



HARBOR ISLAND BEACHED HOUSES

Harbor Island homes after Hurricane Matthew in 2016.

CASE BRIEF

On behalf of the Harbor Island Owners Association, we working to remove several uninhabitable "beached" houses that have become public nuisances on Harbor Island and must be removed for the safety of humans and marine life alike.

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As sea levels continue to rise, and our beaches continue to erode, facing the dilemma of beachfront houses becoming permanently stranded on the active beach was only a matter of time.

On Harbor Island — an erosion-threatened private gated community in Beaufort County — several deteriorating and uninhabitable houses are falling into the ocean piece by piece. SCERP was contacted by the Harbor Island Owners Association to use our legal expertise to force removal of these so-called "beached" houses.

Siding, pipes, wires, appliances and other structural components are deteriorating and gradually falling into the ocean, potentially causing harm to people recreating in and on the beach, as well as marine life that may ingest these components.

Moreover, the long-term implications of houses deteriorating on the beach and obstructing public use are significant, particularly given the fact that nearly all of South Carolina's beaches are eroding while sea levels are rising.

We filed a complaint asking Beaufort County Circuit Court to declare that six of these houses that have become located

on the beach below the mean high water mark are a public nuisance and must be removed.

The claim is brought under the Public Waters Nuisance Abatement Act, which authorizes removal of "structures located on the public waters of the State which are used as places of temporary or permanent habitation, dwelling, sojournment, or residence." We allege that the Act requires removal of the houses at the owner's expense, and that the State has a responsibility under the Public Trust Doctrine to protect the public's use of this now-impeded beach.

"We know that with sea level rise and the fact that nearly every beach in South Carolina is eroding, we're going to see more houses that are located on the active beach," SCERP Executive Director Amy Armstrong said. "What we wanted to achieve is precedent about what happens, who's responsible when this happens, and how."



Learn more: www.scelp.org

SEA LEVEL RISE



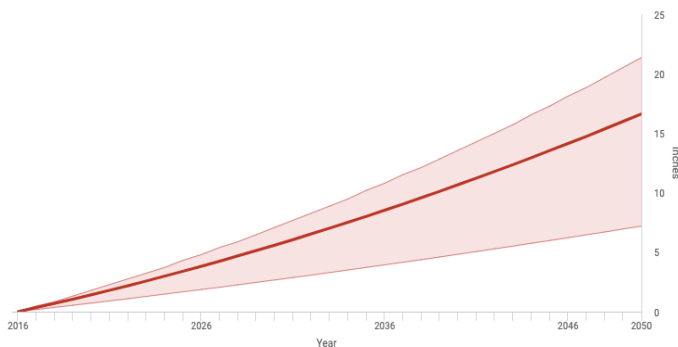
Hurricane Matthew had a significant impact on the coast. Photo credit: Program for the Study of Developed Shorelines at Western Carolina University

Sea level rise is a profound and growing issue of global concern, including South Carolina's coast. Along with flooding, a rising ocean pushes the shoreline landward, threatening structures in close proximity to it; causing salt water intrusion into freshwater systems; leading to habitat loss for wildlife and plants; and displacing coastal residents.

Our State's decision-makers unequivocally recognized the serious threats of sea level rise back in 1988 when they passed the Beachfront Management Act and its regulations:

"Sea level rise in this century is a scientifically documented fact. Our shoreline is suffering from its effects today. It must be accepted that regardless of attempts to forestall the process, the Atlantic Ocean, as a result of sea level rise and periodic storms, is ultimately going to force those who have built too near the beachfront to retreat." S.C. Code Regs. 30-1 (1990)

Charleston Sea Level Rise Forecasts



Sea level rise is accelerating. Photo credit: sealevelrise.org

In low-lying Charleston, for instance, sea levels have risen 10 inches since 1950 and have continued to rise by as much as an inch every two years, according to tidal measurements. The outlook worsens as the ocean continues to warm and the land subsides, causing more ocean water to spill into roads, sewer systems and homes. The recent Fourth National Climate Assessment projected that Charleston could face tidal floods—also known as “nuisance” or “sunny day” flooding—as often as every other day by 2045. Katie McKain, Charleston's director of sustainability, told NPR that the city is planning for 2-3 feet of sea level rise over the next 50 years.

Recently the State eliminated the policy of retreat, which promoted moving people and structures precariously situated on oceanfront property away from the advancing shoreline. The State replaced the policy of retreat with a policy of preservation, which is increasingly less feasible as sea level rise continues and renourishment becomes more costly.

We face economic and environmental realities that leave us two choices: (1) plan a strategic retreat now, or (2) undertake a vastly expensive program of armoring the coastline and retreating through a series of unpredictable disasters. One thing is certain: The long-term and viable way to maintain the public beach in the face of rising seas is to develop a plan for gradually moving structures out of harm's way.