

CAPISTRANO BAY DISTRICT

35000 Beach Road

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Board of Directors
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December 22, 2020

Mr. Jordan Sanchez
California Coastal Commission
South Coast Area Office
301 Ocean Blvd, Suite 300
Long Beach, CA 90802-4302

Violation File No: V-5-16-0064

Property location: 35000 Beach Road, Capistrano Beach, CA 92624
Lots Y and Z, Tract 797

Dear Mr. Sanchez

On behalf of the Capistrano Bay District (the Board), thank you for your letter dated December 14, 2020. In the letter, you refer to our videoconference on September 25, 2020. The reference in your letter regarding penalties is new to the Board and it certainly is not what the Board expected after the September 25 conference call. While reviewing our notes from that conference call, the Board confirmed that your staff made no statement regarding penalties for the unpermitted armoring. The theme of the videoconference was the Board's cooperation with CCC staff in identifying a short-term (emergency) solution by hiring a coastal engineer and having that coastal engineer contact the CCC's engineer regarding that solution. The District complied with those instructions by hiring Walter Crampton at TerraCosta, and he followed-up by contacting your staff engineer, Lesley Ewing, on Dec 3, 2020.

While your letter is directed to the Capistrano Bay District, we wish to underscore that apart from the Board's efforts to cooperate with CCC, it is directed to the wrong party. The Capistrano Bay District's charter does not give its Board any authority to compel homeowners to remove the existing unpermitted armoring or to negotiate any issue of penalties on their behalf. The District does not own any properties on the beach side of the houses, nor does it own any access path to the beach. That said, the Board does wish to try and facilitate a resolution, if possible, that may serve all parties.

The Board would like to explore with your staff the possibility of creating a GHAD. The CCC can certainly deal separately with each homeowner. There are presently 195 owners, some of which have permitted protective devices and some of which do not. After some thought, we feel that the creation of a GHAD may be the best means of procuring authority from the homeowners to negotiate

more comprehensively on their behalf with the CCC and other stakeholders, including the City of Dana Point, OC parks, Doheny State Park, OCTA, and the Department of Transportation (PCH). It would enable the parties to explore a long-term solution to beach erosion, while preserving the public's right to access and enjoy this beautiful stretch of beach. At the same time, the Board believes that protection of the existing homes against destruction by the ocean waves is an essential right of every homeowner and has been expressly permitted by the Legislature under the Coastal Act. Consequently, we request and urge your staff and the Commission to accept and permit the existing unpermitted armoring retroactively and without a penalty until the District has established a GHAD. If the Board's proposal is accepted, the Board will immediately authorize our Coastal Engineer to engage with the CCC staff and other stakeholders to work toward a long-term regional solution.

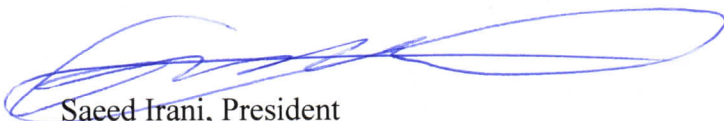
As you undoubtedly know, the current erosion at Capistrano Beach has been exacerbated by sea level rise, but other man-made factors have also contributed to this situation. These include the construction of Dana Point Harbor; development in the watershed area of the San Juan Creek, which has turned San Juan Creek into a massive concrete culvert. Another contributing factor is that the practice of the Army Corp of Engineers during the 1950's and 60's of depositing massive amounts of sand on the beach at the mouth of the San Juan Creek to help replenish sand was abandoned years ago.

Most of the homes, if not all of them, on Beach Road own the land to the MHTL and in all cases, the existing armoring has not blocked any public access to the beach. Furthermore, most of the homes on Beach Road were built prior to the 1976 Coastal Act, and therefore maintain an ongoing right of protection.

In summary, the Board hopes that the CCC will agree that it would be most advantageous for all the parties involved to provide the Board enough time to create a GHAD so that a long term, regional solution can be achieved. In the meantime, we are requesting that the CCC grant without penalty a permit for the existing unpermitted armament. We feel that this good will conciliation on the part of the CCC will help build support amongst the Beach Road homeowners for creation of the GHAD to address a comprehensive, regional solution, which ought to be viewed as preferable to the Commission rather than dealing separately with each homeowner.

To that end, we would like to set a further videoconference with you and staff in January 2021 to discuss the GHAD approach further.

Thank you very much for your consideration.



Saeed Irani, President
Capistrano Bay District Board of Directors

Cc: City of Dana Point