



**NASSAU COUNTY**  
**BOARD OF COUNTY COMMISSIONERS**  
96135 Nassau Place, Suite 6  
Yulee, Florida 32097

John Martin  
Aaron C. Bell  
Jeff Gray  
Thomas R. Ford  
Klynt Farmer

Dist. No. 1 Fernandina Beach  
Dist. No. 2 Amelia Island  
Dist. No. 3 Yulee  
Dist. No. 4 Bryceville/Hilliard  
Dist. No. 5 Callahan/West Yulee


JOHN A. CRAWFORD  
Ex-Officio Clerk

DENISE C. MAY  
Interim County Attorney

TACO E. POPE, AICP  
County Manager

### MEMORANDUM

**TO: BOARD OF COUNTY COMMISSIONERS**

**FROM: DENISE C. MAY, COUNTY ATTORNEY** 

**CC: TACO POPE, COUNTY MANAGER**

**DATE: MAY 19, 2022**

**RE: RIVERSTONE PROPERTIES, LLC**

---

On June 14, 2021, the Board of County Commissioners passed Ordinance 2021-08 which, among other changes, reduced maximum building height in unincorporated areas of Amelia Island in the Residential General 2 (RG-2) zoning district from 85 feet to 45 feet and further reduced maximum building height for structures within 1,000 feet of the Coastal Construction Control Line (CCCL) to 35 feet.

At the June 14, 2021, Board of County Commissioners meeting representatives of Riverstone Properties, LLC presented a letter, through the County Attorney, claiming the adoption of Ordinance 2021-08 would inordinately burden and permanently negatively impact its reasonable investment backed expectation for use of its property pursuant to §70.001, Fla. Statutes, Bert J. Harris Act (the Act). A review of that law and potential impacts, including pending statutory changes, was shared with the Board by the County Attorney indicating that should a claim be presented certain statutory time frames would be in effect.

On September 27, 2021, the Board of County Commissioners passed Ordinance 2021-20 amending Ordinance 2021-08 which, among other amendments, removed reference to the CCCL for purposes of maximum building height in RG-2, however, the reduction from 85 feet to 45 feet remained unchanged. Additionally, the amendments allowed for buildings in existence on June 14, 2021, to reconstruct to its existing building height.

On December 3, 2021, Riverstone Properties, LLC, through its attorneys, presented notice under §70.001(11)(a)1.b, Fla. Statutes, to put the County on notice that the property owner deems the impact of a new law or regulation on the property to be clear and unequivocal. The County Attorney responded to this notice with copies of the executed ordinances on December 29, 2021.

On March 7, 2022, Riverstone Properties, LLC, through its attorneys, served its Notice of Claim and written appraisal pursuant to §70.001(4)(a), Fla. Statutes, and requested the County provide a written settlement offer and a statement of allowable uses within 90 days as required pursuant to §70.001(4) and (5), Fla. Statutes.

On March 8, 2022, the County forwarded the Notice of Claim and required appraisal to its insurance carrier, the Florida Association of Counties Trust (FACT). The County further mailed copies of the Notice of Claim and required appraisal to all contiguous property owners as required by §70.001(4)(b), Fla. Statutes.

On March 23, 2022, FACT provided a Reservation of Right letter on coverage and assigned the firm of Marks Gray, P.A. as defense counsel. Susan S. Erdelyi, a partner at Marks Gray, P.A., has been reviewing the Notice of Claim and all ancillary issues since that time.

Pursuant to the Act, the County must take one of the following actions within the statutory timeframe of 90 days:

1. Provide a written settlement offer to effectuate one or more of eleven enumerated items in the statute which is the appropriate relief necessary to prevent the inordinate burden and protect the public interest served by the regulation.
2. Provide a written statement of allowable uses identifying the allowable uses to which the property may be put.
3. Issue no statement.
4. Rescind the ordinance.

The statutory deadline for providing a written settlement offer and statement of allowable uses is **June 6, 2022**.

**There has been no settlement offer made to Riverstone Properties, LLC at this time. Only the Board of County Commissioners, as a body, has the authority to initiate a settlement offer.**

As a means of providing the Board of County Commissioners all viable options to comply with the requirements of the Act, the County Attorney and County Manager have met individually with commissioners and worked with staff and claimants counsel to provide a potential settlement offer containing what is acceptable to the claimants and meets the required threshold test of serving the public interest. If the Board of County Commissioners would like to make a settlement offer, the document provided would be accepted by Riverstone Properties, LLC. The Board of County Commissioners may also direct staff to amend the settlement offer or to issue only a statement of allowable uses.

Ms. Erdelyi will further present her analysis and the law regarding the Notice of Claim.

This item is before you as required by law for discussion and to provide direction to the County Attorney and staff on what action the Board of County Commissioners would like to take.