

Annotated Bibliography

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26 October 2015

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**Annotated Bibliography Entry Example One - Peer Review Paper****Source Type:**

- website    reference book    book    dissertation  
 gov't document    **scholarly journal article**    popular magazine article  
 other: \_\_\_\_\_

**Full MLA citation:**

Levinson, Pamela G. "Will the Circle Be Unbroken? The Miami Circle Discovery and its Significance for Urban Evolution and Protection of Indigenous Culture." *St. Thomas Law Review* 13.1 (2000): 283-340.

**Brief summary & critical analysis of content:**

In 1998, Miami-Dade County archaeologists uncovered an ancient, sacred circle that belonged to the Tequesta Indians in downtown Miami, dating from 500 B.C. to 1300 A.D. Miami-Dade County archaeologists, led by Robert "Bob" Carr discovered the archaeological wonder after Brickell Point, a limited liability company, purchased the long vacant property for \$8 million dollars, a large savings from its \$16 million price tag. Despite the discovery of the archaeological site by county officials, the city of Miami quickly issued a building permit to the developer without going through the usual channels of a public hearing that is required by city law. The possibility of building over the sacred historical site prompted an outcry from Miami residents who wanted to preserve the circle. City of Miami officials publicly expressed sympathy for the circle's preservation, but they maintained that since the permit had already been issued, nothing could be done to stop its development without facing a lawsuit from the developer. Levinson, in her magnificent synopsis of the preservation struggle implied that Miami officials unethically ignored the city's preservation statutes and issued a building permit, favoring increased tax funds over historic preservation. She astutely articulates that as the reason why there was no public hearing regarding the building permit.

County officials favored preservation, openly criticizing the city of Miami, and pursued plans to utilize eminent domain to preserve the historic site. Prior to the county's decision to utilize eminent domain, a possibility existed to carve out the site and move it as a way to preserve it, but the sacred nature of the site and the link that it provided to Ancient Miami led to the county's decision to seize the land. This decision was reached after the developer refused to alter the design of the planned building to make the circle accessible to the public. Discussing ample legal precedents and citing existing archaeological statutes, J.D. Candidate Pamela Levinson makes a compelling case that Miami-Dade County should have utilized its regulatory authority instead of imposing eminent domain to preserve the circle as "there really has never been a time when a fee-simple property holder could, without limits, do anything he pleased with the land." Whether regulation or eminent domain was utilized, Levinson contends that since the circle was in a designated archaeological zone, the county was under no legal obligation to compensate the developer. Since the developer chose to purchase property in a designated archaeological area, the developer chose to accept the risk that their land could be seized. This may be a technical and an emotional argument, but Levinson likewise notes that the Fifth Constitutional

Amendment requires compensation for seizing property. Despite favoring regulation over eminent domain, she contends that it was acceptable in this situation and believes that Miami will continue to thrive as a hotspot for businesses and residents alike. Miami-Dade County and the developer settled their dispute for \$26.7 million.

### **Evaluation of source using criteria & rationale for selection:**

**Author:** This article was written by Pamela Levinson, who at the time of this article's publication, was a J.D. candidate at the University of Miami, Coral Gables, Florida. In 2001, she graduated first in her class from the UM School of Law. In 2004, she began work as a litigation associate at a law firm in Washington D.C., called WilmerHale. She worked there until 2011 when family responsibilities led to a rift between her and the law firm that resulted in her termination. She subsequently pursued a discrimination lawsuit against her former employer.

**Publisher:** This article is published in a student-operated, quarterly publication by St. Thomas University School of Law, called *St. Thomas Law Review*. St. Thomas is a Catholic university based in Miami Gardens, FL, whose *Law Review* publication is "dedicated to the exposure and the development of novel legal issues through academic writing," according to their website.

**Organization of Information:** This article is divided into seven sections that guide the reader from the origins of the discovery of the Miami Circle towards future implications and conclusions and recommendations. Part I introduces how the Miami Circle was found and how a dispute developed over whether to preserve, carve out, or build on top of the Miami Circle. Part II focuses on the many conflicting claims to the circle from the developer, the city of Miami, Miami-Dade County, the scientific community, Native Americans, the academic community, and the public. It subsequently traces the legality of governmental action in taking the Miami Circle through the use of eminent domain. Part III looks at archaeological preservation statutes that existed at the time of the Miami Circle controversy. This information is presented to question whether the government should have utilized eminent domain or regulation in order to preserve the property. Part IV considers proposals that were floated around, such as whether the Miami Circle could be incorporated into Biscayne National Park or to build an historical museum near the Miami Circle. Part V analyzes concerns over whether the use of eminent domain will hurt future development in downtown Miami. Part VI provides the author's conclusion and recommendations, reflecting on questions of whether the developer needed to be compensated for the land as it was in a designated archaeological zone.

**Scholarly Use:** Since this article's publication in 2000, it has been cited by four journal articles, according to Google Scholar. It has been included in articles related to the development of South Beach, archeological regulation, private property, and the use of eminent domain, which is permitted under the Takings clause in the United States Constitution to preserve archeological treasures and sites.

**Objectivity:** The article does a great job of establishing all of the facts related to the initial sale of the Brickell Point property, the Miami Circle's discovery, and the subsequent fight to preserve the circle. The author uses legal history and existing statutes to make a case that the city of Miami and Miami-Dade County should have utilized regulation instead of eminent domain.

Tracing her argument back to Thomas Jefferson and John Locke, Levinson makes it clear that there is a long history of governmental support for the regulation of private property. Bias in favor of preservation and against compensating the developer is evident in her claim, “Even if new regulations were imposed that required an easement be dedicated to preserve the circle, or that required the Developer’s plans to be redesigned, there is no case precedent that would suggest a taking requiring compensation.” However, she notes in her paper that that the Fifth Constitutional Amendment requires and subsequent interpretations of the amendment have reinforced a need to compensate a property owner for the seizure of territory. Despite this bias, her work offers a great overview of the Miami Circle controversy.

**RATIONALE:** While some bias exists in this article, it provides a clear explanation of the discovery and preservation efforts of the Miami Circle that can be enjoyed by a wide spectrum of individuals, from the novice adult to the scholar. A casual audience will be enticed by the dramatics of the fight to preserve the Miami Circle, including the dispute that pitted the city of Miami against Miami-Dade County, which has a feel-good ending with the preservation of the circle. Scholars will rejoice in the attention to detail and the legal history, discussing the options that were available in order to preserve the Miami Circle. Novice readers easily benefit from a cursory glance at the legal history, even if they don’t focus intently on it and read the remainder of the story. Readers may agree or disagree with the necessity of using eminent domain to preserve the circle, but they will enjoy this well-organized overview of the Miami Circle controversy.

This article is preferable to others because it offers primacy as it was written at a time period very close to the controversy, but it was not written by a primary actor, such as Robert “Bob” Carr, who had a hand in the proceedings. Reading Bob Carr’s work, such as “An Analysis of the Prehistoric Human Remains Found at the Miami Circle at Brickell Point Site (8DA12)” will help readers to understand that very few human remains were actually found at the site, which seemingly provides intrigue more for what it could have been than for material elements that were actually discovered. This point is not raised in Levinson’s article. Other articles, such as Jerald T. Milanich’s “Much Ado about a Circle: Could Miami’s Heralded Indian site be a 1950s Septic Tank Drain?” question whether the circle actually belonged to the Tequesta Indians as an old septic tank was discovered within the Miami Circle. While this is a possibility, as discussed by Levinson, it is more likely that developers previously built on top of the Miami Circle, which was created by the Tequesta Indians. All of these works provide useful contributions, but Levinson’s work provides a more neutral overview of the topic from discovery to preservation.

**Reflection:** Pamela’s Levinson’s article was found by doing an advanced search for articles on the University of South Florida’s database. From the start, this search was limited to peer-reviewed articles, where the full-text was available. The process began by searching for an article on the Miami Circle, with the search term, “Miami Circle,” which will be included as part of the Libguides project. There were not a large number of articles written about this topic that related to the Tequesta Indians. Many of the search results did not relate to the “Miami Circle” that was needed for the project. Subsequently, the search was limited further to “Miami Circle” and “Tequesta Indians,” which provided fewer useful results. The search for an article subsequently reverted back to the original search, with the majority of them written by Miami-Dade county archaeologist Robert “Bob” Carr, who was heavily involved in the preservation

efforts of the Miami Circle. After scanning the first few pages of results and scanning several articles, the article by Levinson appeared to offer the longest and best overview on the topic of the Miami Circle.