

LOCAL

Lottery

Here are the winning numbers selected Monday in the Florida Lottery:

Cash 3: 5-1-4

Play 4: 5-8-6-0

Fantasy 5: 4-5-10-14-32

Information: www.flalottery.com



Island residents receive tax bills

\$5.2 million in revenue faces legal challenge

Steve Mraz

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For the first time, people who lease property on Santa Rosa Island are receiving tax bills from Escambia County for their beach dwellings.

The Escambia County Commission voted unanimously Monday night to adopt a resolution that recognizes \$5.2 million that will be generated by the tax.

But because of an antici-

pated lawsuit, the county will put the money raised by the tax aside into its reserve fund. Upon a final court ruling that could take years, the county will either be able to spend the taxes collected or have to refund those who paid taxes and participated in the suit.

"Those who do not participate in the lawsuit, their taxes will be spent and not refunded," Commissioner Janice Gilley said.

The situation arises because of state law, County Attorney Janet Lander said.

"They have to follow the requirements of state law to get their money back, if the court

ultimately rules in their favor," Lander said.

On Saturday, about 300 beach residents voted to hire the law firm of Shell, Fleming, Davis and Menge to represent them in the inevitable lawsuit. A lawsuit must be filed against the property appraiser by mid-December to challenge this year's taxes.

Escambia County Property Appraiser Chris Jones decided Pensacola Beach leaseholders will pay property taxes on homes but not on the land. Beach residents



Lander

have argued they should not pay taxes because they lease, rather than own, property.

Also Monday, Escambia County Administrator George Touart announced that Solutia Inc. will pay the county the \$2.9 million it owes in property taxes. In May, county officials learned that Solutia would not be able to pay its property taxes to Escambia County and the Escambia County School District because of the company's bankruptcy.

Monday's announcement came as good news to county officials.

"This makes us and the Escambia County School Dis-

trict very happy," Touart said.

Monday's meeting was the final for Commissioners Gilley and Cliff Barnhart as incoming Commissioners Mike Whitehead and Kevin White will be sworn into office today. Gilley and Barnhart were appointed to the commission in 2002 following a scandal that rocked county government and resulted in four of five commissioners being removed from office.

"The people in this county should appreciate the people who work for you," Barnhart said. "This is the greatest staff I've worked with, and I mean it."

Tax litigation group formed

Islander

By Gary Smith

The tax rolls for Escambia County were certified for col-

lection on October 20, 2004. Accordingly, the 60 day deadline for the filing of law suits to contest property taxes on

beach leaseholds is December 18, 2004. Last Saturday at noon an open meeting of all interested persons was held at Bamboo Willie's to discuss the feasibility of a coordinated lawsuit for that purpose.

Approximately 300 persons attended a Q & A session with lawyers from Clark, Partington, Hart (the Navarre suit) and Shell Fleming, Davis and Menge (the 1980s tax suit, Bell v Bryant), giving the crowd a chance to discuss the pros and cons of class action versus multi-plaintiff litigation, the merits of the suit and the possible cost of such litigation.

After the Q&A, the crowd divided into groups based on various sections of the beach where attendees live or work and a steering committee was elected consisting of Gary E. Smith representing the west end, Sandy Johnston representing the core area, John Pinzino representing condo and town home owners and Charlie Thompson representing the east end. The committee then (with the near unanimous consent of those

who remained in attendance at the meeting) made the following decisions:

The Shell, Fleming firm will handle the suit. It will be a multi-plaintiff suit, not a class action. In light of the possible estimated cost of the litigation of as much as \$250,000 or more, based on the Navarre suit, it is expected that at least 1000 leaseholders will join the suit and pay the initial fee of \$200 per tax bill. If less than that join, additional assessments may be necessary. Excess funds, if any, will be returned at the end of the suit.

Anyone wishing to join as a plaintiff can do so by bringing (or mailing) a check for \$200, a copy of your current lease, master lease if you have one, assignment, and tax bill to the Visitor Information Center, 735 Pensacola Beach Blvd, Pensacola Beach, FL 32561, as soon as possible. Make the check payable to THE PENSACOLA BEACH TAX SUNTRUST FUND. If you do not have them, copies of lease documents can be obtained from the SRIA for a

dollar a page.

Another meeting will be held at Bamboo Willie's at 6:00 PM on Thursday, November 18th. It is suggested that you bring a check and above described documents at that time (at the latest) if you wish to participate in the suit.

In light of the fragmented communications situation caused by Ivan, please tell your friends, neighbors and out-of-town acquaintances about this opportunity to join this suit. The lawyers and volunteers face a formidable organizational challenge, so time is of the essence and "he who hesitates may be lost."

Anyone not wishing to join this suit is still able to file their own or organize another group. Please be aware that this is not a class action, and anyone not joining will not be afforded the same protection as those who are plaintiffs.

Also, this suit has no bearing on evaluation protests which are up to the individual taxpayer. It was revealed that the commercial leaseholders and Portofino residents are also planning to file suits.



Courtesy Photo

Gary Smith, attorney and president of the Pensacola Beach Resident and Leaseholder Association.

Tax issue at beach goes back a long way

10/20/04

Taxing Pensacola Beach leaseholders' improved property is an old, old issue resulting in trial and frustrating failure. And the squabble is again destined for some distant courtroom, a legal echo of the same tax fight at Navarre Beach.

At issue is valuable land actually owned by Escambia County — including, yes, Navarre Beach sands on Santa Rosa Island — and leased for 99 years to individuals and businesses. In the long past, including an earlier effort by Escambia Property Appraiser Chris Jones' father, John R. Jones, Florida courts and legislators refused to lift the exemption.

Lawmakers since the 1940s have contended the county willingly entered into a 99-year contract with leaseholders. Yet this time Santa Rosa and Escambia property appraisers target property improvements; leaseholders would continue paying lease fees. Many taxpayers and politicians contend beach residents don't pay their fair share compared to mainland property owners.

Too few politicians understand complexities growing out of Escambia's commitment since 1946, when Congress granted Santa Rosa Island ownership to Escambia County to be used for public purposes. Florida's Supreme Court validated the lease system; later courts exempted public property from taxation.



**J. EARLE
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is editor emeritus of the News
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Pensacola historian and author.*

The 1947 Deed of Conveyance specifies that the land shall be retained by Escambia for "purposes as it shall deem to be in the public interest" or leased to "such persons and for such purposes it shall deem to be in the public interest" and "always be subject to regulation by Escambia whether leased or not, but never to be otherwise disposed of or conveyed by it."

With the reverter clause, and recent court decisions, land ownership is the only way to assess ad valorem taxes. Yet few want Pensacola Beach converted like Okaloosa Island. Okaloosa County commissioners turned a piecemeal fee simple program into a private beach with no room for public beach facilities at Fort Walton Beach.

Escambia bought the island, except for the Army Coastal Artillery Post at Fort Pickens, from the federal government for \$10,000 in a deed dated April 19, 1929. Ironically, Santa Rosa and Okaloosa counties and the City of Pensacola rejected the same offer. The land was to be used for public purposes.

Escambia issued long-term leases for development at what became Pensacola Beach and Tower Beach at Fort Walton Beach. In the 1930s, the U.S. Interior Department proposed the Santa Rosa National Monument, a designation signed by President Franklin D. Roosevelt; Escambia returned the land, hoping a national park would include beach development.

But World War II soaked up funds for park development, county leases negated park development and in 1946, Congressman Bob Sikes heeded Pensacolians' wishes to reclaim the island.

Escambia owned from the Fort Pickens reservation to what became Navarre Beach and — except for U.S. Air Force test range properties — east to Destin harbor. A later act transferred the portion known as Tower Beach between the Air Force properties at Fort Walton Beach to Okaloosa County.

Yet Escambia, in a good neighbor gesture in 1956, leased Navarre Beach to Santa Rosa for 99 years at the rate of \$100 a year, providing a second bridge would be built by Santa Rosa.

Despite the lawsuits, many question whether either county upholds the real spirit of the Interior Department public-use deed clause, given the upsurge of pricey high-rise condos and residences continuing to diminish openness of public-owned beaches.

Tax litigation group continues meetings

*Islander
Nov 24-30
2004*

By Gary E. Smith

Unless you have spent post-hurricane Ivan on the dark side of the moon, you probably know that the tax rolls for Escambia County were certified for collection on October 20, 2004. Accordingly, the 60 day deadline for the filing of law suits to contest property taxes on beach leaseholds is December 18, 2004. On Saturday, November 13, an open meeting of all interested persons was held at Bamboo Willie's to discuss the feasibility of a coordinated lawsuit for that purpose. Approximately 300 persons attended.

A Q&A session with lawyers from Clark, Partington, Hart (the Navarre suit) and Shell Fleming, Davis and Menge (the 1980s tax suit, Bell v Bryant), gave the crowd a chance to discuss the pros and cons of class

action versus multi-plaintiff litigation, the merits of the suit and the possible cost of such litigation.

After the Q&A, the crowd divided by various sections of the beach and a steering committee was elected consisting of Gary E. Smith representing the west end, Sandy Johnston representing the core area, John Pinzino representing condo and town home owners and Charlie Thompson representing the east end.

The committee then (with the near unanimous consent of those who remained in attendance at the meeting) made the following decisions. The Shell, Fleming firm will handle the suit. It will be a multi-plaintiff suit, not a class action. In light of the possible estimated cost of the litigation of as much as \$250,000 or more, based on the Navarre suit, it is expected that at least 1000

leaseholders will join the suit and pay the initial fee of \$200 per tax bill. If less than that join and/or costs are higher than anticipated, additional assessments may be necessary. Excess funds, if any, will be returned at the end of the suit.

A follow up meeting took place on Thursday, November 17, at Bamboo Willie's. At that meeting, Sandy Johnston announced that Bob Cowen had taken her place as a representative of the core area and Lila Cox was added to the committee as a representative of the town home owners.

It is estimated at this time that approximately 800 reluctant tax payers have already delivered their money and documents. Anyone wishing to join as a plaintiff can do so by bringing (Fed-Exing or mailing) a check for \$200, a copy of your current

lease, master lease if you have one, assignment, and tax bill to the Visitor Information Center, 735 Pensacola Beach Blvd, Pensacola Beach, FL 32561, as soon as possible. Make the check payable to THE PENSACOLA BEACH TAX SUIT TRUST FUND.

If you do not have them, copies of lease documents can be obtained from the SRIA for a dollar a page. However, they are swamped and at least three days behind the demand, so make an effort to find your documents in your own files. (They will probably be in your financing or refinancing file. Your lender and/or title company will have a copy.)

In light of the fragmented communications situation caused by Ivan, please tell your friends, neighbors and out-of-town acquaintances about this opportunity to join this suit.

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Anyone not wishing to join this suit is still able to file their own or organize another group. Please be aware that this is not a class action and anyone not joining will not be afforded the same protection as those who are plaintiffs. Also, this suit has no bearing on evaluation protests which are up to the individual taxpayer.

The commercial leaseholders and Portofino residents are also planning to file suits.

IF YOU WISH TO JOIN THIS SUIT, THE ABSOLUTE, DROP DEAD, WE AREN'T KIDDING DEADLINE FOR RECEIPT AT THE VIC (NOT IN THE MAIL) IS DECEMBER 3, 2004, AT MIDNIGHT.

To miss the rush, do it now.