

Property Rights Element

Data & Analysis

Introduction:

Seminole County recognizes that residents have chosen to live here and often have bought a home, because of things local governments address, like the condition of streets and parks, the proximity to daily needs, and community safety. Land values reflect how desirable a community is in many ways. Regulating land use and protecting property rights are not conflicting goals. Rather, local government rules generally create value in property and bring stability to real estate markets. Rules that benefit the public also protect property rights.

In accordance with the legislative intent expressed in ss. 163.3161(10) and 187.101(3) that governmental entities respect judicially acknowledged and constitutionally protected private property rights, each local government shall include in its comprehensive plan a property rights element to ensure that property rights are considered in local decision making.

Goal:

Florida law recognizes the due process rights of people who are parties to many local government land use decisions. See *Brevard County v. Snyder*, 627 So. 2d 469 (Fla. 1993) and *Jennings v. Dade County*, 589 So. 2d 1337 (Fla. 3d DCA 1991). Due process rights are rights to have government make decisions in a certain way when those decisions affect other rights, like the right to property.

In accordance with mandates set forth in Chapter 163, Florida Statutes, Seminole County will make planning and development decisions with respect for property rights and with respect for people's rights to participate in its decisions that affect their lives and property.

Objective:

Courts have recognized due process rights in Florida land use hearings including the right to receive notice, the right to be heard, the right to present or rebut evidence, and the right to be informed of all facts on which a local government bases its decision. *Jennings* at 1340. Objective PR 1.1 includes five policies that clearly identify what decisions a local government will make in a hearing, who will get to participate in that hearing, and what process the local government will use to protect the rights of participants.

In accordance with mandates set forth in Chapter 163, Florida Statute, Seminole County will respect judicially acknowledge and constitutionally protected private property rights.

Policy:

1. Seminole County will consider in its decision-making the right of a property owner to physically possess and control his or her interests in the property, including easements, leases, or mineral rights.
2. Seminole County will consider in its decision-making the right of the property owner to the quiet enjoyment of the property, to the exclusion of all others.

3. Seminole County will consider in its decision-making the right of a property owner to use, maintain, develop, and improve his or her property for personal use or the use of any other person, subject to state law and local ordinances.
4. Seminole County will consider in its decision-making the right of the property owner to privacy and to exclude others from the property to protect the owner's possessions and property.
5. Seminole County will consider in its decision-making the right of a property owner to dispose of his or her property through sale or gift.