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Rhode Island Legislative Shoreline Access Commission

March 3, 2022

Shoreline Access Legislation

I am a resident and property owner in the State of Rhode Island. I moved to Rhode Island because it is the Ocean State and has a long legacy of protecting the Public's right to the shoreline. The ocean belongs to no one person, and the access to the shoreline cannot be controlled by any one person. It is a public resource.

I request of my legislature to represent the interests of all Rhode Islanders by maintaining and clarifying the rights to access and enjoyment of the shoreline as defined in the Rhode Island Constitution.

The Current System of Defining the Public's Rights to the Shoreline is Broken and Unenforceable
The professionals and experts from the University of Rhode Island have clearly exhibited that the current means of determining the bounds of public use of the shoreline is fatally flawed. The demarcation line for these bounds is mostly underwater all the time. The system does not work in a coastal setting as exists on the South Shore with wind, waves and current pushing water up onto the beaches and the dynamic nature of the shoreline constantly shifting due to sand erosion and deposition. The system does not allow the public to exercise their rights to enjoy the shoreline consistently and on a regular basis. In fact the system nearly eliminates all public access to the shoreline.

The legislature must clearly define that the shoreline is accessible to all, and that there is a portion of the shoreline that can be considered private property under the control of private property owners. That private area may enlarge or contract as the actions of erosion and deposition occur throughout the seasons and the years.

The legislature must define a means by which the public and shoreline property owners will share the shoreline and respect each other's right to use and enjoy the shoreline. There is no way around the fact that the public and shoreline property owners must respectfully coexist while using the shoreline. There should be clear definition of behavior in this zone since it is not always clear to the public or shoreline property owners what reasonable, respectful behavior is. This may reflect this author's ignorance of the legal process and the manner in which this can be codified into law, but it is clear to me as a shoreline user that the etiquette of shoreline usage must be taught through education and reinforced as necessary.

Desired Legislative Construct:

The legislature must provide a clear means to identify where and how the shoreline can be used by the public as outlined in the Rhode Island Constitution. It is requested that the legislature protect the rights of the shoreline using public and the shoreline property owners in the following fashion:

Minimum Beach Access and Use Provisions:

- Dry passage for at least two people walking abreast on dry land must be allowed at all times at the demarcation line, and even during the highest water events as reflected during storms to the effect that safe passage can be afforded without climbing into the vegetation on the fore dune.
- At other water levels below the demarcation line more than two people can walk abreast as long as no more than two people are walking abreast above the demarcation line.

- Exercising all of the rights to use the shoreline as indicated and implied within the Rhode Island Constitution must be allowed at all times at and below the demarcation line.
- The demarcation line shall be that line as defined by the swash line, or the seaweed line that is evident on a particular area of the beach. This line shall be inferred if clear evidence in the manner of deposited seaweed or debris does not exist based upon swash/seaweed lines in the near vicinity.
- Shoreline property owners shall not clear all of the seaweed on their property such that the swash line is not evident.
- The exercising of the rights to use the shoreline however shall be done in such a fashion that recognizes the potential for conflict between private shoreline property owners and beach users. Beach users and shoreline property owners shall adhere to the requirements as outlined in the Beach Use Etiquette provision as described below:

Beach Use Etiquette:

I believe the legislature should define shoreline etiquette for shoreline property owners and beach users to consider and abide by in the interest of respecting each others rights to use and enjoy the shoreline. There is a need to strike a fair balance between the public's rights to the use of the shoreline and the shoreline property owners expectations of enjoyment of the shoreline with minimal conflict with the public. These are some thoughts for consideration that of course could be further refined or clarified.

Such etiquette is partly defined in current law about public conduct, and should be defined as the activities that shoreline users have a right to exercise under the constitution, but in a manner that respects the rights and desires of others. This constitutes activities that do not create an imposition on anyone else who is enjoying the beach in the near vicinity. This also respects the desire and rights of shoreline property owners to enjoy their private property and the beach in front of it to the maximum extent possible while minimizing conflicts with other beach users. The public and shoreline property owners must be well educated about proper etiquette, so this implies the need for public information campaigns and perhaps clear signage at access points.

- Beach users shall:
 - Be able to exercise all of the rights to the shoreline enumerated and implied within the RI constitution at and below the demarcation line, as well as passing along the shoreline as previously enumerated two abreast above the demarcation line.
- Beach users shall not exercise their rights in a manner that can subject other beach users and shoreline property owners to objectionable noise, smells, smoke, or lights, and other activities that would be considered objectionable by a reasonable person. Examples of activities that can subject other beach users and shoreline property owners to activities that are considered objectionable could include for example:
 - Unreasonably loud and persistent vocalizations
 - Amplified music
 - Loud unamplified music
 - Smoking substances
 - Light pollution from portable or fixed lighting
 - Recreational activity that could harm or endanger those in near proximity
 - Littering

- All illicit activities
- Beach users shall recognize the desire of shoreline property owners to want to enjoy the beach with minimal conflict with other beach users. This means users passing along the shoreline closer to the water than to private shoreline property, unless the water is at the demarcation line. This means making an attempt to find beach areas, above which shoreline property owners are not using their dry beach at the time. This means the public making an attempt, when possible and feasible, to walk further from the point of public access to areas above which shoreline property owners are currently not using their beach property.
- Beach users and shoreline property owners recognize that on certain hot summer days there may be some overlap of usage where public users are in fact in the beach area below the demarcation line between the shoreline property owner users, and the water. Passage along the shoreline shall always be allowed as qualified previously. Users of the beach shall do so in a respectful manner so as not to disturb the enjoyment of the beach by other users in near proximity.
- Shoreline Communities Shall:
 - Where conflicts between public users and shoreline property owners are common, and not just occasional on a few busy summer days each year, the community shall seek to create new public beach or expand their current public beach size to accommodate the increased demand and avoid the frequent, not just occasional, conflict with the shoreline property owners desired/expected enjoyment of the beach.

Further Discussion of Beach Use and The Attempts To Minimize Conflicts:

- When water is at the demarcation line (the swash line), this may mean that there is a very narrow width of dry beach between the demarcation line and the dune. In this case the beach user shall adhere to the concept of a sidewalk to simply pass along the shore as described previously. This allows the shoreline property owner ample room to enjoy their dry beach without conflict with beach users. Beach users should not attempt to exercise their rights when water is at the demarcation line in these cases of a narrow strip of dry sand remaining to the dune when shoreline property owners are trying to enjoy their beach property. Beach users shall attempt to move a sufficient lateral distance away to another area where there are no shoreline property owners using the dry beach above the demarcation line, before they consider exercising their right to fish, sit, swim or other constitutional rights that the RI constitution affords. As a practice the beach users shall attempt to only swim, fish, sit, etc., and enjoy the beach when there is a fair distance between them and the shoreline property owners using their property above the swash line. This means ideally that the beach user should be aware of the tides when planning their shoreline activities, and strive to visit the shoreline for exercise of their constitutional rights when the tides are below high tide. This would allow ample area of dry sand below the demarcation line to allow these activities to take place and minimize the potential for conflict with shoreline property owners. Again to the extent feasible beach users shall attempt to move laterally away, or as close to the water as feasible, in areas of potential conflict of exercises of shoreline uses of others. This may not be possible for certain conditions where exercising shoreline rights of access and use are required at high tides, but this beach use etiquette would expect that activities that do not require high tide strive to avoid the aforementioned conflict with shoreline property owner uses of the shoreline.

Further discussion of objectionable activities to be avoided:

- Noise:
 - This relates to conduct that is loud and subjects others in the near vicinity to vocalizations or other noise that subjects them to objectionable levels of sound that ruin the peaceful nature of the shoreline. This relates to amplified noise, such as there shall be no amplified music on the beach that could subject others to either a style or volume of music that they find objectionable.
- Smoke:
 - This relates to the use of tobacco products or burning of any substances such that can subject others in the near vicinity to second hand smoke, or can create a fire hazard.
- Light pollution:
 - This is to eliminate lighting that pollutes the natural beauty of the shoreline, the night sky and the horizon. Bright portable lighting, or permanent lighting on shorefront property can ruin the enjoyment of the night sky.
- Littering
 - This relates to littering on the beach.
- Dangerous Recreational Activities
 - This relates to activities that could cause harm to bystanders or other shoreline users in the near vicinity. Recreational activities shall only be undertaken in a manner that does not risk injury to other shoreline users.
- Illegal Activities:
 - Of course this relates to all other regulated practices that are prohibited such as alcohol consumption, nudity, fighting, use of foul language, etc.

Other Needs for Shoreline Access in the State of Rhode Island

The legislature must properly fund the CRMC and make the CRMC a separate department of the state to allow it to responsibly implement the legislative charges that it has been given in protecting the state's critical coastal resources. It is clear that the CRMC is underfunded and cannot adequately perform the tasks which it is expected to perform. A prime example is the establishment of Rights of Ways (ROWs) to the shoreline. The CRMC is woefully understaffed and underfunded to provide the necessary resources to protect existing ROWs and create new ROWs where the public rights exist, but the use has been lost or hindered by illegal activity or lost or obscured records. The implementation of the clarified demarcation line for the public's constitutional use of the shoreline as described above will take a robust public education effort and the CRMC is the logical and best state program to implement this effort. They will need the additional funding to undertake that new responsibility as well. I ask the legislature to take the responsible path and enable the CRMC by its reorganization as a separate state department, and provide it full funding and staffing to protect the public resource that is so important to the economy and quality of life in Rhode Island, the shoreline.

Respectfully,

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