

FACT

Florida Association
of Counties Trust

September 14, 2011

Mr. John McCoy
7101 County Road 614
Bushnell, FL 33513

Re: Member: Sumter County
Date of Occurrence: September 6, 1996 (arbitrarily chosen)
Claim No.: FAC2101-16-1

Dear Mr. McCoy:

As you are aware, we represent the Florida Association of Counties Trust (FACT) of which Sumter County is a member. At this time, I would like to thank you for your cooperation in providing valuable information with reference to the above-captioned event to our independent adjuster, Mr. Jay Schroll.

We have now completed a thorough investigation into this matter and find the following:

- The property that you purchased at 7101 County Road 614 flooded before and after your purchase.
- Sumter County did not dig a canal because in order to do so they would have had to obtain permission from the Southwest Florida Water Management District, which they did not do.
- However, Sumter County did secure permission to install two large, plastic culvert pipes under both County Road 165B and Highway 476.
- Sumter County performed a ditch cleaning operation both east and west of your property which would have enhanced the flow of water away from your property.
- In 2004, your area had three major rainfall events which occurred as a result of hurricanes towards the end of the year.
- Your property is situated in a naturally low area. It is lower than the roadway and also lower than your neighbor's property to the northeast.
- The most recent event that you cite in your claim occurred in 2004.
- Please refer to Florida Statute 768.28 for the following:

Sumter County
September 14, 2011

Page 2

768.28 Waiver of sovereign immunity in tort actions; recovery limits; limitation on attorney fees; statute of limitations; exclusions; indemnification; risk management programs.

(6) (a) An action may not be instituted on a claim against the state or one of its agencies or subdivisions unless the claimant presents the claim in writing to the appropriate agency, and also, except as to any claim against a municipality or the Florida Space Authority, presents such claim in writing to the Department of Financial Services, within 3 years after such claim accrues and the Department of Financial Services or the appropriate agency denies the claim in writing; except that, if:

(14) Every claim against the state or one of its agencies or subdivisions for damages for a negligent or wrongful act or omission pursuant to this section shall be forever barred unless the civil action is commenced by filing a complaint in the court of appropriate jurisdiction within 4 years after such claim accrues;

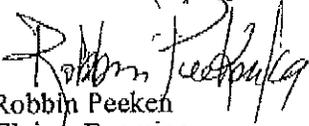
It is obvious that these two statutes of limitation have passed; and thus, you are barred from any recovery against any local unit of government.

Based upon all of the above, we find no breach of any public duty owed or imputed liability on behalf of our member. Thus, we must respectfully deny any and all claims you may consider advancing in this matter and make no voluntary payment.

Sincerely,

FLORIDA ASSOCIATION OF COUNTIES TRUST

By: FACT Risk Services Corporation
(an independently owned and operated company)
Its Service Company

By: 
Robbin Peeken
Claims Examiner

RP/tmv

Fax Transmission From:

Florida Association of Counties Trust

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3

Date: 9/14/2011

Re: Member: Sumter County Clmt: John McCoy

Claim No.: FAC2101-15-1

From: Robbin Peeken

To: Lita Nell Hart

Firm Name: Sumter County Risk Management

Dear: Ms. Hart

Please see attached correspondence.

Sincerely,
Florida Association of Counties Trust
by its Service Provider
FACT Risk Services Corporation

By: Robbin Peeken, Claims Examiner

Ext. 315

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