

**IN THE CIRCUIT COURT OF THE FIRST JUDICIAL CIRCUIT  
IN AND FOR WALTON COUNTY, FLORIDA  
CIVIL DIVISION**

BEACH LIFE LAND TRUST; MONTIGO  
DEVELOPMENT LAND TRUST; SANTA  
CLARA LAND TRUST; COASTAL RESOURCES  
LAND TRUST NO. 1; and COASTAL RESOURCES  
LAND TRUST NO. 5,

Plaintiffs,

CASE NO.: 2019-CA-217

V.

WALTON COUNTY, FLORIDA,

Defendant.

---

**AMENDED COMPLAINT**

Plaintiffs BEACH LIFE LAND TRUST, MONTIGO DEVELOPMENT LAND TRUST, SANTA CLARA LAND TRUST, COASTAL RESOURCES LAND TRUST NO. 1, and COASTAL RESOURCES LAND TRUST NO. 5 (“Property Owners”), by and through undersigned counsel, sue Defendant WALTON COUNTY, FLORIDA (“County Government”), and allege as follows:

**Jurisdiction and Venue**

1. This is an action for declaratory relief pursuant to chapter 86, Florida Statutes, related to continuing, unlawful use of private property by the County Government, over which this Court has subject matter jurisdiction, and for supplemental injunctive and monetary relief related thereto in excess of \$15,000.00.

2. The County Government is a political subdivision of the State of Florida.
3. Pursuant to section 48.193, Florida Statutes, this Court has personal jurisdiction over the County Government, which maintains multiple offices throughout Walton County.
4. Venue is proper in Walton County, pursuant to section 47.011, Florida Statutes, because the causes of action pled herein accrued in Walton County.

### The Parties

5. Property Owners are the exclusive, fee-simple absolute owners of private real property lying along Scenic Gulf Drive and north of the Gulf of Mexico, the east and west boundaries of which are established in the public records of Walton County (collectively referred to herein as the “Private Real Property”).
  - a. Beach Life Land Trust is the fee simple owner of the property described as: the southern portion of land proposed as Montego Avenue and extending over remnant land and beach property of Beach Life Land Trust south to the Gulf of Mexico, as depicted on the Gulf Shore Manor Depiction, as recorded in Walton County Official Records (DB 63, PG 603–606). The subject property is referred to herein as the “Beach Life Property.”
  - b. Montigo Development Land Trust has ownership rights to the property described as: a segment of remnant land initially proposed as part of Willow Street adjoining Montego Avenue, as depicted on the Gulf Shore Manor Depiction, as recorded in Walton County Official Records (DB 63, PG 603–606). The subject property is referred to herein as the “Montigo Property”.

- c. Santa Clara Land Trust is the fee simple owner of the property described as: a segment of remnant land initially proposed as part of Willow Street adjoining Santa Clara Drive, as proposed on the Gulf Shore Manor Depiction, as recorded in Walton County Official Records (DB 63, PG 603–606). The subject property is referred to herein as the “Santa Clara Property.”
- d. Coastal Resources Land Trust No. 1 is the fee simple owner of the property described as: a segment of remnant land initially proposed as part of Willow Street adjoining Pelayo Avenue, as proposed on the Gulf Shore Manor Depiction, as recorded in Walton County Official Records (DB 63, PG 603–606). The subject property is referred to herein as the “Coastal Resources #1 Property.”
- e. Coastal Resources Land Trust No. 5 is the fee simple owner of the property described as: beachfront property, land for proposed roads, and other remnant land lying north and south of Scenic Gulf Drive, as depicted on the Gulf Shore Manor Depiction, as recorded in Walton County Official Records (DB 63, PG 603–606). The subject property is referred to herein as the “Coastal Resources #5 Property.”
6. The Private Real Property is not “public property,” as defined in section 705.101(5), Florida Statutes.
7. Inherent in Property Owners’ Private Real Property rights are the statutory and common law rights to the exclusive and quiet enjoyment of their Private Real Property. These rights include, but are not limited to, the right to exclude

trespassers, any person who is not invited upon the premises by Property Owners, and any person who is not specifically authorized to come upon the Property Owners' Private Real Property by judicial warrant or a constitutional federal and/or state statute.

### **Summary of Claim**

8. In spite of Property Owners' exclusive ownership rights to their Private Real Property, the County Government has trespassed upon and/or denied Plaintiffs their private property rights, without just compensation or due process.

### **Factual Background**

9. On December 7, 1914, John J. Sullivan purchased 142.80 acres of beachfront property in the Seagrove area of Walton County, Florida by sovereign patent deed recorded on January 25, 1916 (DB 39, PG 124).
10. On April 3, 1924, Mildred Feldman purchased these 142.80 acres of beachfront property from John J. Sullivan which deed was recorded on April 21, 1924 (DB 63, PG 157).
11. On July 17, 1925, a depiction of Ms. Feldman's land, labeled "Proposed Plat for G.P. Manus" (the "GSM Depiction"), was recorded in Walton County, Florida, illustrating a conceptual division of the Feldman 142.80-acre tract called Gulf Shore Manor ("GSM") (DB 63, PG 603–606).
12. The original recorded GSM Depiction is comprised of fragments and is incomplete.
13. On or about November 12, 1958, a recreation, of unknown origins, purportedly reproducing the GSM Depiction was inserted into the County records (PB 3, PG 28).

14. It appears that the original GSM Depiction illustrated a conceptual division of Ms. Feldman's 142.80 acres into four types of land: lots, proposed roads, beach, and a remnant strip.
15. Ms. Feldman sold most of the lots, including a hotel site, on or before December of 1925.
16. The last conveyance from Ms. Feldman regarding individual lots within the GSM illustration was recorded on December 7, 1925 (DB 82, PG 142).
17. No recorded map or plat was referenced in any of these deeds from Ms. Feldman, and Ms. Feldman, as fee owner, did not sign or endorse the Depiction.
18. The proposed GSM Depiction did not include any public or private dedications of any street, park, or beach.
19. Very few, if not any, roads were built and maintained by Walton County as per the GSM Depiction for an approximate 45 to 50 years from the date of filing of the Depiction.
20. Many roads running through or built in GSM by Walton County, the State of Florida, or private individuals or entities under permit by Walton County are not in conformity with the GSM Depiction, including Scenic Gulf Drive, Bramble Grove Avenue, Jasmine Circle, Sea Walk Circle, Periwinkle Lane, and a portion of San Juan Avenue south of Scenic Gulf Drive, and constitute a rejection of the original GSM Depiction by the County Government. To this date, only a few of the proposed roads are paved and continuously and uninterruptedly maintained by

Walton County in GSM and even these appear to be named differently and not located within any defined parameters for roads as proposed in the Depiction.

21. No documents have been placed of record in the official records of Walton County by book and page number from 1925 until present confirming any legal right of Walton County to a road easement over any Private Real Property of the Property Owners.
22. A notice was placed of record on July 20, 2018, revoking any implied offers to dedicate any proposed road or other remnant land area to the public for all Private Real Property of Property Owners in GSM (OR BK 3079, PG 4686–4694). Despite this notice, Walton County continues to award vendor contracts and to trespass upon the area labeled “Beach” or “Bathing” on the GSM Depiction, continues to trespass upon and assert an easement over other remnant land of Property Owners, and has wrongly and capriciously denied Property Owners’ lot of record and density requests over remnant tracts of land despite Property Owners’ entitlement to the lot of record and density classifications for their Private Real Property remnant strips under the authority of Florida case law, the lack of any recorded easement, the lack of any actual or implied dedications of the land for easement purposes, the comprehensive land use code of the County Government, and the authority of Section 177.101(5) Florida Statutes.
23. All use of the beach area by anyone has always been non-exclusive to and consistent with the use of Property Owners.
24. None of the remnant land of Property Owners has ever been fenced or used exclusively by the County Government.

25. The County Government has never excluded the Property Owners from any of its Private Real Property.
26. Much of the remnant Private Real Property of Property Owners in GSM, other than that which has been built on by others in the 110-foot remnant strip under permit by Walton County or by the County Government itself for non-road purposes, primarily for parking lots, remains to the present date—95 years since the date the Private Real Property was purchased by Mildred Feldman—in its natural, shrubbed, and vegetative state as it was in the land boom days of early Florida history and constitutes non-user by the County under common law and under the terms of the Marketable Record Title Act, Section 712.01 et seq. Florida Statutes (“MRTA”).
27. The GSM Depiction included a beach area between the dunes and Gulf of Mexico labeled “Bathing” on one end of the depicted beach area and labeled “Beach” on the opposite end. This beach area did not include a dedication.
28. Finally, the GSM Depiction included an approximate 110-foot unplatted strip of land (the “Remnant Strip”) buffering between the Beach and the southern boundary of Blocks 17 through 20, running from the eastern to western borders of GSM that was ostensibly included in the area labeled “Gulf Shore Beach” or “Gulf Shore Reman” on the Depiction, the latter potentially an abbreviation for “Gulf Shore Remnant Land,” and including a large circular parcel of land south of Santa Clara Avenue and north of the beach area, to the east of the lot labeled “Hotel Site.”

29. The GSM Depiction, filed July 17, 1925, was not a “plat” approved by the County Government as required by the plat law that went into effect on June 11, 1925, Section 15, chapter 10275, Laws of Florida (1925), nor did it meet any other requirement of the 1925 Plat Law.
30. The 1925 Plat law revoked common law dedications by implication for plats or maps filed after June 11, 1925.
31. No rights of dedication were implied by the filing of the GSM Depiction.
32. The County Government has no recorded easement or deed to any Private Real Property of the Property Owners in GSM.
33. The County Government had no legal authority to convert any land allegedly deemed to be under an implied easement or implied use license to a non-road use, such as a parking lot.
34. The County Government had no legal authority to trespass upon, build, or maintain any proposed or in-use roads in GSM on land owned by Property Owners, except under section 95.361, Florida Statutes, or an implied non-exclusive use license revocable at will by Property Owners.
35. The Mildred Feldman interest reserved the Beach and the Remnant Strip from 1924 through the present, and all land proposed as road areas have not been built on, are not reasonably necessary for access to any lot, and have not been maintained continuously and uninterruptedly by Walton County. Pursuant to section 95.361 Florida Statutes, the lack of use, which now has extended approximately 95 years, constitutes “non-user” under common law and MRTA, and



are not “highways necessary for use by the traveling public” under Section 177.101(5) Florida Statutes. As the County Government has vacated other proposed roads in GSM in 1974 and 1978, including Willow Street west of San Juan Avenue in 1974, and other proposed roads south of County Highway 30A in 1978, to the extent the County had any rights therein, then by operation of Florida law the remnant land tracts in the Private Real Property shown as proposed roads on the GSM Depiction, and which are not maintained continuously and uninterruptedly by the County Government as highways necessary for the use of the traveling public and built and continuously and uninterruptedly maintained by the County Government as authorized by section 95.361 Florida Statutes, would be vacated by law, under the authority of section 177.101(5) Florida Statutes. The County Government’s denial of lots of record and density for the Private Real Property of Property Owners and actions to prevent the marketability of the land of Property Owners is a violation of law, violates real property rights, is wrongful and capricious, and denies uniform and fair application of the County Government’s land use code.

36. On February 15, 2018, Beach Life Land Trust acquired the interest in a portion of the real property previously-held by the estate of Mildred Feldman (OR BK 3077, PG 4140), this Beach Life Property being more particularly described as the southern portion of proposed Montego Avenue and other remnant land extending south to the Gulf of Mexico, as shown on the GSM Depiction.
37. On February 15, 2018, Montigo Development Land Trust acquired the interest in a portion of the real property previously-held by the estate of Mildred Feldman (OR

BK 3077, PG 4144), this Montigo Property being more particularly described as a segment of proposed Willow Street west of Montigo Avenue, as shown on the GSM Depiction.

38. On February 15, 2018, Santa Clara Land Trust acquired the interest in a portion of the real property previously-held by the estate of Mildred Feldman (OR BK 3077, PG 4148), this Santa Clara Property being more particularly described as a segment of proposed Willow Street between San Juan and Santa Clara Avenues, as shown on the GSM Depiction.
39. On February 15, 2018, Coastal Resources Land Trust No. 1 acquired the interest in a portion of the real property previously-held by the estate of Mildred Feldman (OR BK 3077, PG 4152), this real Coastal Resources #1 Property being more particularly described as a segment of proposed Willow Street east of Montigo Avenue, as shown on the GSM Depiction.
40. On June 25, 2018, Coastal Resources Land Trust No. 5 acquired the remaining interest in the real property previously-held by and not previously-conveyed from the estate of Mildred Feldman (OR BK 3077, PG 4689). This Coastal Resources #5 Property includes the beaches in GSM, beachfront property; land for proposed roads and other remnant land of Mildred Feldman converted by Walton County for non-exclusive non-road purposes, primarily parking lots; vacant, naturally shrubbed, and unbuilt proposed street segments; and other remnant land lying north and south of Scenic Gulf Drive.
41. No party has ever quieted title as to the Feldman Interest and no party has ever properly established any rights by adverse possession.

42. The County Government has built upon and over certain Private Real Property of Property Owners, including proposed roadways and other remnant land, parking lots, and beach walk-overs, without due process or just compensation to the private Property Owners.
43. The County Government has denied and disputed Property Owners' rights, failed to grant lot of record status and with allocated density, and falsely claimed right-of-way easements over said property, which has prevented Property Owners from exercising their private property rights over the subject real property.
44. In published materials, the County Government has referenced portions of Coastal Resource Land Trust No. 5's Property as public-accessible property, encouraging the public to trespass upon the Private Real Property of Property Owners.
45. The County Government disclaimed, disavowed and vacated all interest of the public and County Government to the parcels labeled on the GSM Depiction recorded in Deed Book 63 at pages 603-606 as "Bathing" or "Beaches" and to the Remnant Tract labeled as "Gulf Shore Reman" or "Gulf Shore Beach" by County Resolution on March 28, 1978, as recorded in O.R. Book 141, Page 653, Public Records of Walton County, Florida. This resolution vacated the Remnant Strip.
46. The remnant land of Property Owners not built on as roads by the County Government is not materially beneficial to any future road need of the County Government, does not presently include highways necessary for the use of the traveling public, and has not been built or maintained continuously and uninterruptedly by the County Government pursuant to section 95.361, Florida Statutes, including as a result of non-user of such land for the past 95 years, and

the County Government permitted other replats and roads and acquiesced to private and state road constructions inconsistent with the GSM Depiction, which render a significant portion of this remnant land obsolete for future road use and otherwise is a rejection by the County Government of any alleged implied rights created by the filing of the GSM Depiction.

47. From 1924 through the present, the County Government has never built or paved the proposed road listed as "Montego" in the exact location or width as is included on the GSM Depiction, but may occasionally and intermittently maintain a limited distance dirt road named "Montigo" north of Scenic Gulf Highway in the approximate location of the proposed road shown as Montego on the Depiction.
48. From 1924 through the present, the County Government has never built or maintained continuously and uninterruptedly Santa Clara Avenue in the exact location or width as listed as a proposed road on the GSM Depiction with the possible exception of a limited distance of paving north of Scenic Gulf Highway.
49. The County Government has built on or after the year 2012 a parking lot on remnant Coastal Resources #5 Property of Property Owners on a southern portion of proposed Santa Clara Avenue and a portion of proposed Willow Street east of Santa Clara Avenue, without statutory, legal, or contractual authority for such parking lots, receiving approximately \$700,000 in beach nourishment credit value for such parking lots, and has not paid just compensation or provided due process to Property Owners for such use by the County Government of this land.
50. From 1924 through the present, the County Government never built or continuously and uninterruptedly maintained San Juan Avenue in the exact

location as set forth for a proposed road on the GSM Depiction, but upon information and belief took over occasional maintenance of San Juan Avenue.

51. From 1924 through the present, upon information and belief the County Government did not build or continuously and uninterruptedly maintain any proposed road in GSM, in the locations as proposed, within 30 years of the filing of the GSM Depiction.
52. From 1924 through the present, the County Government has not built any roads shown as proposed on the GSM Depiction south of Scenic Gulf Highway.
53. From 1924 through the present, the County Government has built or maintained no roads bisecting GSM Depiction from east to west.
54. From 1924 through the present, the County Government has built no roads on land shown as Barcelona Avenue, Pelayo Avenue, Elm Street, Forest Street, or Holly Street as proposed roads on the GSM Depiction, but upon information and belief may occasionally and intermittently maintain some short portions of land proposed as roads.
55. From 1924 through the present, upon information and belief the County Government never built any proposed road on the GSM Depiction and named on the County Records as Elm Street, Holly Street, Forest Street, Montego Avenue, or Gulf Shore Reman or Gulf Shore Beach and none of these proposed street names have appeared on the County Records for any road in GSM, evidencing a rejection of the GSM Depiction by the County Government.

56. The County Government did vacate a portion of Willow Street in 1974 and all of Gulf Shore Beach by County Commission Resolutions, and granted building permits and replats over much of the Remnant Strip, evidencing a rejection of the GSM Depiction by the County Government. Many of the building permits and replats issued and approved by the County Government over the Remnant Strip in Coastal Resources #5 Property were wrongfully and illegally approved and issued by the County Government without sufficient evidence, proof, or sworn title opinions confirming record title ownership to the Remnant Strip in the applicants.
57. The County Government is tortiously complicit with applicants for permits and replats improperly claiming and integrating land in the Remnant Strip using unlawful schemes, including the use of void quiet title actions and self-dealing quit claim deeds, in wrongfully taking Private Real Property of Private Property Owners.
58. From 1924 until the present, upon information and belief, the County Government has not built a single road in GSM as per the GSM Depiction, but only taken over occasional maintenance of some proposed roads initially built as dirt roads by private parties, evidencing a rejection of the GSM Depiction by the County Government and non-acceptance of any implied rights allegedly attributable therefrom.
59. Plaintiffs have retained undersigned counsel to file this action, and request recovery of portions of their Private Real Property taken by the County Government, to gain the lawful marketable use of their Private Real Property denied by the County Government, and for damages of all attorney's fees and costs incurred in prosecuting this action.

## COUNT I

### DECLARATORY ACTION AS TO BEACH LIFE LAND TRUST

60. Property Owner Beach Life Land Trust realleges and incorporates paragraphs 1 through 4, paragraph 5a, paragraphs 6 through 36, paragraphs 41 through 47, and paragraphs 51 through 59 as if set forth fully herein.
61. This is an action for declaratory relief over which this Court has jurisdiction pursuant to section 86.011, Florida Statutes.
62. There is a bona fide, actual, present, and practical need for a declaration of the parties' statutory and constitutional rights regarding the Private Real Property more specifically described Beach Life Property as the vacant, naturally shrubbed, and unbuilt land lying south of proposed Montego Avenue and Scenic Gulf Drive extending south to the Gulf of Mexico, as reflected in the deed recorded in Book 3077, Page 4140, Official Records of Walton County, Florida.
63. Property Owner Beach Life Land Trust asserts that it owns the Beach Life Property fee simple absolute, that the Private Real Property enjoys lot of record status, with a density of at least one (1) home site and that no County Government or other government agent has the lawful right to enter or build upon Property Owner's Private Real Property without Property Owner's consent, without a judicial warrant, or without a specific, constitutional federal, or state statutory basis for doing so.
64. It is the County Government's position that Property Owner does not possess such rights and that the County Government's agents are authorized to enter and build upon Property Owner's Private Real Property without Property Owner's consent,

or without a judicial warrant, and without a specific, constitutional federal, or state statutory basis for doing so.

65. No document has been recorded by book and page in the muniments of Plaintiff's title in the last thirty (30) years declaring any alleged right-of-way of the County Government over Property Owner's Private Real Property.
66. The County Government has not built on as a road, used as a road, or maintained continuously and uninterruptedly as a road over any portion of the Beach Life Property over the past 95 years.
67. Neither Mildred Feldman nor any successor-in-interest ever executed any road easement to the County Government, and neither Mildred Feldman nor any successor-in-interest signed any document offering Property Owner's Private Real Property to the County Government for road easement purposes nor for any other purpose.
68. County Government has not afforded Private Property Owner due process or just compensation for denying the lot of record and density requests, and given this land would be deemed already vacated by operation of section 177.101(5), Florida Statutes, if the County had any such rights, the County Government's failure to provide the lot of record and density acknowledgements is arbitrary and capricious and violates the private property rights of Property Owner.
69. The County Government has tortiously interfered with a purchase contract for the Beach Life Property of Property Owner by denying lot of record and density status for the Beach Life Property land despite being made aware of a sales contract



conditioned upon an acknowledgement by the County Government of the lot of record and density rights on this land, causing Property Owner to suffer damages.

WHEREFORE, Property Owner Beach Life Land Trust respectfully requests that this Court enter a declaratory judgment:

- a. Quieting title to such property and determining that the Property Owner is the exclusive fee-simple absolute owner of the Private Real Property with lot of record status with an allocated density of at least one (1) home site, that any alleged easement claimed by the County Government is vacated, and that Property Owner is entitled to exclude others from the Private Real Property absent Property Owner's consent to entry or absent application of specific, constitutional, federal, or state statutory authority which authorizes entry;
- b. awarding damages, if appropriate;
- c. awarding attorney's fees and costs incurred in this action; and
- d. awarding any and all other relief this Court may deem appropriate.

## **COUNT II**

### **DECLARATORY ACTION AS TO MONTIGO DEVELOPMENT LAND TRUST**

70. Property Owner Montigo Development Land Trust realleges and incorporates paragraphs 1 through 4, paragraph 5b, paragraphs 6 through 35, paragraph 37, paragraphs 41 through 47, and paragraphs 51 through 59, as if set forth fully herein.

71. This is an action for declaratory relief over which this Court has jurisdiction pursuant to section 86.011, Florida Statutes.
72. There is a bona fide, actual, present, and practical need for a declaration of the parties' statutory and constitutional rights regarding the Private Property more specifically described as a segment of remnant land initially proposed as part of Willow Street adjoining Montego Avenue, as reflected in the deed recorded in Book 3077, Page 4144, Official Records of Walton County, Florida.
73. Property Owner Montigo Development Land Trust asserts that it has ownership interest in the Montigo Property fee simple absolute, that the Private Real Property enjoys lot of record status with an allocated density of at least one (1) home site, and that no County Government or other government agent has the lawful right to enter or build upon Montigo Property without Property Owner's consent, without a judicial warrant, or without a specific, constitutional federal, or state statutory basis for doing so.
74. It is the County Government's position that Property Owner does not possess such rights and that the County Government's agents are authorized to enter and build upon Property Owner's Private Real Property without Property Owner's consent, without a judicial warrant, and without a specific, constitutional federal, or state statutory basis for doing so.
75. County Government has not afforded Private Property Owner due process or just compensation for denying the lot of record and density requests, and given this land would be deemed already vacated by operation of section 177.101(5), Florida Statutes, if the County had any such rights, the County Government's failure to

provide the lot of record and density acknowledgements is arbitrary and capricious and violates the private property rights of Property Owner.

WHEREFORE, Property Owner Montigo Development Land Trust respectfully requests that this Court enter a declaratory judgment:

- a. Quieting title to such property and determining that the Property Owner, or its successors-in-interest, are the exclusive fee-simple absolute owner with any alleged easement vacated by law and with lot of record status of the Private Real Property with an allocated density of at least one (1) home site, and is entitled to exclude others from the Private Real Property absent Property Owner's consent to entry or absent application of specific, constitutional, federal, or state statutory authority that authorizes entry;
- b. awarding damages, if appropriate;
- c. awarding attorney's fees and costs incurred in this action; and
- d. awarding any and all other relief this Court may deem appropriate.

### **COUNT III**

#### **DECLARATORY ACTION AS TO SANTA CLARA LAND TRUST**

76. Property Owner Santa Clara Land Trust realleges and incorporates paragraphs 1 through 4, paragraph 5c, paragraphs 6 through 35, paragraph 38, paragraphs 41 through 46, paragraphs 48 through 49, and paragraphs 51 through 59 as if set forth fully herein.
77. This is an action for declaratory relief over which this Court has jurisdiction pursuant to section 86.011, Florida Statutes.

78. There is a bona fide, actual, present, and practical need for a declaration of the parties' statutory and constitutional rights regarding the Santa Clara Property more specifically described as a segment of remnant land initially proposed as part of Willow Street adjoining Santa Clara Drive, as reflected in the deed recorded in Book 3077, Page 4148, Official Records of Walton County, Florida.
79. Property Owner Santa Clara Land Trust asserts that it owns the Santa Clara Property fee simple absolute, that the Private Real Property enjoys lot of record status with an allocated density of at least one (1) home site, and that no County Government or other government agent has the lawful right to enter or build upon Property Owner's Private Real Property without Property Owner's consent, without a judicial warrant, or without a specific, constitutional federal, or state statutory basis for doing so.
80. It is the County Government's position that Property Owner does not possess such rights and that the County Government's agents are authorized to enter and build upon Property Owner's Private Real Property without Property Owner's consent, without a judicial warrant, and without a specific, constitutional federal, or state statutory basis for doing so.
81. County Government has not afforded the Private Property Owner due process or just compensation for denying the lot of record and density requests, and given this land would be deemed already vacated by operation of section 177.101(5), Florida Statutes, if the County had such rights, the County Government's failure to provide the lot of record and density acknowledgements is arbitrary and capricious and violates the private property rights of Property Owner.

WHEREFORE, Property Owner Santa Clara Land Trust respectfully requests that this Court enter a declaratory judgment:

- a. Quieting title to such property and determining that the Property Owner is the exclusive fee-simple absolute owner with any alleged easement vacated by law and with lot of record status with an allocated density of at least one (1) home site of the Private Real Property, and is entitled to exclude others from the Private Real Property absent Property Owner's consent to entry or absent application of specific, constitutional, federal, or state statutory authority that authorizes entry;
- b. awarding damages, if appropriate;
- c. awarding attorney's fees and costs incurred in this action; and
- d. awarding any and all other relief this Court may deem appropriate.

**COUNT IV**

**DECLARATORY ACTION AS TO COASTAL RESOURCES LAND TRUST NO. 1**

82. Property Owner Coastal Resources Land Trust No. 1 realleges and incorporates paragraphs 1 through 4, paragraph 5d, paragraphs 6 through 35, paragraph 39, paragraphs 41 through 46, paragraphs 51 through 59 as if set forth fully herein.
83. This is an action for declaratory relief over which this Court has jurisdiction pursuant to section 86.011, Florida Statutes.
84. There is a bona fide, actual, present, and practical need for a declaration of the parties' statutory and constitutional rights regarding the Coastal Resources #1 Property more specifically described as a segment of remnant land initially

proposed as part of Willow Street adjoining Pelayo Avenue, as reflected in the deed recorded in Book 3077, Page 4152, Official Records of Walton County, Florida.

85. Property Owner Coastal Resources Land Trust No. 1 asserts that it owns the Coastal Resources #1 Property fee simple absolute, that the Private Real Property enjoys lot of record status with an allocated density of at least one (1) home site, and that no County Government or other government agent has the lawful right to enter or build upon Property Owner's Private Real Property without Property Owner's consent, without a judicial warrant, or without a specific, constitutional federal, or state statutory basis for doing so.
86. It is the County Government's position that Property Owner does not possess such rights and that the County Government's agents are authorized to enter and build upon Property Owner's Private Real Property without Property Owner's consent, without a judicial warrant, and without a specific, constitutional federal, or state statutory basis for doing so.
87. County Government has not afforded the Private Property Owner due process or just compensation for denying the lot of record and density requests, and given this land would be deemed already vacated by operation of section 177.101(5), Florida Statutes, if the County had such rights, the County Government's failure to provide the lot of record and density acknowledgements is arbitrary and capricious and violates the private property rights of Property Owner.

WHEREFORE, Property Owner Coastal Resources Land Trust No. 1 respectfully requests that this Court enter a declaratory judgment:

- a. Quieting title to such property and determining that Property Owner is the exclusive fee-simple absolute owner with any alleged easement vacated by law and with lot of record status with an allocated density of at least one (1) home site of the Coastal Resources #1 Property, and is entitled to exclude others from the Private Real Property absent Property Owner's consent to entry or absent application of specific, constitutional, federal, or state statutory authority that authorizes entry;
- b. awarding damages, if appropriate;
- c. awarding attorney's fees and costs incurred in this action; and
- d. awarding any and all other relief this Court may deem appropriate.

#### COUNT V

#### DECLARATORY ACTION AS TO COASTAL RESOURCES LAND TRUST NO. 5

88. Property Owner Coastal Resources Land Trust No. 5 realleges and incorporates paragraphs 1 through 4, paragraph 5e, paragraphs 6 through 35, paragraphs 40 through 46, and paragraphs 48 through 59 as if set forth fully herein.
89. This is an action for declaratory relief over which this Court has jurisdiction pursuant to section 86.011, Florida Statutes.
90. There is a bona fide, actual, present and practical need for a declaration of the parties' statutory and constitutional rights regarding the Private Property more specifically described as beachfront property; land for proposed roads and other remnant land converted by Walton County for non-road purposes; vacant, naturally shrubbed, and unbuilt street segments; and other remnant land lying north and

south of Scenic Gulf Drive, as reflected in the deed recorded in Book 3077, Page 4689, Official Records of Walton County, Florida.

91. In 1993 the County Attorney, George Ralph Miller, testified in Court that the County had not accepted any of the land in the Remnant Strip for road purposes through non-user, and otherwise admitting that any land shown as roads on the GSM Depiction which were unbuilt and unused had not been accepted by the County.
92. Any use by the County Government of any portion of the Coastal Resources #5 Property used as a beach, beach access, or beach amenity or parking lot was under an implied license revocable at will by Property Owner, and not inconsistent with the use by the Property Owner, nor adverse to or exclusive of Property Owner, and at all times Property Owner is deemed in possession of its Coastal Resources #5 Property.
93. The Property Owner has never acquiesced to any use of the Coastal Resources #5 Property by the County Government, and any use by the County Government of any portion of this remnant land used as a beach, beach access, or beach amenity parking lot was not exclusive of nor inconsistent with the use of the Property Owner.
94. No portion of the Coastal Resources #5 Property has been fenced or otherwise used exclusively by the County Government, and County Government has not filed any form with the Walton Tax Appraiser claiming title by adverse possession to any of the remnant land pursuant to section 95.18 (3), Florida Statutes.



95. The County Government has no color of title to any portion of the Coastal Resources #5 Property, and the County Government has not made any exclusive use of any such remnant land for any statutory or prescriptive easement periods.
96. The doctrines of admissions against interest, non-user, laches, and estoppel bar any claim by the County Government to any Coastal Resources #5 Property.
97. Property Owner Coastal Resources Land Trust No. 5 asserts that it owns the Private Real Property fee simple absolute, that the Private Real Property enjoys lot of record status over all of its remnant property tracts, and that no County Government or other government agent has the lawful right to enter or build upon the Coastal Resources #5 Property without Property Owner's consent, without a judicial warrant, or without a specific, constitutional federal, or state statutory basis for doing so.
98. It is the County Government's position that Property Owner does not possess such rights and that the County Government's agents are authorized to enter and build upon Property Owner's Private Real Property without Property Owner's consent, without a judicial warrant, and without a specific, constitutional federal, or state statutory basis for doing so.
99. The County Government has made no official acceptance of any proposed road that is unbuilt as a road in GSM, or other remnant land of Property Owner, including the Remnant Strip, and conversely has expressly denied such acceptance and disclaimed any rights of the County or public to such land by non-user, by the County Resolutions of 1974 and 1978, by sworn testimony of the County Attorney in 1993, and by approving or acquiescing to replats and roads built by others

inconsistent with the Depiction, including the State of Florida and private developers. The County Government's use of Private Property Owner's land has not been exclusive, continuous, or uninterrupted for any statutory period.

100. The County Government's use of Private Property Owner's remnant land has always been consistent with the use of Property Owner.
101. County Government has not afforded Private Property Owner due process or paid just compensation as required by the Fifth and Fourteenth Amendments to the United States Constitution and under Article X of the Florida Constitution, and by denying the lot of record and density requests, and given this land would be deemed vacated and, if applicable, would enjoy lot of record status by operation of section 177.101(5), Florida Statutes, if the County had such rights, and by the Comprehensive Land Use Code, the County Government's failure to provide the lot of record and density acknowledgements is arbitrary and capricious and violates the private property rights of Property Owner.
102. County Government has profited off the use of Property Owner's remnant land in ways including permitting beach vending on the Coastal Resources #5 Property, by collecting taxes on homes built, by gaining beach nourishment credits for creating parking beach access parking spaces as high as \$700,000 for thirty-five parking spaces alone in one year, and on replatted lots over the Remnant Strip and other Coastal Resources #5 Property.
103. In the alternative, Property Owner waives its claim for inverse condemnation by tort for land wrongfully taken by the County Government for parking lots and amenity areas, which despite the County Government's vested power of eminent

domain has taken Property Owner's property without just compensation, and Property Owner elects alternatively to eject the County Government from its land or to otherwise proceed in equity to be compensated for its land taken wrongfully and without just compensation by the County Government.

WHEREFORE, Property Owner Coastal Resources Land Trust No. 5 respectfully requests that this Court enter a declaratory judgment:

- a. Quieting title to such property and determining that Property Owner is the exclusive fee-simple absolute owner of the Coastal Resources #5 Property with all alleged easements vacated by law and is entitled to lot of record status on various tracts of its land with allocated home site densities, and terminating any and all implied use licenses over the Coastal Resources #5 Property by the County Government, and excluding others from the Private Real Property absent Property Owner's consent to entry or absent application of specific, constitutional, federal, or state statutory authority that authorizes entry;
- b. awarding damages, including damages in equity for inverse condemnation, wrongful use without compensation, wrongful taking, and tortious interference with a contract, if appropriate, and/or otherwise enjoining the County Government from further use of the property of Property Owner and from denying the lots of record, density and marketability of Property Owner's Private Real Property.
- c. awarding attorney's fees and costs incurred in this action; and
- d. awarding any and all other relief this Court may deem appropriate.

Dated this 19th day of July 2019.

/s/ A. Benjamin Gordon

**A. Benjamin Gordon**

Florida Bar No.: 528617

**Andrea Ansley**

Florida Bar No.: 0680516

AnchorsGordon, P.A.

2113 Lewis Turner Boulevard, Suite 100

Ft. Walton Beach, FL 32547

Telephone: (850) 863-1974

Facsimile: (850) 863-1591

Email: [bgordon@anchorsgordon.com](mailto:bgordon@anchorsgordon.com)

[anansley@anchorsgordon.com](mailto:anansley@anchorsgordon.com)

Secondary: [cyndi@anchorsgordon.com](mailto:cyndi@anchorsgordon.com)

*Attorneys for Plaintiffs*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of the foregoing was filed this 19th day of July, 2019 via the Florida Court's E-Filing portal, which will send notice to counsel of record for Defendant, William G. Warner, Warner Law Firm, P.A., to [pleadings@warnerlaw.us](mailto:pleadings@warnerlaw.us).

/s/ A. Benjamin Gordon

**A. Benjamin Gordon**

Florida Bar No.: 528617

**Andrea Ansley**

Florida Bar No.: 0680516

AnchorsGordon, P.A.

2113 Lewis Turner Boulevard, Suite 100

Ft. Walton Beach, FL 32547

Telephone: (850) 863-1974

Facsimile: (850) 863-1591

Email: [bgordon@anchorsgordon.com](mailto:bgordon@anchorsgordon.com)

[anansley@anchorsgordon.com](mailto:anansley@anchorsgordon.com)

Secondary: [cyndi@anchorsgordon.com](mailto:cyndi@anchorsgordon.com)