

Bert Harris Litigation

Please send me via email the style of any circuit court cases that have been filed (ever) against your county under the Bert Harris Act. Please include the style of the case and the disposition. We are helping the U of F with some research.

Clay County has had one case. (Moss)

Collier County: 1. Jerry and Kimberlea Blocker v. Collier County; Case No. 08-9355; this case is related to Jerry and Kimberlea Blocker v Collier County Code Enforcement Board, where Blockers were found in violation of County Code for maintaining a mobile home park in an industrial zone. The Blocker are appealing the CEB matter to the 2nd DCA. The Bert Harris claim is based on the CEB proceedings, (now in the 2nd DCA as Case No. 2D-1025). Motion to Dismiss Pending. 2. Francis Hussey, et al V. Collier County, Case No. 08-6988; Motion to Dismiss 3rd Amended Complaint pending. Zoning change that prohibited earth mining was reason given for the Bert Harris lawsuit. 3. Sean Hussey v. Collier County, Case No. 08- 7025. In this case, the Son of Francis Hussey filed a similar suit, except on different parcels of land. Motion to Dismiss pending. (Hubbard)

Escambia County – Rapid Management Company v. County Commissioners, Escambia County, Florida CASE NUMBER: 2008-CA-000527; 10/16/09 appealed to DCA – CASE NUMBER: 1D09-5521 (Rogers)

Escambia: Since the Act went into effect in 1995, Escambia has only had one suit, and you are familiar with it, Rapid Management Co. v. Escambia County, filed in 2008, Case No. 2008 CA 000527, which resulted in a final summary judgment in favor of the County on a number of grounds. Rapid Management appealed to the First DCA which per curiam affirmed on June 18, 2010. A motion for rehearing, rehearing en banc and request for written opinion is pending. (By the way, the Florida Supreme Court denied the petition for review filed by M&H Profit involving the City of Panama City on July 6, 2010). (Peppler)

Franklin County put on notice by St. Joe Co of intent to file BH claim but no formal claim as of this time has been filed. Deadline is 12/15/10. (Shuler)

Hendry County – style of the case is Ronald P. Nigro v. Hendry County, United States Bankruptcy Court, Southern District of Florida, Broward Division, Adversary Proceeding No. ____ (not yet filed). (Lapp)

Indian River County: (Polackwich)

MT Vero Holdings, LLC vs. Indian River County

Circuit Court, 19th Judicial Circuit

Case No. 2006-0719-CA-17

Case has been dismissed – no concessions by Indian River County.

Bent Pine Preserve, LLC vs. Indian River County

Circuit Court, 19th Judicial Circuit

Case No. 2006-0718-CA-17

Case has been dismissed – no concessions by Indian River County.

Sebastian River Park 160, LLC vs. Indian River County

Circuit Court, 19th Judicial Circuit

Case No. 2006-0717-CA-17

Case has been dismissed – no concessions by Indian River County.

DiVosta Homes, L.P. and DiVosta Homes Holdings, L.L.C. vs. Indian River County

Circuit Court, 19th Judicial Circuit

Case No. 2007-0109-CA-19

Case is on-going however the parties have entered into a settlement agreement (revisions to Development Order and Developer's Agreement). A hearing has been scheduled for August 2, 2010 requesting the court to approve the settlement and dismiss the case.

Ocean Concrete, Inc. and George Maib vs. Indian River County

Circuit Court, 19th Judicial Circuit

Case No. 2007-1589-CA17

Case is on-going.

Lee County: (Herrey)

1. Adar Investments, LLC v. Lee County, Florida; Case No. 09CA3589. Lee County's Summary Judgment granted 5/28/2010. Plaintiff appealed with the 2nd DCA

2. LPH, LLC and Buckingham Village, LLC v. Lee County, Florida; Case No. 07CA3142
Mediation Scheduled 8/22/2010

3. Dean & Dean Farms Limited v. Lee County; Case No. 09CA5723. Discovery phase continuing

4. Dean & Dean Farms Limited v. Lee County; Case No. 09CA5724. Discovery phase continuing

5. Dean & Dean Farms, LTD, et al. v. Lee County Board of County Commissioners; Case No. 06CA5011. Discovery phase continuing

6. William Wright and Patricia A. Collins v. Lee County, Florida; Case No. 09CA5721. Discovery phase continuing

7. Sipprelle Palms v. Lee County, Florida; Case No. 09CA5720. Discovery phase continuing

8. Sabasa Pass Grove, Inc. v. Lee County, Florida; Case No. 09CA5722. Discovery phase continuing

9. Cammilot Partners, LLC v. Lee County, Florida; Case No. 09CA5630. Discovery phase continuing

10. Breese Rusk Glennon v. Lee County, Florida; Case No. 09CA4630. Discovery phase continuing

11. Breese Rusk Glennon v. Lee County, Florida; Case No. 09CA5634. Discovery phase continuing

12. SCHWAB MATERIALS, INC. F/K/A SCHOENBRUN FARMS CORPORATION, a Florida Corporation, Plaintiff, vs. CASE NO. 06-CA-003003

LEE COUNTY, FLORIDA, a political subdivision of the State of Florida, Defendant.

Schwab is undisposed of and not much is happening on it. Susan Henderson has the Pine Island, FEMA flood map and Adar Investments Bert Harris cases. (Lehnert)

Manatee County may have the largest pending Bert Harris Act claim in Florida: Mosaic Fertilizer, LLC v. Manatee County; Case No. 2008 CA 9797 (12th Cir.) is still pending and involves a total Bert Harris claim of 618 million dollars. The case was settled but remains open until a challenge to the settlement by EarthJustice attys located in Tallahassee has been completed. That challenge is currently on appeal to the Second DCA. (Minnix)

Martin County (Acton):

Woodrow Kantner & Carolyn Weaver v. Martin County (No court case no.) Claim received by County in June, 2000. Claimants and County settled the Harris Act claim prior to case being filed, by County re-instatement of development approval, in August, 2001. Third-parties filed lawsuits challenging legality of settlement, in Steen, Schearer and Martin County Conservation Alliance v. Martin County and Kantner (19th Jud. Cir. Case nos. 01-867 CA and 01-974 CA). Challengers, original claimant, and County settled lawsuits, by County approving modified development order, and cases dismissed in February, 2004.

Andrew A. Perl v. Martin County (19th Jud. Cir. Case nos. 07-563 CA and 08-1441 CA). Original claim (07-563) received by County in May, 2006; but County's motion to dismiss case granted in December, 2007. Second claim (08-1441) filed in December, 2007. Claimant and County settled lawsuit, by County payment of funds to claimant without any modification to land use decision, and case dismissed in October, 2009.

We have records of only two other Harris Act claims ever being made against the County, one in 1998 and one in 2003. However, neither was pursued by the claimant after rejection of the claim by the County.

Pinellas County – William Tuckali v. Pinellas County and the City of Safety Harbor. Under its countywide planning authority, the County approved a city modification to its downtown development plan of which Mr. Tuckali's property was a part. Mr. Tuckali filed a BH claim. Claim was dismissed (5/27/10) w/o prejudice to file an amended complaint on the basis that the new development plan had not been applied to Mr. Tuckali's property. Amended complaint has been filed. (Bennett)

Sarasota County – Nancy Burns Stratton v. Board of County Commissioners of Sarasota County, 2004-CA-005921-NC (12th Cir. 2006). Inverse condemnation and Harris Act case involving demolition of residence damaged by erosion from the Gulf of Mexico. Successfully defended. (Pearce)

St. Johns County – Claim made by Concessions, Inc. against St. Johns County – July 5, 2010 (Patrick McCormack)