



# PRIVATE PROPERTY RIGHTS

LIVE



WORK



PLAY



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DATA, INVENTORY, AND ANALYSIS



# PRIVATE PROPERTY RIGHTS ELEMENT

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## PRIVATE PROPERTY RIGHTS ELEMENT

### INTRODUCTION

Property owners in Florida have strong property rights protection through the U.S. Constitution, the Florida Constitution, and the Bert J. Harris Act. However, effective June 29, 2021, the State of Florida amended the requirements for comprehensive plan elements in ss. 163.3177(6) to require a property rights element. In accordance with the legislative intent expressed in ss. 163.3161(10) and 187.101(3), that governmental entities must respect judicially acknowledged and constitutionally protected private property rights, the property rights element is intended to ensure that private property rights are considered in local decisionmaking. A local government may adopt its own property rights element or use the statutory language. If a local government adopts its own property rights element, the element may not conflict with the statement of rights in the state statutes.

The property rights element must be adopted by the earlier of the adoption of the next proposed plan amendment initiated after July 1, 2021, or the date of the next scheduled evaluation and appraisal of the comprehensive plan pursuant to s. 163.3191.

### PROPERTY RIGHTS AND GOVERNMENT REGULATION

Citizens rely on local government plans in different ways:

- *Residents* of any community have chosen to live there—and often have bought a home, the most significant financial decision many people make—because of things local governments address, like the condition of streets and parks, the proximity to daily needs, and community safety.
- *Businesses* locate in a community for its resources. They care about human assets, like customers and workers. And they care about physical assets like public infrastructure and the environment. From farmers to tech companies, businesses rely on local

government plans so they can count on these resources being available.

- Finally, *real estate investors* study local government rules so they can make financial plans and accurately evaluate investment opportunities. For investments in real estate to have low risk, local governments need to protect and improve the quality of a community over time.

Land values reflect how desirable a community is in many ways. Regulating land use and protecting property rights are not conflicting goals. Rather, local government rules generally create value in property and bring stability to real estate markets. Rules that benefit the public also protect property rights.

Still, *a local government's process for regulating land* greatly impacts real estate markets and property rights. Transparency, predictability, and reliability are three strategies for implementing land use rules in a way that benefits people and respects property rights.

- *Transparency* means people can see and participate in processes for developing rules.
- *Predictability* means a local government follows rules that are clear and unambiguous. Real estate investors should be able to read rules and know whether local government will permit a development proposal. Residents should be able to read rules and then know what kind of development will occur in their community.
- *Reliability* means a local government follows through on its commitments. Cities and counties should make realistic plans and should follow them. And local governments should only change their plans after thorough consideration leads to strong support. When a government is reliable, people can make long-term investments in the community—one key to a successful local economy.