

Clarity needed on what's a private beach



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Gulf front property owners have taken it upon themselves to rope off portions of the Gulf beach. The South Manasota/Sandpiper Key Association hopes to schedule a community meeting where residents and other property owners can learn what determines public from private beaches.

Use of 'wet sand' is a public right. But what's 'wet?'

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Few people would be surprised to learn that Florida has more coastline than most other states — 1,350 miles of it, including 825 miles of

sandy beaches, according to the state Department of Environmental Protection.

It may come as a surprise to most that 60% of the state's coast is in private hands, however.

In Sarasota County, it's 80%.

What exists is a sort of joint-ownership, with property owners owning the sand to the "mean high water line" — MHWL — and the state, on behalf of the public, owning from there into the body of water.

In theory, it's a workable system sometimes referred to as "dry sand/wet sand."

In practice, though, it's rife with problems, beginning with the MHWL itself, according to the panelists at a recent Sarasota Tiger Bay Club forum.

It's the "mean" high water line because it's calculated on a 19-year average, said moderator Kevin Cooper, of Mote Marine Laboratory.

SEE BEACH, 7A

BEACH

FROM PAGE 1A

But the data that can go into calculating it might be decades old, journalist Isaac Eger said, adding that the National Oceanic and Atmospheric Administration won't be putting out revisions until 2025.

Weather and construction can alter the shoreline in a much shorter period of time, he said, and locating the MHWL can vary between surveyors. That makes it difficult to alert the public to where its rights to use the beach begin.

A further complication is laws that ban structures within certain distances of the water, so that the installation of a fence to protect private property might be precluded.

And the state muddled the water further with the passage of a law that was intended to bring some uniformity to the matter but had the opposite effect.

The basic principle has always been that the public would have access to sand it had customarily used, with the burden on the adjacent property owner to demonstrate where the line should be drawn. Now,

Eger said, the public has to prove customary use.

The change has led to people being kicked off beaches they've enjoyed for years.

A prosecution for trespassing at Shell Road Beach in Sarasota by a family that had used it for 50 years might have brought some clarity, but it was dropped, Eger said.

Awareness is the biggest issue, said Catherine Luckner, president of Siesta Key Association. People don't realize that a section of beach can be privately owned, and there's often nothing in view to alert them that they may be trespassing.

"A police officer is not going to know where that line is," Eger said.

Even the buyers of waterfront property might not be aware of their rights until after the sale, Luckner said. While they may be amenable to the occasional crossing to get to public land, they have to draw the line when they see people bringing in tents and wagons and setting up to spend the night.

That's the kind of behavior that led to law enforcement being called, she said. Owners need to be thinking of public safety, but also protecting the

environment and avoiding liability.

Longtime residents and beachgoers can sometimes reach an accommodation regarding beach access, Eger said, but newer arrivals, whether owners or visitors, tend to be less tolerant.

Many come from areas with different policies regarding beaches, Luckner said, sometimes in response to internet advertising that seems to promise unfettered access to what turn out to be private beaches.

"Are we inviting people to Disney when 80% of the rides are closed?" she said.