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Sea Level Rise:
Legal and Policy Issues for
Local Governments

Fla's Vulnerability Requires Max Use of All Tools

**Major physical, ecological, economic risks
will require changes to policy & practice**

Legal & policy tools ...

...strongly support these changes

Most Effective Tool: Land Use Planning

Exclusive domain of local governments

Highly discretionary – courts rarely overturn

Most effectively avoids problems

Strong requirements/ support in state law

Key Land Use Planning Issues

Where to allow what kind/ how much development/ redevelopment... and how?

Based upon all relevant issues & impacts

Set-backs, Open Space, Building Standards

Prop rights don't preclude changes

Cross-cutting issues: Local, State & Fed

Strong Cumulative Impacts Emphasis

Precautionary Principle supports planning & regulating where science & engineering uncertain or disputed

Adopt clear priorities and legal language

Real Intergovernmental Coordination

But, place-based rules

Private Property Rights

Not as limiting as is often believed

Allows stronger restrictions that don't go "too far"

Public awareness of SLR & rules a defense.

So is importance of safety & other pub objectives

No Property right to subsidies:

- **offsite impacts**
- **impact fees**
- **mitigation**

No Property Right to Subsidy

Koontz...

“Insisting that landowners internalize the negative externalities of their conduct is a hallmark of responsible land-use policy, and we have long sustained such regulations against constitutional attack.”

“Our precedents thus enable permitting authorities to insist that applicants bear the full costs of their proposals....”

Potential Liabilities from Ineffective Protective Efforts or Questionable Development Decisions

Uncertain legal arena

Questionable development approvals that harm other persons

Duty of care when providing/ maintaining infrastructure

Final Thoughts & Advice

Paramount to protect public

Understand overlap of issues

Be rational, fair & comprehensive

You have the tools & the talent

Thank You

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