

# Legal Quick Takes: SLR, Law & Flooding

Thomas Ruppert  
Coastal Planning Specialist,  
Florida Sea Grant



# Overview

- Drainage
- Elevation as adaptation—Miami Beach
- Public and private infrastructure—Fort Lauderdale seawall ordinance
- SLR resources for local governments
  - Financing options
  - SLR language in comp plans
  - Bert J. Harris, Jr., Private Property Rights Protection Act & Defenses



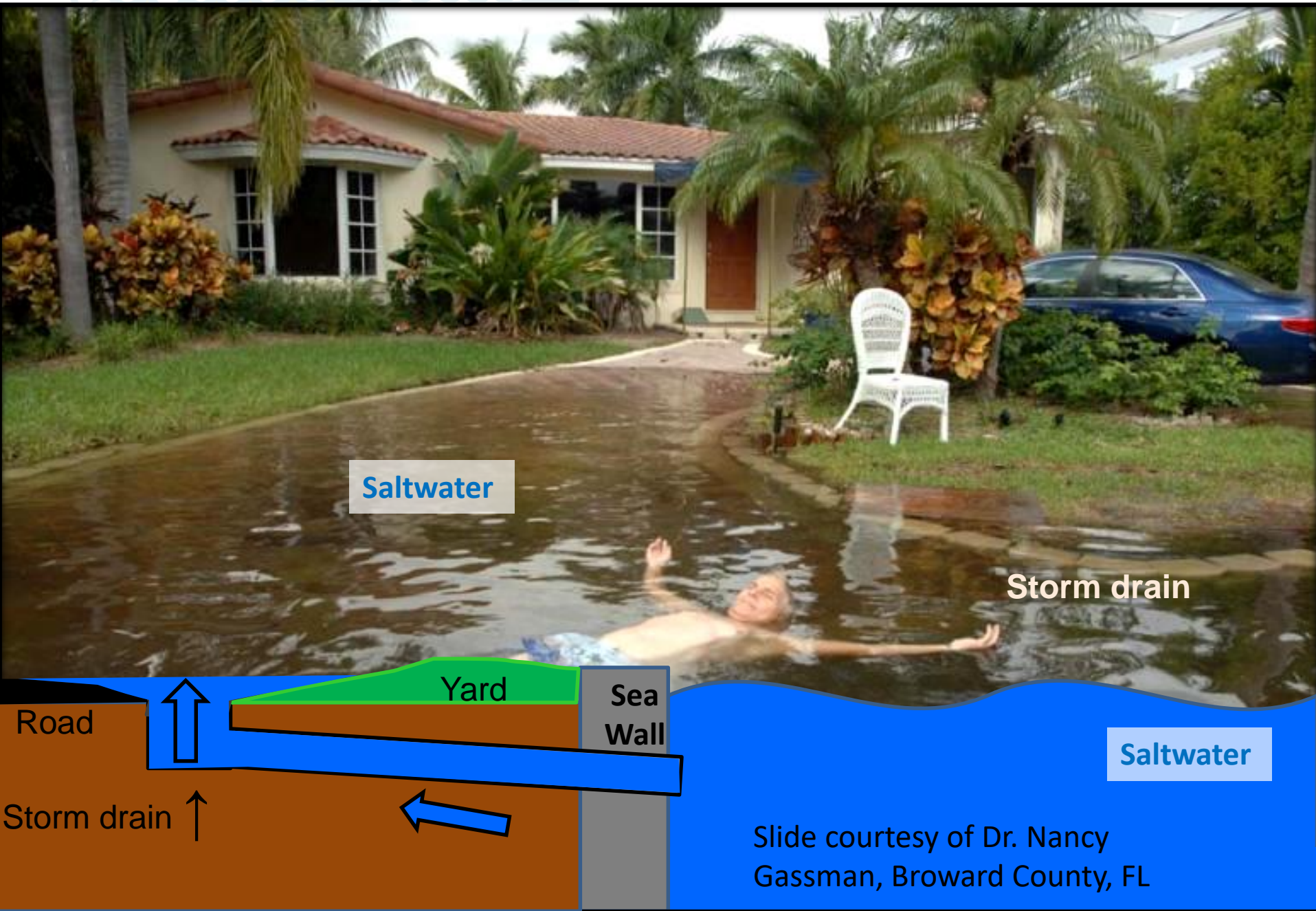
# SLR, Drainage, and Local Governments



# Drainage Under Average Tidal Conditions

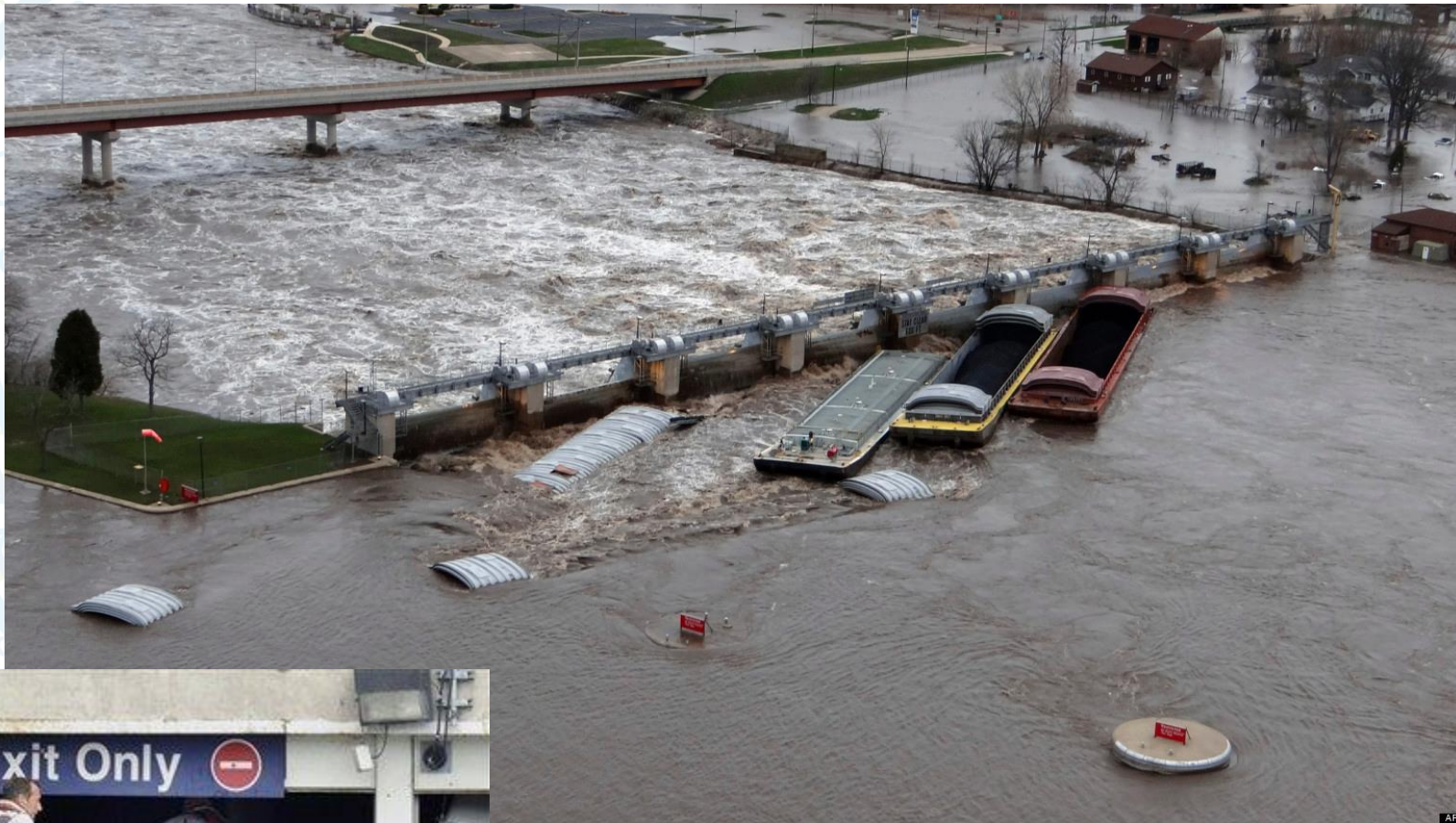


# Drainage Challenge with Sea Level Rise





# Chicago Flooding: April 2013



# The Florida Bar Journal

[Advertising Rates](#) • [Submission Guidelines](#) • [Archives](#) • [Subscribe](#) • [News](#)

November, 2013 Volume 87, No. 9

## **Drowning in Place: Local Government Costs and Liabilities for Flooding Due to Sea-level Rise**

by Thomas Ruppert and Carly Grimm

- No duty of local gov't to provide drainage
  - As with many services, *authority* or *power* to provide, but not duty (fire, police, etc.)
- However, if provided, duty to maintain arises
  - Maintenance must be done with reasonable care
  - Liability for failure to maintain



# Maintenance vs. Upgrade

- Immunity through “planning” vs. “operational” distinction
  - Immunity for planning as this is legislative
  - No immunity for “operations;” always a duty to act with reasonable care to avoid harm to others





# Elevation as Adaptation: The Miami Beach Example



# The Miami Beach Example







# The Miami Beach Example

MIAMI BEACH

NOVEMBER 16, 2016 7:37 PM

Flood claim denied for restaurant turned 'basement' after Miami Beach raised street



During a heavy rainstorm on the night of Oct. 3, the sidewalk outside Sardinia Enoteca Ristorante in Miami Beach flooded, spilling water into the business after the city failed to turn on nearby stormwater pumps. Sardinia Enoteca Ristorante



MIAMI BEACH

JANUARY 28, 2017 7:00 AM

Miami Beach to begin new \$100 million flood prevention project in face of sea level rise







miamibeach

citywide

south beach

mid beach

## homeowners to tie into stormwater system without charge

April 28, 2017



susan askew



# To Charge or Not to Charge?



# **Public and Private Infrastructure: The Example of Seawalls in Fort Lauderdale**







## Memorandum

**Memorandum No: 17-016**

**Date:** January 26, 2017

**To:** Honorable Mayor and Commissioners

**From:** Lee R. Feldman, ICMA-CM, City Manager


**Re:** Enforcement of the City's Seawall Ordinance - ULDR Section 47-19.3

---

As you are aware, the City of Fort Lauderdale adopted amendments to ULDR Section 47-19.3 on June 21, 2016 (CAM #16-0662) to establish construction standards that ensured seawalls and similar structures contributed to coastal resilience and mitigated the effects of tidal flooding and sea level rise. The ordinance included two provisions under which a property owner may receive a code violation:

1. Failing to maintain a seawalls in good repair and setting a timeline of 365 days for completion of repairs if cited; and
2. Requiring owners to prevent tidal waters entering their property from impacting others properties or the public right of way and setting a timeline of 365 days for remedy if cited.





# **SLR Resources for Local Governments: Florida Sea Grant's Coastal Planning Website**

Florida Sea Grant College Program



- Financing Options for SLR Adaptation
- SLR Language in Comp Plans
- Bert J. Harris, Jr., Property Rights Protection
- Many other resources. . . . .

[www.flseagrants.org/climatechange/coastalplanning/](http://www.flseagrants.org/climatechange/coastalplanning/)



[Home](#) » [Climate Change](#) » [Coastal Planning](#) » [Resources](#) » [Policy Tools](#)

Example Sea-Level Rise  
Language & Case Studies

Insurance Issues

News

## Policy Tools

No one-size-fits-all prescription for adapting to sea-level rise is possible for Florida's coastal communities. For example, while a community may have a responsibility to inform people about coastal hazards such as storm surge and sea-level rise, the community will also want to encourage economic development and investment that makes the community vibrant and contributes to the tax base. Each community needs to

nt College Program





“[A] foolish man . . . built his house on sand. The rain came down, the streams rose, and the winds blew and beat against that house, and it fell with a great crash.”

Matthew 7: 26-27

A coastal scene with a concrete barrier in the foreground, a rocky shoreline, and a lifeguard stand in the background.

Thomas Ruppert  
Coastal Planning Specialist  
Florida Sea Grant College Program  
TRUPPERT@UFL.EDU  
[www.flseagrant.org/coastalplanning](http://www.flseagrant.org/coastalplanning)