declined to enforce trespassing laws against the public entering and using their property as access to St. Pete Beach, a violation of the owners' Fourth Amendment rights. The property, located in the Don CeSar Place Subdivision on St. Pete Beach, was already in dispute in a quiet title action against the City, the Hotel, and the Don CeSar Place Property Association in 2006. In that case, the property owners acquired the beachfront portion of "Block M," the block adjacent to their residence. The City agreed that no structure could be built on Block M, including the property owners' beach parcel. Additionally, the City agreed that the general public does not have the right to use Block M or the beach parcel.

However, the City later turned Block M into a community center and cleared a direct public access to the beach. They posted large, circular signs with the City's emblem stating "Beach Access." The City also cleared and improved the parking lot, grassed and landscaped the area, removed fencing around the parking lot, made the area more attractive with convenient public parking to facilitate beach access, installed metered public parking, and publicly announced that it provided parking to allow the public to use Block M as access to the beach.

The main issue of the case was whether the City encouraged and invited the general public to use Block M, and, as a result, the owners suffered a seizure of their residential property and a taking of their beach parcel. Article X, § 6 of the Florida Constitution states: "No private property shall be taken except for a public purpose and with full compensation therefor paid to each owner." In applying that clause, the district court held that the evidence was sufficient to support the jury's finding that the City meaningfully interfered with the property owners' use and enjoyment of their property. The Eleventh Circuit affirmed and entered a \$1,489,700 verdict for the property owners. However, the court did find that the City is entitled to and must pay for a permanent easement across Block M for the benefit of the public.