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Sullivan's sued

RIGHTS TO TRIMMING IN ACCRETED LAND

AN ISSUE FOR PROPERTY OWNERS

BY KRISTIN HACKLER

Sullivan's Island residents Nathan and Etta Leah Bluestein, and Theodore and Karen Albenesius have filed a lawsuit against the Town of Sullivan's Island concerning the accreting land adjacent to their properties.

The accreting land along the coast of Sullivan's Island has been an issue for years, and while it began as an extra accumulation of sandy beach back in the late 1980s, it has since evolved into a pre-maritime and developing maritime forest with trees, shrubs and undergrowth. While some residents enjoy the benefit of having a small forest within walking distance of their homes, those with property abutting the land claim increases in animal infestation and decreasing property values.

According to the lawsuit, the original agreement made between the Town and the Lowcountry Open Land Trust on February 12, 1991, allows property owners adjacent to

the accreting land to preserve the land in its condition as it was in 1991. An exhibit included in the lawsuit shows an aerial photograph taken by NOAA in October of 1989 which the plaintiffs claim shows no trees and shrubs adjacent to the plaintiffs' properties at that time.

Furthermore, the plaintiffs claim that the Town of Sullivan's Island has not allowed them to maintain the land directly in front of their homes, stating that the zoning ordinances in place when the deed for the land was officially acquired by the Town allowed citizens to prune all varieties of trees and bushes at any time of year to a height of no less than three feet. On June 21 and June 24 of this year, the Bluesteins and the Albenesius respectively were denied permits to trim in exactly this manner.

In response, the Town stated that ordinances were adopted in 1995 and in 2005 permitting trimming and pruning only between November

1 and February 28, and that the only vegetation allowed to be trimmed and pruned are the Southern Waxmyrtle, the Eastern Baccharis and Popcorn trees, and those only to a height of no less than five feet.

This denial, according to the lawsuit, puts the Town in breach of the deed's obligations and restrictions. The litigants quote the original deed agreement as, "The Town Council is given the unrestricted authority to trim and control the growth of vegetation for the purposes of mosquito control, scenic enhancement, public and emergency access to the ocean and providing views of the ocean and beaches to its citizens."

The lawsuit also states that to change the restrictions of the deed, the Town is required to have an affirmative vote from both 75% of

PHOTO BY PETER COLEMAN



Accreted land from cover

the registered voters of the Town, and 100% of the members of the Town Council. To date, the lawsuit states the Town has not conducted a vote to modify these deed restrictions as required.

Without the ability to trim in front of their property, the Bluesteins and the Albenesiuses are also claiming a reduced fair market value in their properties to the tune of one million dollars, each. According to a letter written on December 11, 2009, from real estate appraiser Thomas Hartnett and presented at the December 7, 2009, Sullivan's Island Council meeting, Hartnett described a possible economic impact of not maintaining the accreted land in order to provide "views of the ocean and beaches to its citizens." He states, "The bottom line is, front

beach properties will be reduced in value by over \$1,000,000 with the loss of view. Proportionally, as you go back from the front beach, every row of properties will be reduced in value: the second row by approximately \$750,000, the third row by approximately \$500,000, and the fourth row by approximately \$250,000." Hartnett goes on to note that he is, "dumfounded as to how the Town can expect to operate financially if it allows property values to be so significantly reduced and thus tax revenues to its' treasury be reduced."

The Town has until August 8, 2010, to file an answer to the complaint. To read the full complaint, visit www.CharlestonCounty.org and click on Clerk of Court, case number 10-CP-10-5449.