Legal and Policy Tools for Managed Retreat

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OVERVIEW

- State tools
- Local tools
- Legal feasibility framework
- Takings analysis and strategies to minimize legal liability
- Managed Retreat Toolkit outline
Georgetown Climate Center

Policy development

A resource to states and communities

Convening and staffing climate initiatives

Provide opportunities for students
Welcome to the Adaptation Clearinghouse

An online database and networking site that serves policymakers and others who are working to help communities adapt to climate change.

Search the Clearinghouse

By Keyword  By State

Put the Power of the Adaptation Clearinghouse to Work for You

- Customize the Adaptation Clearinghouse to meet your needs
- Receive updates about new resources that match your interests
- Connect with other professionals

Green Infrastructure Toolkit

State and Local Adaptation Plans

Status and communities around the country have begun to prepare for the climate changes that are already underway. This planning process typically results in a document called an adaptation plan.

Below is a map that highlights the status of state adaptation efforts. Click on a state to view a summary of its progress to date and to access its full profile page. State profiles pages include a detailed breakdown of each state’s adaptation work and links to local adaptation plans and resources. Please move the map to view Alaska and Hawaii.
STATE CZM PLANS:
Rhode Island Shoreline Change Special Area Management Plan
STATE COASTAL POLICIES: Hawaii

Scenario Profile Four: Scenario for Critical Infrastructure (O’ahu)

Credit: SSFM International, Inc.
STATE BUYOUTS:
New Jersey Blue Acres Program

Credit: Grant Delin, in Scientific American article
PLANNING:
Resilient Edgemere (New York City)
SETBACKS:

Kauai, Hawaii

Credit: Jonathan Jay, Island Breath
OVERLAY DISTRICTS:
Yankeetown, Florida Natural Resource Adaptation Action Area
## LEGAL FEASIBILITY?

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<tr>
<th>Question</th>
<th>Analysis</th>
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<tr>
<td>Authority?</td>
<td>• Local authority&lt;br&gt;• State agency roles</td>
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<td>Compliance with state and federal laws?</td>
<td>• Coastal act&lt;br&gt;• Floodplain requirements&lt;br&gt;• Wetlands regulations</td>
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<td>Constitutional questions?</td>
<td>• Takings</td>
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Lucas v. South Carolina Coastal Council

- **Per se takings**: A takings will result if a property owner is deprived of all the economically beneficial uses of his/her property.
Penn Central Transportation Co. v. New York City

1) The public purpose served;
2) Effect of the regulation on the owner, including the potential decrease in value of the entire property; and
3) The property owner’s investment-backed expectations in the property.
TAKINGS EXAMPLE:

Chatham, Massachusetts

Credit: Town of Chatham, Massachusetts
Main Takeaways

A legal challenge that has to be considered.

*however . . .*

There are ways to minimize legal risk. For example:

- Purpose and findings
- Tailor government actions to perceived or actual risk
- Notice (e.g., real estate disclosures)
GCC’s MANAGED RETREAT TOOLKIT

Tentative sections may include:

- Legal and policy considerations
- Planning (e.g., CZM, comprehensive plans)
- Buyouts and acquisitions
- Regulatory tools: Limiting new development and redevelopment in at-risk areas
- Infrastructure
- Ecosystems and migration corridors
- Preparing “receiving” communities
- Funding
- Equity
- Communication strategies
For More Information and Additional Resources:

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http://www.GeorgetownClimate.org
http://www.AdaptationClearinghouse.org