

CAPISTRANO BAY DISTRICT  
AGENDA REPORT  
December 12, 2011

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*Committee Reports*

**ITEM I.1**

LCP Committee Activity

In August the District received a Notice of Violation of the Coastal Act from the California Coastal Commission (CCC) alleging that members of the public were illegally asked to leave the beach in front of a home near the south end of our community.

In response to the alleged violation, the LCP Committee was asked to get together and review the notice and develop a strategy for a response.

The Committee met and determined that the best course of action was to bring in legal counsel to assist in crafting the most appropriate reply back to the CCC. During the course of three committee meetings, the last of which included Jeff Goldfarb of the Rutan & Tucker LLP law firm, a response letter was agreed upon and subsequently mailed to the CCC on October 14<sup>th</sup>.

It has been two full months and there has not been a reply from the Coastal Commission. The District and the committee will consider its next course of action based on the nature of the reply from the CCC.

Aside from any reply, the Committee unanimously agrees that violating the public's right to beach access (presuming the District truly committed a violation the Coastal Act) cannot be allowed to occur again. In evaluating solutions to this potentially huge problem for the community, it was agreed that before the Committee's work is complete it will develop an informational handout of some kind and establish a policy and program that provides direction and instructions for property owners, the District and its security force, the public and the City of Dana Point and local law enforcement.

An additional requisite task for the Committee will be to obtain copies of the property deeds of all the homes on Beach Road. Since all the homes abut the Pacific Ocean and the public's shoreline access, there will be specific language in each deed that describes the details and nature of the interface between the public and private domains. This language varies from lot to lot and it will be essential to any effective program to chart and map those variations so the District can know the limits at any given address of exactly where the public is allowed to be and what they can do.

The District and property owners can no longer generalize about the public's entitlement to use the beach in front of each home. It is imperative that we clearly understand exactly what the rules of engagement are and avoid future issues with the Coastal Commission.