



LEVY COUNTY BOARD OF COUNTY COMMISSIONERS

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DATE: October 19, 2021

TO: Levy County Board of County Commissioners

FROM: Stacey Hectus, Planning and Zoning Director

SUBJECT: **Petition LSTA 21-02**, (Ordinance 2021-013) Staff Report for the creation of Property Rights Element Chapter of the Comprehensive Plan titled “Property Rights Element”.

HISTORY:

The history is brief as this was just made a requirement in the last legislative session in chapter 2021-195, Laws of Florida a minimum standard statement of rights within the Legislation which may be taken verbatim and included into the Property Rights Element or may be altered so long as the element does not conflict with the statement of rights established by the Legislature. Section 2 of chapter 2021-195, Laws of Florida adds an additional mandatory element to be included by local governments in their Comprehensive Plans known as the “Property Rights Element.”

The DEO stated in their adopting language that they will not process any other comp plan amendments submitted by the County that were initiated after July 1 (“initiated” meaning had their Planning Commission meeting after July 1) until this Property Rights Element is adopted. That is why it is imperative that we do this right away because we already have our LSTA 21-01 in the works and no changes will be made in that regard until this is adopted. That is also the reason that the LSTA 21-01 follows this item on the agenda.

We have included the Ordinance for your review that will go to the Board of County Commissioners for transmittal of the new element to the Florida Department of Economic Opportunity for their expedited review.

Below is the actual language that will create the new Property Rights Element of our Levy County Comprehensive Plan.

PROPERTY RIGHTS ELEMENT LANGUAGE:

PROPERTY RIGHTS ELEMENT

<p>Goal: Ensure private real property rights are considered in local decision-making and that judicially acknowledged and constitutionally protected private property rights are respected through the inclusion of a Property Rights Element within the Levy County Comprehensive Plan. For purposes of the Property Rights Element, the term “property</p>

owner” or “real property owner” means the person who holds legal title to the real property that is the subject of and directly impacted by the action of the County in its local decision-making. The term does not include another governmental entity.

Objective 1 Implement and maintain mechanisms to ensure that private property rights are considered in local decision-making. Provided, nothing in this Property Rights Element is intended to grant additional rights not already in existence or to supersede existing rights in accordance with the law. Further, nothing herein shall require the County to ascertain or determine the existence of any purported private interest in real property, which when disputed is within the jurisdiction of the circuit courts (see s. 26.012(g), Florida Statutes (2021), and Art. V, Sec. 20(c)(3), Fla. Const.).

Policy 1.1 The right of a real property owner to physically possess and control his or her interests in the real property, including easements, leases, or mineral rights.

Policy 1.2 The right of a real property owner to use, maintain, develop, and improve his or her property for personal use or for the use of any other person, subject to applicable federal, state, and local law.

Policy 1.3 The right of a real property owner to privacy and to exclude others from the property to protect the property owner’s legal interests in such real property, subject to applicable federal, state, and local law.

Policy 1.4 The right of a real property owner to dispose of his or her real property interest through sale or gift.

WHAT DOES THIS MEAN?

As staff that oversees the Levy County Comprehensive Plan and Land Development Regulations we are already applying the above standards in review of our applications, requests and in communicating with the property owners. Once this is approved this will be a new element of our Comprehensive Plan.

TIME LINE:

Because this is a text amendment to the Levy County Comprehensive Plan it is considered a Large-Scale Comprehensive Plan Amendment. After the Planning Commission review and recommendation to the Board of County Commissioners it will go to the BOCC for transmittal to the Florida Department of Economic Opportunity and other state review agencies for expedited review. There is a 45-day review period. Since this is language recommended by the State I do not foresee any issue in the language and am confident it will return without comments. The item will then be advertised for adoption and go to the BOCC for approval. Once the amendment is adopted by the BOCC the Property Rights Element will be added to the Levy County Comprehensive Plan.

ADOPTION:

The County received no comments from the State agencies during their expedited state review process. At this time the BOCC can adopt this as the new Property Rights Element to the Levy County Comprehensive Plan.