

NEWS

Decades of tax disputes, no answers on Pensacola Beach ownership

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It is unfathomable today — an unwanted, 26-mile stretch of pristine Florida beach.

The gleaming, white sands and glistening, turquoise waters of Pensacola Beach lure millions of tourists and fuel the area's economy today, but in the 1920s and 1930s it was a place few people wanted to live or visit.

The barrier island was difficult to access, expensive to maintain, lacked utilities, had a poor road system and flooded in storms.

It bounced back and forth between the federal government and local authorities for decades in a complicated history that is at the heart of long-running tax disputes.

That history is also the crux of a much-larger question — who actually owns Pensacola Beach, the public or private investors who have poured billions of dollars into its development.

"It's hard to believe today, but people didn't want to live out there," said Pensacola historian and longtime area resident John Appleyard, 93, who recalled seeing Pensacola Beach for the first time in 1950.

"There were virtually no buildings out there. There was the casino, simple, cinder-block houses and nothing else," he said.

The federal government controlled the island until the 1920s when Escambia County took ownership. A developer built a casino on the site of the present-day Casino Beach and a new vehicle bridge brought visitors to the island. According to area historians, the area briefly flourished.

The county gave the island back to the federal government at the height of the Great Depression because the local government could not afford to maintain or develop it.

After World War II, the U.S. Congress passed legislation deeding much of the island back to Escambia County. The legislation stated the county could not sell the land and must use the land "for such purposes as it shall deem to be in the public interest."

The wording in the 1946 act and a subsequent plan to develop the island through a series of 99-year leases is the basis of many lawsuits, starting in the early 1970s when local leaders first assessed property taxes on the leased land.

Pensacola Beach tax ruling reversed

Congressional leaders have tried and failed over the years to pass legislation unraveling the complicated lease system to allow beach residents and business owners outright ownership of properties.

"I've never seen a Congressman who could tackle it. There isn't an easy answer," said Jerry Maygarden, a former Pensacola mayor and former member of the state House of Representatives who recalled visiting the island as a child in the 1950s when his aunt and uncle owned one of the original cinder-block homes on the mostly undeveloped beach.

The deed agreement between the county and the federal government allowed the beach to develop with an emphasis on the public good, he said.

But Maygarden, who likened Pensacola Beach to Pike's Peak or the Grand Canyon, said the ongoing lawsuits could threaten that emphasis.

"So many beaches in Florida are privately owned with limited access. In parts of the state, there are only rare pockets of beach that are open to the public," he said.

"The federal government gave us the land in public trust for the people. It should be an island of beauty for all of Americans and it troubles me that it has become such a tax battle because what I think it will evolve into is — if you are paying property taxes then why cannot you control your private property, put up gates and tell people to park their boats somewhere else," Maygarden said.

Supreme Court won't hear beach tax case

Back in the 1950s, Escambia leaders viewed their push to develop the beach as something that would benefit all county residents by bringing people and jobs to the region. Because local leaders were prohibited from selling land on the island, they created a system of 99-year leases that would allow people to open businesses and live on the island.

The newly formed Santa Rosa Island Authority, charged with promoting and developing the island, placed advertisements in newspapers throughout the southeast encouraging people to come to Pensacola Beach. Highlighted in all of the advertisements was the fact that the people

could build on the beach without paying property taxes because the beach property was leased from the county rather than privately owned.

A 1958 advertisement in a New Orleans' newspaper encouraged people to "own a tax-free home" on Pensacola Beach for as little as \$140 a year.

"Only 200 miles from New Orleans, you can live full or part time on a semi-tropical island of clean, sparkling-white sand lapped by the amazingly clear waters of the Gulf of Mexico on one side, and placid Santa Rosa Sound on the other," read the description under the bold headline, "Florida's greatest beach property value! Own a tax-free home at Pensacola Beach on Santa Rosa Island."

A 1950 advertisement lays out local leaders' vision for the beach.

"Can't you visualize Pensacola Beach being built solid with hotels, tourist courts, apartments and homes," asked the advertisement, which touted the 99-year leases with no property taxes as a solid investment in the future.

Thomas Campanella, a longtime beach resident who represents the beach on the Santa Rosa Island Authority board, likened the earliest beach residents to pioneers.

"They came at their own risk without flood insurance. They built the little concrete homes because those were the most durable. It was mostly a summer retreat because people didn't want to live out here in the elements," he said.

Those pioneers helped develop the island into the international tourist destination it has become today, and they did it under the expectation that they would not pay property taxes, he said.

Beach taxes at issue in meeting for island residents

"As the island grew, people on the mainland began looking at it like people out here were getting away with something because they were not paying taxes," he said.

But the beach residents and business owners were paying annual lease fees, which funded the Santa Rosa Island Authority and public services on the island, he said.

The tax disputes began in the early 1970s after county leaders turned to the beach as a source of property tax revenue. Beach residents and business owners argued that the taxes violated the 99-year lease plan because they should not be assessed taxes for property they did not, technically, own.

"The beach residents viewed that as double taxation because they were already paying lease fees," he said.

Nearly 50 years later, beach residents and property owners continue to challenge the issue. In rulings throughout the decades, courts have determined that improvements on the leased land can be taxed but the land itself cannot. The latest court ruling determined that some leased land could be taxed, depending on whether wording in the lease stipulated that the lease was automatically renewable after 99 years or has to be renegotiated.

Attorney Ed Fleming, who represented beach developers in a recent lawsuit, likened the 99-year, non-taxable leases originally touted by local officials in the 1950s to tax incentives provided by local and state governments to manufacturers looking to locate in the region.

"They reneged on the deed agreements of the people who came out there and literally invested billions of dollars to turn the beach into the economic engine that it is today," said Fleming, who represented Portofino Resort developer Island Resort Properties in a recent lawsuit against the county. An appeals court overturned a lower court decision in that case and the Florida Supreme Court declined in July to hear Escambia County's appeal of that ruling, which means the county is now prohibited from collecting property taxes on 12 acres of leased land where two new Portofino towers are scheduled to be built.

Fleming is also representing the homeowners associations of many Pensacola Beach condominiums expected to file separate lawsuits challenging tax assessments later this year.

By assessing property taxes on beach residents and business owners, local leaders are violating the original deed agreement between the federal government and the county, he said. The county is risking invalidating the agreement and its provisions requiring the island be developed in the public interest.

"People will say that, 'if you are going to tax me as if I am the owner of the land, then give me the deed to the land,'" he said. "And the courts have already said that perpetually renewable leases are tantamount to deeds."

Campanella, of the Santa Rosa Island Authority, agreed.

"There is a danger of people saying that 'If I'm paying for it, it's mine'," he said.

And he said the pressure for additional development of the island is constant.

"We have conservation areas, but you should never say never," he said, adding that he fears future leaders could cave to development pressure if the right offer were to come along and the

proper protections were not in place.

Lea Fillingim Blackwell, 64, lives in the small, cinder-block beach home that her father built on the island back in 1955. Fillingim, who grew up on the beach, has remained in the house as large hotels and expensive homes went up all around.

"I'm still here because I love this beach," she said. "If I was plucked off this island, I would probably disintegrate. I've got sand running through my blood for sure."

Blackwell said she is more concerned about the future of the beach than she is about paying property taxes. Everyone pays taxes and she doesn't mind paying her fair share, she said.

"I do wish (people who live on the beach) could have more say so about what happens out here and what is done with the taxes we pay," she said.

But she said the beach should ultimately belong to everyone. She has fond childhood memories of a time when her family and a few others had the beach to themselves.

"Sometimes I wish I could have a little more privacy out here, but things changes. I guess that is progress," she said.

Latest beach tax ruling prompts questions, confusion

Key dates in the history of Santa Rosa Island (Source Deceit Beach by William L. Post and the Pensacola Historical Society)

- **1927** The federal government sells Santa Rosa Island for \$10,048.75 to Escambia County.
- **1939** Escambia County gives the island back to the federal government during the Great Depression.
- **1946** The federal government gives part of the island, including Pensacola Beach, back to Escambia County under a deed agreement that stipulates the county cannot sell the sell and must use it in away that promotes the public interest.
- **1950s** The Santa Rosa Island Authority, charged with promoting and developing the island, begins placing advertisements in newspapers around the southeastern United States promoting 99-year, non-taxable, leases for Pensacola Beach Land.
- **1970** Escambia County leaders first begin assessing property taxes on beach owners and the first lawsuits against the taxes are filed.

ARCHIVE BEACH GALLERIES

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Key dates in the history of Santa Rosa Island: 1810 - first recorded by William T. Wood and the Pensacola Historic Society

Society

- 1947 The federal government sells Santa Rosa Island for \$10,048.75 to Escambia County.
- 1939 Escambia County gives the island back to the federal government during the Great Depression.
- 1940 The federal government gives part of the island, including Pensacola Beach, to Escambia County under a deed agreement that stipulates the county cannot sell the land and must use it to ways that promote the public interest.
- 1968 The Santa Rosa Island Authority, charged with promoting and developing the island, begins placing advertisements in newspapers around the southeastern United States promoting 99-year, non-transferable leases for Pensacola Beach Land.
- 1970 Escambia County leaders first begin assessing property taxes on beach owners and the first lawsuits against the taxes are filed.