

SHORE ACCESS

Property owners won't take changes to R.I. shore lying down

Shoreline access group is already planning its fight against upcoming legislative proposal

By [Brian Amaral](#) Globe Staff, Updated March 9, 2022, 6:00 a.m.





Property owners erect fences and post signs marking their territory on Charlestown Town Beach. LANE TURNER/GLOBE STAFF

When a House panel studying shore access in Rhode Island said last week it had [reached consensus](#) on a recommendation to change the law, the mood inside the State House hearing room was celebratory. There was even applause from the half-dozen or so shoreline rights activists who came out to watch.

Outside the room, along Rhode Island's 400 miles of coastline, property owners saw something else: a faulty idea that they would oppose in the General Assembly.

"[W]e believe the proposed 'consensus' amounts to a clear unconstitutional taking of private property by the state to which the state taxpayers will be required to pay compensation," Christopher Boyle, lobbyist for a group of shoreline property owners that has fought similar proposals in the past, said in an email. "The extensive amount of property in question is private property to which owners have been paying property taxes on for as long as property taxes have existed."

The House study commission last week, after meeting every few weeks for months, helped develop a legislative proposal that could be introduced in the coming days. That proposal, of course, will still have to pass the House itself, and also the Senate, and be signed by the governor. Even if it passes, it could also face legal challenges.

Changes to the rights of the Rhode Island shore still have plenty of hurdles, in other words, and they will face opposition at every turn, and not just from outfits like Boyle's, which is called Shoreline Taxpayers Association for Respectful Traverse, Environmental Responsibility and Safety, Inc. One [Charlestown shoreline property owner](#), Jeanie Roland, said she won't be concerned until something passes — which she doesn't think will happen.



“A proposal such as this one that is so vague will not get passed as it will encourage the ignorance of where people can actually go,” Roland said in a written message.

Shoreline rights proponents are already planning for this eventuality. Commission chair Terri Cortvriend and co-chair Blake Filippi, a Democrat of Middletown and Republican of Block Island respectively, encouraged people to come out to testify in support of the proposal once there are hearings; activists are planning for an advocacy blitz for every member of the General Assembly.

As of Tuesday, the legislation had not yet been introduced. The exact verbiage — the devil in the details — hasn’t emerged yet. But broadly, it would give people the right to access below what it calls the “recognizable high tide line.” That line is 10 feet from what’s often called the wrack line, or the last line of oil, shells or seaweed that the tide has left.

In some places it could mean 60 or more extra feet for people to access to exercise their constitutional rights, which in Rhode Island include fishing, swimming, passage along the shore and collecting seaweed.

That’s a lot more room than they get under the law as it’s understood now. A 1982 state Supreme Court case, *State v. Ibbison*, placed the line for public access at what’s called the mean high tide line. If people are below that line, closer to the ocean, they have access rights. If they’re above it, and the police can prove they knew they intentionally crossed it, they can be charged with trespassing.

The mean high tide line is not a boundary that someone can see with the naked eye, but instead a measurement of high water heights taken over a 18.6-year cycle. It also doesn’t factor in wave and wind action that can toss water much farther than the actual height of the tide itself. Because of that, people have access for a much shorter time period of the day than they might think.

The consensus of the 12-member study commission was that using the “recognizable high tide” fixes that problem. That new line wouldn’t actually change the boundary lines in people’s deeds, but instead declare that the public has rights on property, public or private, along the shore.

All along, the commission has considered how it could refine its proposal to avoid losing in the courts if it does pass. One legal expert has told them they have [little to worry about](#), but worries have nevertheless persisted. And property owners say that such a move would indeed amount to taking the use of their property without compensating them for it.

“It would clearly have the effect of largely preventing private property owners from excluding others from their property in a meaningful way, such right to exclude being one of the fundamental rights of a private property owner,” John Boehnert, a Rhode Island attorney who represents landowners in property disputes, and who testified before the commission at one of its meetings, said in an email. “I am sorry to see this approach by the Commission.”

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