

A simple solution?

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. Pensacola Beach leaseholders learn about the options of owning their slice of paradise

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About 200 Pensacola Beach leaseholders gathered last week to hear a presentation about Fee Simple Title, one of the options available to them in light of recent legal decisions allowing taxation. Pensacola Beach Advocates organized the forum, which was held at the Beach Community Church.

As it stands, Navarre Beach leaseholders are now paying taxes both on the improvements to their land, condominiums and the land itself,

based on a recent affirmation of a lower court's ruling. The ruling is being appealed.

Currently, Attorney Danny Kepner is leading the appeal for 887 parcels on Navarre Beach and approximately 2,200 parcels on Pensacola Beach. The Pensacola Beach case only relates to the improvements on the land; the Navarre Beach case involves the actual land as well as the improvements. Except for one, all Pensacola Beach taxation challenges ended with a ruling in favor of the county property appraisers.



Kepner said the issue is not simple. The first challenge to taxation, *Ward v. Brown*, involved five parcels on Navarre Beach that had automatically renewing leases that were tied to the lease Navarre Beach had with Escambia County. The court's decision said that automatically renewing leases are essentially ownership. The outcome of that lawsuit is being held as precedent for taxation of improvements on Pensacola Beach and is the basis for potential taxation of the land on Pensacola Beach.

Kepner said that doesn't apply to the majority of leases on Navarre Beach or Pensacola Beach, however.

"Some have an option to renew and many have no right to renew," Kepner said of the leases. None of the leases on Pensacola Beach have automatic renewal.

Kepner and his firm, Shell, Fleming, Davis and Menge are in the process of preparing briefs that will be heard in the First District Court of Appeals in Tallahassee. Efforts to combine the two cases were not successful, so the Navarre Beach case will be argued separately from the Pensacola Beach case.

While Kepner continues to fight the taxation, he understands the leaseholders' desire to find a solution to their problem through exploring fee simple ownership.

"The people on the island have a right to look for a solution," Kepner said. "So far they haven't got the resolution they want."

But Kepner said having fee simple title doesn't guarantee that lease fees will go away. If the U.S. Government agrees to deed the land to residents, Escambia County could grant deeds with the condition that residents continue to pay lease fees to Santa Rosa Island Authority.

The forum presented a plan to apply for Fee Simple Title that includes the following steps:

1. Pursue amendment of the federal land deed through an act of Congress.

Draft language for the federal bill must be ready by the end of the calendar year to be considered in the next congressional term. Language should address both Navarre Beach and Pensacola Beach and provide that any windfall would revert to the federal government and could not be retained by Escambia County.

2. Coordinate with the Escambia County Commission.

3. Obtain professional and administrative services from surveyors, title company, closing agents, etc.

4. Determine how to preserve conservation and public areas, including access points and parking lots.

5. Determine which properties are eligible to obtain fee simple title, e.g. condo associations and common areas.
6. Decide how to deal with government bidding requirements to avoid sale to the highest bidder
7. Explore potential refinancing of bonds and bridge bonds pledged lease fees.
8. Decide the future of the SRIA. It is supported by lease and revenue fees, can only be dissolved or amended by the Florida Legislature and many properties may retain their leaseholds, leaving the question of who will manage the fees.
9. Florida legislature may need to address lease fees, statutory requirements or other issues in a special act.v