

Siesta Key Ass’n of Sarasota, Inc. v. City of Sarasota, No. 2D19-3833, 2021 WL 1395233, 46 Fla. L. Weekly D832 (Fla. 2d DCA Apr. 14, 2021).

Second DCA Examines Florida Environmental Protection Act’s Injunction Provision in Lido Key Shoreline Restoration Case

To restore Lido Key’s eroding shoreline, the City of Sarasota (the “City”) and the U.S. Army Corps of Engineers applied for a joint coastal permit (“JCP”) for a beach restoration project (the “Restoration Project”). According to their application, they planned to dredge sand from Big Sarasota Pass—a waterway separating Siesta Key and Lido Key whose submerged lands are held by the Board of Trustees of Florida’s Internal Improvement Trust Fund—to restore the beaches. The Florida Department of Environmental Protection (FDEP) granted the JCP, but the JCP itself specified that it did “not eliminate the necessity to obtain any other applicable licenses or permits that may be required by federal, state, local or special district laws and regulations.”

The Siesta Key Association of Sarasota (“SKA”) sued the City under the Florida Environmental Protection Act (the “Act”) to stop it from moving forward with the Restoration Project. The Act authorizes “any political subdivision or municipality of the state [to move to enjoin] [a]ny person, natural or corporate, or governmental agency or authority from violating any laws, rules, or regulations for the protection of the air, water, and other natural resources of the state.” SKA alleged that, even though FDEP had issued a JCP, the Restoration Project also contemplated dredging in Sarasota County. Consequently, it argued, the City also needed approval from the Sarasota County Water and Navigational Control Authority and, because the City had not obtained that approval, it had violated county law, allowing SKA to stop the Restoration Project. The City moved to dismiss SKA’s complaint, asserting that the Act requires only one valid permit and that, because the FDEP had issued the JCP, SKA could not enjoin the Restoration Project under the Act.

The Sarasota County circuit court dismissed SKA’s injunction action, holding that “relief . . . is barred because the City obtained a valid permit from the appropriate issuing agency,” thus prohibiting any further lawsuit under the Act. On appeal by SKA, the Fourth DCA agreed, explaining that the Act “does not require the person or government agency to hold every potentially relevant permit; it only requires the person or government agency to hold and act pursuant to a ‘valid permit or certificate’ covering such operations.” The Fourth DCA also noted SKA’s own admission that the City obtained a JCP that authorized the Restoration Project. Accordingly, the Fourth DCA affirmed the circuit court’s dismissal.