

“Submerged Lands Banking – Rationalizing the Management of Public Trust Resources”

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Mr. Laven began his presentation by suggesting that the more salient questions to ask today are not whether to allow SL banking or not, because it’s happening; but rather, to what degree and manner will stakeholders be held to account for lost access (from dockominiums, for example)? He described the situation of dockominiums in Florida as, “an onslaught going on, but recently slowing down.”

He cited a recent case in the City of West Palm Beach; where SL credits were traded across/between counties. Many of these situations benefited private individuals only and were not in the public interest.

He also referenced land use and zoning restrictions in use; specifically a marine industrial ordinance in Miami-Dade, a concurrency tool, and comp plan tools. He cited moratoriums used in Brevard and Monroe counties – which succeeded in a “pause” to get stakeholders together to discuss the issue. This is a useful tool when used effectively.

With regard to approaches, he believes incentives are always the best strategies: buffers, density caps, etc. He believes in progressive versus regressive methods.

Mr. Laven briefly mentioned other management tools used and offered some opinions:

- No net loss: does not address expansion and rates
- Tax deferrals – not very useful
- Design standards and visual access – good start-up action, before developers come to town
- Land acquisition by land trusts – short-term solution
- Liability waivers – do not create access but mitigate exposure
- Transfer of Development Rights and Transfer of Density-Rights – conservation programs
- Transfer of Slip Rights – consider transferring condos away from working waterfronts
- SL Bank – sending and receiving areas are identified (devil in the details though)
- Rights of way – backlash occurring in form of takings
- TNC kudos! Conservation leasing and ownership; part of existing state policies
- SL banking model – privatizing environmental commons is crucial for sustainable development; see wetlands mitigation banking example, forests, etc. Oversight is critical.

Balance is needed between markets and regulators.