

SB 102 Live Local Act- Focus on Resilience Communities

Overview

Florida's legislative policies can and must be balanced and calculated to successfully meet and seize the multiple challenges and opportunities facing our state. We can both meet the great need for more affordable housing and protect current and future investments and residents from the physical and economic devastation of increased flood and storm damage with a surgical and common-sense approach to development policy.

Coastal areas are particularly vulnerable to the effects of rising sea level resulting in more frequent and extensive coastal flooding. The combination of sea-level rise and storm surge contribute to enhanced rates of erosion and exposure of infrastructure contributing to damage and economic losses. And the rate of sea level rise is accelerating at a current rate of about 1 inch every 4.25 years, and roughly 5-7 inches of rise realized in the first part of the 20th century. The hundreds of billions of private and taxpayer dollars at risk from physical damage, clean-up and rebuilding costs, and property value loss – not to mention the loss of life - require development standards that are adequate to avoid these unacceptable risks.

To meet these challenges, many local governments have already established resilience planning requirements and standards that account for the impacts of sea level rise on drainage infrastructure and flood, predicted during the lifespan of a project.

The exposure of coastal communities to the impacts of sea level rise has been formally recognized by the state, with a sea level rise risk study required for any state funded project located in areas at or below 2 feet MHHW, Section 380.093(3)(d)3.b. F.S. It is critical that local governments already realizing and preparing for the impacts of sea level rise with adopted resilience planning requirements and standards, preserve this ability within land use planning and infrastructure siting determinations.

Resilience Planning

In 2012, Broward County established a Priority Planning Area Map that delineates areas at increased risk of sea level rise, adopted as part of the County's Land Use Plan, which initiates an additional level of review for any proposed land use amendment. Subsequent to its adoption, the County adopted resilience standards for drainage and water management systems, tidal flood barriers (aka sea walls), and elevated flood elevations, along with policies to help ensure that preservation of beaches and dunes as a buffer between the sea and coastal development. In most cases, these standards have resulted in more resilient projects, advanced by both municipal and private sector applicants, but on occasion have also resulted in the withdrawal of a proposal that could not be made resilient.

The current SB 102 provisions allow a developer to bypass local land use review and secure administrative approvals with regard to building height, zoning and density for affordable housing projects, all of which may have significant flood resiliency implications depending on the location of the project. This has the potential of concentrating vulnerable populations in some of the most

high-risk areas of the county and increasing exposure of structures and population to physical and economic loss. The Florida Legislature should make modest, common-sense revisions to this law to ensure that all Floridians have access to affordable, safe, and resilient housing as we face a future of increased flooding and storm damage.

Recent Lessons

The April 12 rainfall event in coastal Broward County reinforced these concerns, with coastal flooding so extensive that nearly 2000 vehicles were lost and several evacuation routes entirely inaccessible. In fact, the location of an 18-story project currently proposed on the barrier island within the City of Hollywood under SB 102 provisions is less than a mile north of Hollywood Boulevard (SR 820), where due to heavy flooding, stalled out cars piled up. With increasing sea level rise, this type of condition is expected to worsen, along with personal losses and the cost of insurance for residents who may unwittingly find themselves in a high cost, high risk zone. This provides early insight of the potential outcomes if resilience considerations are neglected as part of project review and approvals.

Proposal

With these growing exposures, we beseech leadership to consider an expansion to the existing SB 102 exemption found at 125.0103 (7) and 166.04151(7), as follows:

(h) This subsection does not apply to (1) property defined as recreational and commercial working waterfront in s. 378 342.201(2)(b) in any area zoned as industrial (2) an “Area at risk due to sea level rise” as defined by s. 380.0937(1)(a)¹ or the equivalent elevation in NAVD 88 or (3) areas similarly identified as having an enhanced flood risk due to sea level rise and already adopted by a [city/county] in its Comprehensive Plan.

Key Considerations

The decisions our local governments make today will substantially dictate their ability to prevent, withstand and recover from future storm and flood disruptions. Understanding where and how our communities are vulnerable to loss from coastal hazards and using resilient adaptation planning and development practices to inform planning and investment decisions, will ultimately result in lives and dollars saved, and stronger communities for the future.

- Mitigating Flood Risks: Coastal areas are vulnerable to tidal flooding, coastal flooding, and storm surge. Resilience policy and guidelines as part of land use, comprehensive

¹ “Area at risk due to sea level rise” means any location that is projected to be below the threshold for tidal flooding within the next 50 years by adding sea level rise using the highest of the sea level rise projections required by s. 380.093(3)(d)3.b. For purposes of this paragraph, the threshold for tidal flooding is 2 feet above mean higher high water.

planning and zoning requirements is crucial to mitigate flood risk and losses compounded by rising sea level. These practices are essential to reducing and limiting exposure in high flood risk coastal environments, and especially for vulnerable populations.

- **Coastal Protection:** The preservation of beaches and dunes has been proven one of the most effective resilience strategies - providing a 2:1 return on investments. Equally important are practices that maintain a buffer between the rising sea and coastal development. Right - sizing in the location and approach to development in high-risk coastal flood areas is essential given the inherent cost and risk to the project and occupants, but also the infrastructure demands that a single project can impose on the adjacent community, or alternatively the incompatibility that can squander other resilience investments.
- **Water Management Infrastructure and Groundwater Storage:** Significant consideration needs to be given regarding the impact of coastal development on surface water storage, groundwater tables and water management constraints. The shallow water tables present in the built coastal environments contribute to an increased risk from natural hazards such as flooding, due to the lack of water storage.
- **Economic Considerations:** It is quite likely that the rising cost of insurance will be the most defining factor in determining housing affordability in the coming years. Several east coast communities already have provisions directing multi-family housing incentives to areas west of U.S. 1 where flood risk is reduced. Every precaution should be taken to ensure the long-term affordability of affordable housing projects by minimizing the potential for sea level rise to trigger major pricing adjustments to the cost of housing. This is achieved by intentionally minimizing such developments in known areas of high flood risk.

Additional Considerations

The Florida Legislature has recognized that the adverse impacts of flooding and sea level rise affect coastal and inland communities across the state (Section 380.093(3)(b), F.S.). While sea level rise may be one of the pressing factors contributing to heightened flood risk within coastal communities, inland and coastal communities will also contend with rainfall-induced flood risk. Heightened flooding in these areas might be associated with a variety of factors, including inadequate or failing drainage infrastructure, poor soils, low land elevation, proximity to wetlands, etc. As the state works to finalize a statewide resilience plan informed by local vulnerability assessments conducted in compliance with Section 380.093(4), F.S. it will be prudent to utilize these same assessments to help direct these same state-incentivized housing developments to sites of lesser near- and long-term flood risk.

Summary

It is essential for the state Legislature to preserve the ability of local governments to meet resilience planning needs as part of land use plans and project approval, to ensure the safety, minimize losses, and provide a high quality of life for all our residents, especially under the driving influence rising sea levels, increased damaging rainfall events and changing climate conditions in our communities.