

An update on litigation concerning IOP beach erosion

By Lynn Pierotti
For The Island Eye News

The city of Isle of Palms has indicated that it has no further plans to rebuild or refurbish the beaches this year. Instead, they will depend on the Army Corps of Engineers project to provide erosion relief to the beach near Breach Inlet, at the southwestern end of the island. The Army Corps intends to begin pumping spoils from previous Intracoastal Waterway dredging to the IOP and Sullivan's Island beaches sometime in May and continuing for six months. The Army Corps declined to call this a beach renourishment and instead said it needed to clear out spoils to make room for future dredging.

The South Carolina Department of Health and Environmental Control and its Ocean & Coastal Resource Management division filed an emergency injunction to stop Ocean Boulevard resident Rom Reddy from building a reinforcing structure to stabilize his retaining wall, which was damaged during a nor'easter last fall. A week before the hearing, which was scheduled for April 18, DHEC asked for a delay. The Reddys' attorneys objected, but the judge granted a delay until mid-August – which has now been revised to mid-September – based on DHEC scheduling conflicts.

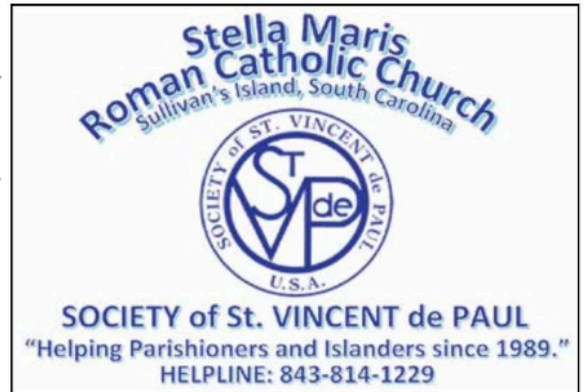
A second lawsuit filed by seven other ocean-front residents accused the city and DHEC of

preventing them from protecting their property and refusing to replenish and maintain the beach and dune system. Specifically, according to public records, this litigation accuses the city of pre-empting state law and claiming jurisdiction over homeowners' entire yards, well beyond the jurisdiction claimed by the state on private property. IOP is the only municipality in the state that claims this broad jurisdiction over private property. The lawsuit also asserts that DHEC jurisdiction on private property stops seaward of the setback line. The setback line is the state jurisdiction line that is reviewed every seven to 10 years and requires a General Assembly vote to modify. The city and DHEC recently filed their responses to this complaint.

Separately, IEN learned that DHEC officials had placed flags on certain homeowners' properties, claiming jurisdiction based on whether the DHEC official observed the existence of vegetation that does not normally grow near the shore. Another group of homeowners appealed this decision to the DHEC board. Based on a review of the tape from the DHEC board meeting, it appears the DHEC board gave homeowners 30 to 60 days to plant vegetation in their yard, and, if the vegetation survives per OCRM in-

spection, then DHEC would consider moving its jurisdiction to the edge of the surviving vegetation. All these jurisdictional claims have confused homeowners and seem at odds with the approach at Hilton Head, where five homeowners built a seawall 2 feet landward of the setback line with no claims of jurisdiction by the government.

Members of the rental community have also expressed concern about these jurisdictional claims, the lack of beach maintenance and the impact of Army Corps equipment and pipes on the prime portion of the beach during peak tourist season. IEN reached out to the city and homeowners, but they declined to comment due to ongoing litigation.





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