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Mangrove jurisdiction differs by county

By **Leslie Lake**



Photo - Manatee County logo

ANNA MARIA – The outcome of the removal of 116 feet of mangroves to build a seawall at a Gull Drive home may have been different if the property had been located in Sarasota County instead of Manatee County.

A contractor removed some of the mangroves prior to receiving a federal permit, but had been granted an exemption from the state permit requirement by the Florida Department of Environmental Protection. After the U.S. Army Corps of Engineers granted the federal permit, the contractor removed the rest of the mangroves. No county permit was required.

“In Sarasota County, this wouldn’t happen” because the county has jurisdiction over mangroves under the 1996 Mangrove Trimming and Preservation Act. Suncoast Waterkeeper Executive Director Abbey Tyrna wrote in a March 7 email to The Sun. “If mangroves had to be removed to install a seawall, then mitigation would have had to take place.”

Under the act, “The department (FDEP) shall delegate its authority to regulate the trimming and alteration of mangroves to any local government that makes a written request for delegation.”

Sarasota is one of the few counties statewide, including Hillsborough, Pinellas, Miami-Dade and Broward, that have such authority.

Manatee County does not.

According to the act, most areas in which 5% or more of mangrove trees have been trimmed below 6 feet in height, destroyed, defoliated, or removed must be restored or mitigated.

“Restoration must be accomplished by replanting mangroves, in the same location and of the same species as each mangrove destroyed, defoliated, removed, or trimmed, to achieve within five years a canopy area equivalent to the area destroyed, removed, defoliated or trimmed,” according to the act.

The owner of the 111 Gull Drive property, Sharp Development, received a seawall exemption on Sept. 19, 2022 from the FDEP.

“There are multiple seawall exemptions in the Florida Administrative Code. One of the exemptions allows for construction of seawalls in artificially created waterways and within residential canal systems, which was the exemption used for the Gull Drive case,” FDEP spokesperson Brian Humphreys wrote in a Feb. 2 email to The Sun.

According to Florida law, a permit is not required for the construction of seawalls in artificially created waterways.

“The law is not protective of mangroves,” Tyrna said. “There’s no difference between mangroves on manmade canals versus on the natural waterways. Mangroves anywhere perform the same ecosystem services, including erosion control, water, cleanup, fish, habitat, etc.”

CONTRACTOR SPEAKS OUT

In a Dec. 18, 2023 email to The Sun from Anna Maria Mayor Dan Murphy, he wrote that a City of Anna Maria stop work order was placed on the property based on a neighbor’s complaints received earlier in December about mangrove removal. On Dec. 19, Murphy emailed The Sun identifying Mason Martin LLC as the contractor involved.

“How do you red tag something the city doesn’t govern? What did that paper really mean?” Contractor Frank Agnelli of Mason Martin said in a Feb. 27 telephone interview with The Sun.

FDEP inspectors conducted a site visit to the home on Dec. 22, 2023 and issued a report Jan. 11, 2024.

“DEP’s investigation has determined that the mangrove alteration/removal activities at this property are in compliance and within the footprint of their seawall exemption,” FDEP spokesperson Brian Humphreys wrote in a Jan. 11 email to The Sun.

However, the report said additional authorization was still required from the U.S. Army Corps of Engineers (USACE). The USACE permit was issued on Feb. 16.

“In a nutshell, the exemption from the FDEP was required to remove the mangroves, the Army Corps of Engineers permit was to fill in the area once the seawall is in place and the city issues the permit to build the seawall,” Agnelli said.

USACE did not respond to an email from The Sun requesting comment.

Agnelli said he had authorization from the proper authorities.

“I didn’t jump the gun to remove the mangroves, FDEP gave me an exemption,” he said. “I didn’t install the seawall without a permit.”

Agnelli said the mangroves at the property were not doing what they were supposed to do, and the area flooded during high tides.

“I’m 100% mangroves in Intracoastal waters,” Agnelli said. “They’re not needed in manmade canals. When this canal was built, it was dredged and the dirt was dumped on top of the mangroves.”

“The biggest impact of these differences is that the mangrove fringe is typically not as wide along manmade shorelines than natural ones,” Dr. Dave Tomasko, executive director of the Sarasota Bay Estuary Program, wrote in a March 7 email to The Sun.

Tomasko noted many benefits of mangroves including underwater hiding places for fish and crabs, attachment points for oysters and sponges that filter algae, mangrove forests that can filter out pollutants and shoreline protection.

“There are numerous benefits that mangroves provide – coastal resiliency to storms through flood and wind protection are chief among them. They are also the backbone of our fishing and tourist economy,” Tyrna wrote.

The home at 111 Gull Drive is under construction with a projected sale price of \$6,195,000 according to the Sharp Development website.

“The current owner advertised that the new owner will be able to fish from the dock, but without habitat, there what fish are they going to catch? Are they relying on other homeowners to maintain their habitats so that this homeowner can fish? If everybody relies on someone else we will lose all mangrove habitat,” Tyrna wrote.

“If you live along the bay, why would you not want to have the wildlife value, water quality benefits and storm protection of mangroves?” Tomasko wrote. “If everyone removes their mangroves, or cuts them down to nubs, then you’ll likely have a better view of a more polluted bay – is that what you want?”
