

*Board of Trustees of the Internal Improvement Trust Fund v. Waterfront ICW Properties, LLC,*  
310 So. 3d 939 (Fla. 4th DCA 2021)

**Fourth DCA Affirms Lower Court’s Decision, Electing to Not Reweigh Evidence Determining That Navigable Waters Did Not Exist on Certain Parcels in 1845**

Both Waterfront ICW Properties (“Waterfront”) and the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida (“TIITF”) claimed ownership over a portion of submerged land (the “Property”). A lawsuit ensued in order to resolve the dispute of Property ownership between the two entities. At trial, the main issue was whether the Property contained navigable waters that were sovereign lands of the State of Florida.

Waterfront argued at trial that the Property did not constitute sovereign submerged lands because no navigable waters existed in 1845 when Florida became a state. To support this claim, Waterfront submitted a copy of the 1845 plat for the entire township, including the disputed Property, which did not depict a body of water on the Property. The TIITF argued that the Property had always contained navigable waters and thus was owned by the State. To support this claim, the TIITF pointed out that a “squiggly line” was on the 1845 plat, which was meant to depict a body of water.

The trial court agreed that the “squiggly line” was intended to depict a body of water but that TIITF had not met its burden of proving that the body of water was a navigable water. The court emphasized that the land had undergone significant man-made alterations that could reasonably have affected the water level on the Property today. Because TIITF had not met “the burden of overcoming the presumption of non-navigability,” the court ruled in favor of Waterfront.

On appeal, TIITF argued that the trial court incorrectly found that TIITF had not met its burden. TIITF argued that sufficient evidence existed for a court to infer that navigable waters existed. However, the Fourth DCA rejected TIITF’s arguments. The appellate court reasoned that all of TIITF’s arguments were merely disagreements with the trial court’s conclusions drawn from the evidence provided at trial. Because the trial court’s decision was supported by “competent substantial evidence” the appellate court affirmed the decision.