Jordan et al. v. St. Johns County

(With thanks to St. Johns County Attorney Patrick McCormack)

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• Jordan et al. Case
• Claims:
  – Taking
  – Duty to maintain road

• 5th DCA
  – Discretion not absolute
  – County must provide “reasonable level of maintenance” that results in “meaningful access”
  – Fair? To owners? To taxpayers?
“Takings” in the U.S. Constitution

“...nor shall private property be taken for public use, without just compensation.”
**Reasonable Investment-Backed Expectations**

- Notice Requirements
  - Sea-Level Rise
  - Erosion/Dynamic Shoreline
  - Hurricanes
  - Likelihood of Regulations
  - Noxious Use/Nuisance/Background Principles
  - Use of Similarly-Situated Properties

- Appropriateness of Property for Proposed Use
  - Time of Purchase
    - Armoring Limitations
      - Coastal Construction
      - Endangered Species Act
      - Comp. Planning
    - Regulations
      - Subsidy Expectations
        - Fed. Disaster Asst.
        - Citizens Property Ins. / Hurricane CAT Fund
      - Cost of Property
        - Cost of Similarly-Situated Properties
Is It Fair?

5th Amendment is

“designed to bar Government from forcing some people alone to bear public burdens which, in all fairness and justice, should be borne by the public as a whole“

Armstrong v. United States, 124 U.S. 40, 49 (1960)
Parting Thoughts

• SLR will create heavy costs

• Who pays
  – Property owners?
  – Public?

• Why?
  – Who has info? Who can better change their own behavior?

• Treat different property owners differently?
“[A] foolish man . . . built his house on sand. The rain came down, the streams rose, and the winds blew and beat against that house, and it fell with a great crash.”

Matthew 7: 26-27