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Walton County beach customary use case reported resolved except for one property

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CUSTOMARY RECREATIONAL use of the beach in Walton County remains a hot topic in Walton County as county legal counsel continues to work to resolve matters with beachfront property owners related to Walton County's ongoing customary use court complaint. (Photo by Dotty Nist)

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By DOTTY NIST

It has been reported that Walton County's customary use of the beach lawsuit has been resolved or is in the process of being resolved for all parcels except one. However, as of June 30 the county's recent efforts to avoid the case going to trial had not succeeded.

In the original case filed in December 2018, Walton County had sought to affirm a right by the public to customary recreational use of the beach on all privately-owned parcels along the 26-mile coastline. Listed in the customary use court complaint had been 1,194 parcels.

Hundreds of parties, mainly beachfront property owners, had intervened in the lawsuit in opposition to the county court complaint.

Since the Walton County Board of County Commissioners' (BCC) voting in February 2023 to pursue a settlement of the lawsuit, county legal counsel has been engaged in working with property owners to resolve the matter without the case having to go to trial. It had been anticipated that the trial would cost the county approximately $8 million or more.

In May 2023, the BCC had approved a final settlement agreement that would apply to lawsuit intervenors opting to participate in the agreement—and had authorized the BCC chairman to sign that agreement.

At a June 30, 2023, court hearing on the lawsuit in Walton County Circuit Court, Clay Adkinson, acting county attorney, reported that issues with the lawsuit had been resolved or were in the process of being resolved with all intervenors with the exception of one parcel. The manner of resolution was either through dismissals or parties entering into the settlement agreement.

Kent Safriet, an attorney representing a group of intervenors, spoke about the Alford parcel, one of the beachfront properties whose owners he is representing in the lawsuit.

Safriet discussed that the property owners, the Alfords, are opting to proceed in the customary use litigation and had also filed a counterclaim against the county in the lawsuit.

The Alford property is located in Miramar Beach, an area in which in April the county had dismissed several hundred parcels from the

lawsuit. The Alford property was not among those, but Walton County had opted to drop from the case what was identified as Zone 1 in the lawsuit, the Miramar Beach area.

Property owners Lionel and Tammy Alford had filed their counterclaim in April 2021. The counterclaim, together with challenging/denying that Walton County is entitled to a declaration of customary use on their property, also charges that Walton County's customary use ordinance, which was in effect from April 1, 2017 until July 1, 2018, represented an unconstitutional temporary "taking" of the counterclaimants' property without compensation. Payment for damages, attorney fees, and other costs are sought by the property owners in connection with this filing.

In addition, with the counterclaim the Alfords are seeking a declaratory judgment that the Florida Supreme Court's 1974 adoption of the doctrine of customary use was unconstitutional and that the doctrine is unconstitutionally vague and violates due process rights.

Discussion at the June 30 court hearing resulted in a decision by Walton County Circuit Court Judge David Green, presiding judge in the case, to schedule the takings portion of the Alfords' counterclaim to be brought before the court on July 10.

At the request of members of Walton County's legal counsel, Judge Green agreed to allow 90 days for counsel to prepare to proceed with the remainder of the trial and response to other allegations in the Alfords' counterclaim related to customary use.

Glenn Burhans, a member of Walton County's legal counsel, indicated that previously an eight-week trial had been anticipated—but that under the current circumstances he now expected a trial approximately five weeks in length.

Also at the June 30 hearing, Judge Green was presented with a document, a Partial Final Judgment agreed to by Walton County and intervenors in the lawsuit. The judgment included the settlement agreement approved by the county and the signatures of intervenors/owners of 35 properties.

Judge Green signed the document, and it was also recorded with the Walton County Clerk of Courts on June 30.

A number of joint dismissals had been filed with the court, as well, on June 29, applying to groups of intervenors r

epresented by seven different law firms.

The BCC has scheduled a special meeting and closed executive session in connection with the customary use case for 9 a.m. on July 5 at the South Walton Annex.



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