Legal Aspects of Adaptation to Rising Waters and Storm Surge

DAN SLONE
MCGUIREWOODS LLP
Dan Slone
dslone@mcguirewoods.com

Counsel for:
EcoDistricts

Some relevant projects:
- Pattonsburg, MO
- Valmyer, IL
- Mississippi Coast
- New Orleans, LA

Short essay – Developing Sustainable Visions for Post-Catastrophe Communities in Sustainability in the Global City: Myth and Practice edited by Cindy Isenhour et. al. (Cambridge University Press) to be published 2014.

On Board of:

Resilient Design Institute

World Green Building Council
“Come gather round people wherever you roam, and admit that the waters around you have grown.”
-Bob Dylan

Climate change is more than rising water; adaptation will include adapting to wildfires, drought, heat waves, tornados, mud slides etc.
Hardening and Renourishment

- Liability for failure
- Increased impacts
- Holdouts
- Tax districts
- Maintenance (duty?)
- Impact of regulations (accommodation)
  - Townhouses
  - Commercial
  - Disadvantaged communities
Soft Environmental Adaptation

- Property lines
- Effectiveness
- Change in value
- Maintenance
Retreat

- Challenges
  - Social equity
  - Source of funds
  - Limitations of condemnation
  - Planning and private rights (BK)
- Infrastructure
- Road
  - Duty to maintain vs. abandonment
  - Michigan rural roads
  - Elevation
  - Ped access
  - Water access
Retreat

- Water/Sewer/Electric
  - Tariffs
  - Distributed
  - Septic
  - Smart Growth
  - Conflicts
- Lights
- Services
- Fire and emergency
- Garbage
- Police
- School bus
- Restrictions on new construction
- Moving a community

DAN SLONE
MCGUIREWOODS LLP
General

- Transparency: Resilience Plan of Town of Guilford, Connecticut
- New lines
  - Expanding marshes
  - Shifting private/public lines
  - Moving flood zones