



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



green infrastructure toolkit

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State and Local Adaptation Plans

Select a State

Select State

Go

States 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 profile 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.

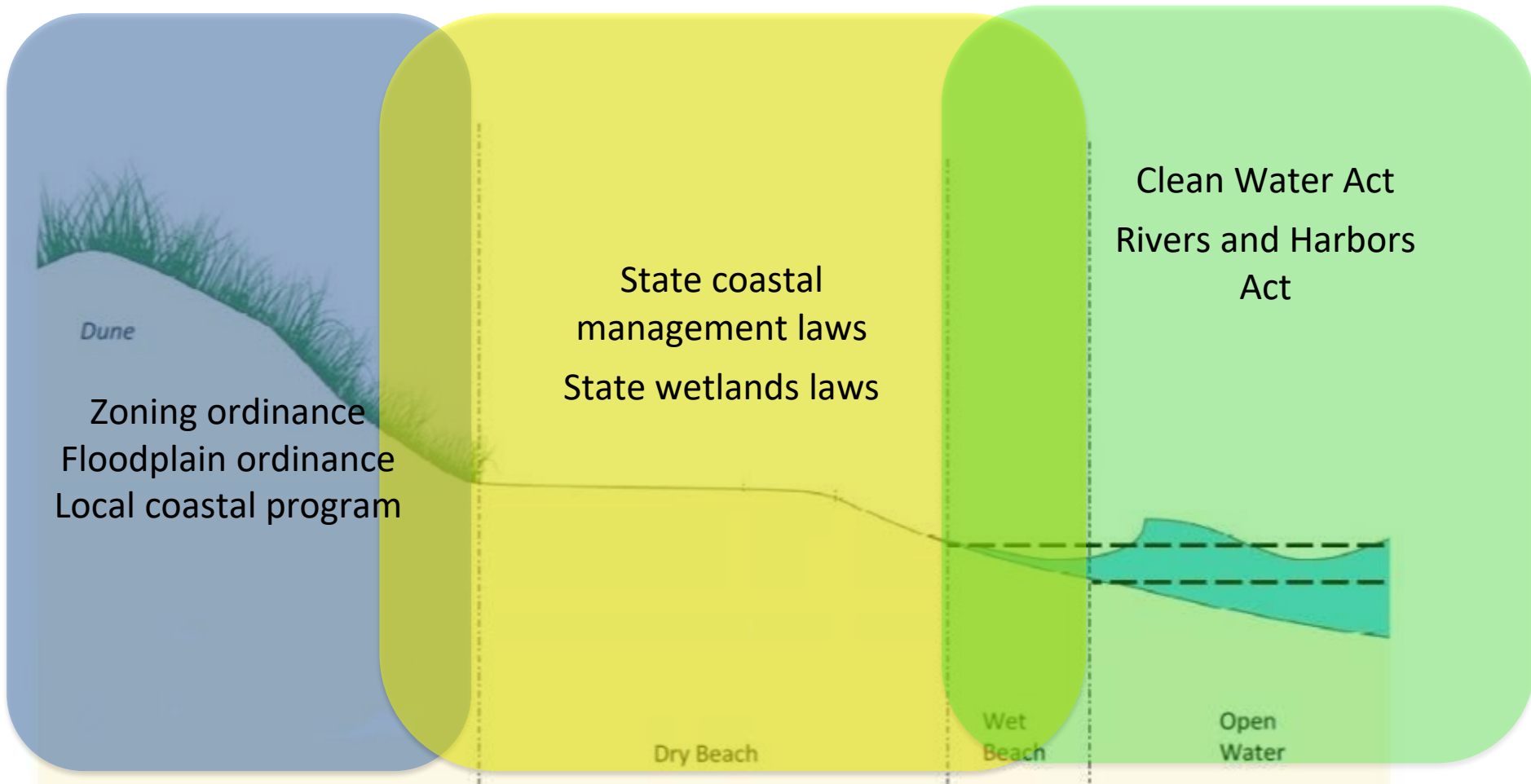


ROLES AND PLAYERS

Local

State

Federal



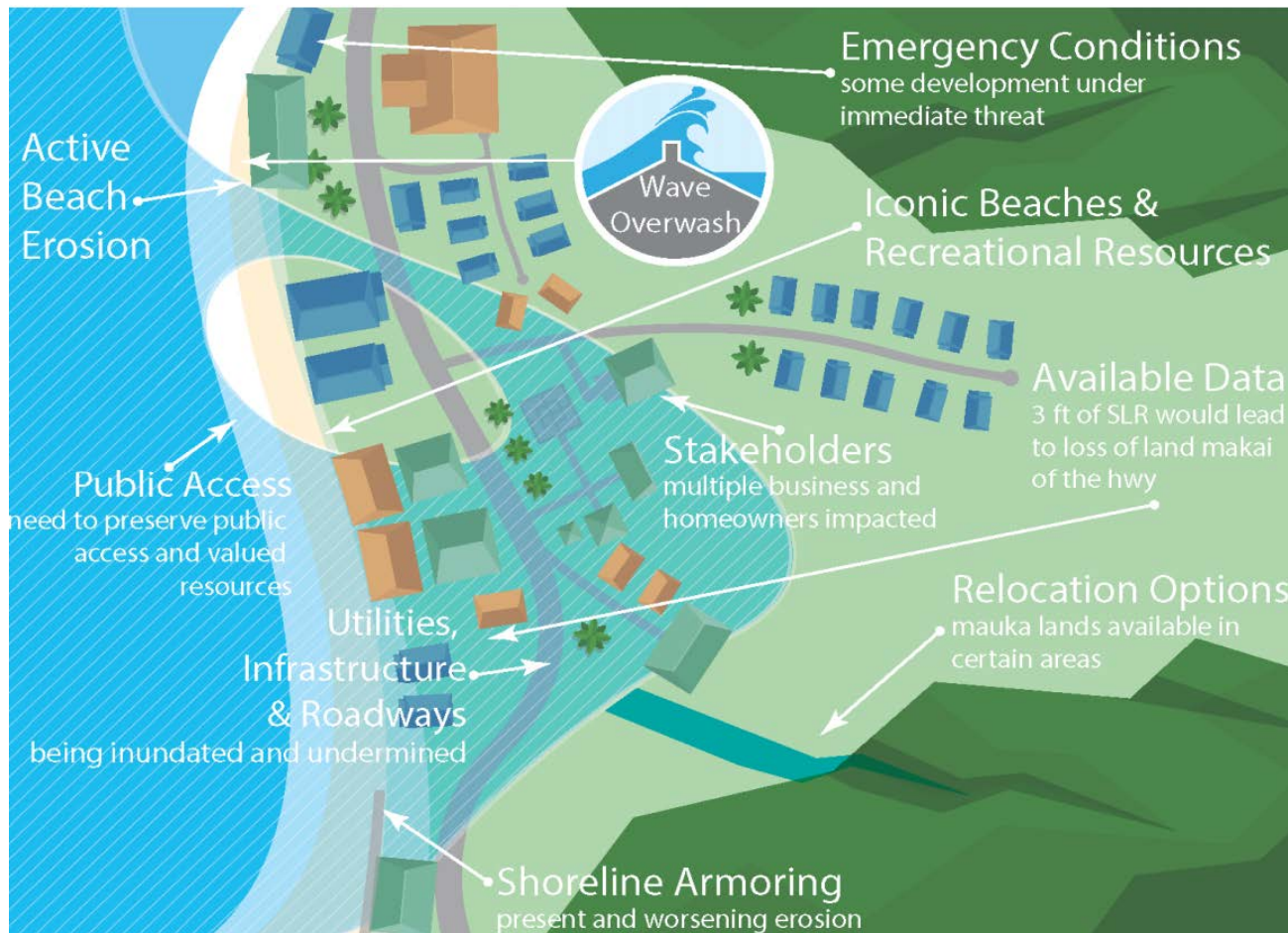
STATE CZM PLANS:

Rhode Island Shoreline Change Special Area Management Plan



STATE COASTAL POLICIES: *Hawaii*

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



STATE BUYOUTS:

New Jersey Blue Acres Program



Short-term Vision



PLANNING: *Resilient Edgemere (New York City)*

Long-term Vision



SETBACKS:

Kauai, Hawaii



OVERLAY DISTRICTS:

Yankeetown, Florida Natural Resource Adaptation Action Area



LEGAL FEASIBILITY?

Question	Analysis
Authority?	<ul style="list-style-type: none">• Local authority• State agency roles
Compliance with state and federal laws?	<ul style="list-style-type: none">• Coastal act• Floodplain requirements• Wetlands regulations
Constitutional questions?	<ul style="list-style-type: none">• Takings

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



Spencer Kennard
www.spencerphotos.com

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>

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