

September 3, 2014

## ITEM L.1

Don Russell

and Board of Directors for Capistrano Bay District

35000 Beach Road,  
Capistrano Beach, CA 92624

Received your 26 Aug 2014 letter addressing your "several important issues" facing Beach Road homeowners. As an owner since 1989, I would like to address each "issue" in order below:

**Beach Rentals:** Over my 25 years of ownership (and 20 years of full-time living on the "Road" while raising four kids), I, like many resident owners, have greatly enjoyed my time at the "Beach". I have also rented my home on occasion both on a busy weekly summer basis through Capistrano Realty's management and on a casual winter lease basis to a single individual that I managed myself. So I have seen all the various perspectives of the rental issue.

I'm sure that all of my renters have not been invisible to neighboring owners, but there are rules and guidelines that are published, promoted and expected to be followed. So for the most part, my renters have been good visitors to Beach Road and enjoyed their stays in a reasonable manner. Either I or Capistrano Realty have monitored my renters and kept them on a proper leash when called for. We have all experienced some renters who have brought large numbers of people and an intense level of activity sometimes bordering or being an invasive nuisance upon our relaxed enjoyment of Capistrano Beach.

But I would clearly add that my worst experiences (over my many years there) have come from certain OWNERS (not renters) and/or their invited GUESTS who periodically visit their "second or third home" with an attitude during summer and other holidays. Without identifying these owners, they have brought a dozen guests often, ignore neighbor's parking rights, disregarded fireworks and fire-pit laws, have supported their grandkids rights to play in the street, allowed their pets to run off leash or walked their pets along the Road peeing on my entry areas, etc., and more. It would be a mistake to pre-judge all renters as taxing Beach Road more heavily than do some owners. I can see a case where full-timer (long-term) renters and (long-term) live-in owners are better for the community and cause less expense to the Beach Road community than are the part-timer, live-in owners and in-and-out renters.

So to summarize, I am in favor of tighter enforcement of all reasonable rules ... both for and to or at the owners and renters alike. I enjoy a peaceful neighborhood (but we must all have reasonable if somewhat varying expectations). I am not in favor of charging owners fees for their renting of their properties unless "The fiscal impact caused by the renter community" that you refer to in your letter can be CLEARLY proven as an added expense over and above a normal full-time use by the owner(s) themselves. It would be unfair to say that a renter in place full-time is an extra expense on the community if comparing it to the owner who is rarely there (a common occurrence on the Road). One family's reasonable use is one family's reasonable use ... per house ... regardless of whether they are owners or renters. I might agree as a generality

that weekly summer renters do seem to tax the Road a bit more ... but so too do many part-time visiting owners??

**Beach Management:** I am unfamiliar with "WHY" Dana Point will not "do the right and obvious thing" and allow our District Manager to be based on the Road. I agree with you all that Don's best place is where he is currently located near the entrance of Beach Road where he can deal directly and regularly with owners, employees, visitors, renters, services, etc. Perhaps Dana Point's City center should be relocated to Santa Ana?? Would that work well for them? No!

Not too many years ago, when the issue of beach easements and access arose politically within Dana Point City, almost all Beach Road owners showed up at a Dana Point city meeting and expressed a 200+ to 2 "vote" to keep Road access closed. The Prykes are gone now so maybe we can show up with a 200+ to 0 vote this time to influence the city council. **IS IT TIME TO GET ALL THE OWNERS TO AGAIN "visit" Dana Point city hall for a show of force to keep our Beach Road manager's office on the Road??** Or can the railroad allow us to position a building upon their land (with no need for Dana approval)?? San Bernardino County supervisors voted to change their rules/laws to accommodate an obvious right thing to do!

**Beach Erosion:** I'm unfamiliar with what Brown and the Coastal Commission has most recently enforced upon us. Their least political interest is for the private ownership along any coastline, so we're on our own on this matter. Brown/Coastal likely think that a condemnation of all Beach Road property into public sands would be a political plus. I saw this type of condemnation happen years ago for an incredible half-mile at Topanga Beach in Malibu ... so it can happen!

I agree that the Beach Road sands are certainly lower today than 20 years ago (or even 5 years ago). At 6-feet lower today, I'll assumed that means that they are eroding at a quick pace. Is this not caused by a lack of sand discharge at San Juan Creek?? That's a question that has been asked. And a quick walk up/down the beach reveals several houses in danger of losing their sand foundations (underneath concrete slabs) that were all once approved by County permit. (Is the County responsible for losses that may come? ... is a question that may surface.)

My house has one of the better constructed sea walls, so at this point in time, I feel secure. My understanding is that sea walls were outlawed in favor of caissons to bed rock because 60% of a group of engineers that looked at our situation some years ago made this decision when sand levels were comfortably higher. My background includes a degree as a civil engineer and a masters in business management. My observations have told me that Engineering near the ocean is as much a guesswork art as it is a science. Caisson to bedrock MAY OR MAY NOT?? be a better choice for new homes, but caissons certainly cannot be practically (or economically) added to an existing home on the Road. A serious and properly built sea wall (to bedrock) and perhaps planned with a linkage to all adjacent property seawalls is likely the best choice for existing homes. Outlawing seawalls is a death sentence for existing homes without caissons underneath. Marginally designed or built seawalls (so as to keep costs to a minimum) are not the answer. A walk up/down the beach reveals several poorly built seawalls that have or likely will fail with more erosion.

I recommend that seawalls of a substantial design and all built to a healthy minimum be allowed ... and planned to be tied together with all neighboring seawalls. A question comes when a

seawall meets a caissoned house. The caissons can be seawalled too so our whole Road will be seawalled. Or the "end" seawall next to a caisson will require an end wrap up the side. What if one home elects to remain un-walled? I am no longer licensed so please research this seawall thinking thoroughly with ocean engineers so that a proper design is achieved that will last through raising and lowering sands, high and low daily tides, and the periodic storms that hit our area.

**Beach Road Utility Poles:** This topic surfaced when the Road was re-built. Undergrounding was **voted down at that time** with a number of good reasons. To start this topic, there used to be another set of poles/lines that ran on the east side of the road that supported railroad communications. So at that time, the Road had two sets of poles with lines, the railroad set on the east side and the power set, the ones currently today in place on the west side of the Road. Requirements for the railroad changed and they decided to remove their poles and lines along the east side several years ago about the time the Road WAS voted to be re-built and the west side poles and lines were voted NOT to be placed underground.

The questions then as today about undergrounding the west side poles and power lines included/includes a comparison of esthetics against costs to the Road, placements of transformers and any other ground equipment, expenses to home owners, and a few other topics. Regarding the transformer placements, owners with title to easements then/now were/will be opposed to placing a potentially dangerous transformer (in a wet and salty environment) at ground level in their easements. **I agree with this objection.** If the transformers can be placed across the Road in the (railroad owned) parking areas, this would be somewhat better, but likely would bring some objections as well, especially if parking is affected. If the transformers can be placed underground (into the Beach Road-way or into the railroad owned parking areas), it might be more acceptable, but flooding might jeopardized this underground approach. I would not vote for this esthetic improvement especially if I had to sacrifice the enjoyment and use of my side-yard easement area or some of my parking space across the Road with something unsightly, bulky and in the way and/or dangerous. Increasing the value of homes for some at the expense to others of easements or parking is not what I would consider fair nor would I favor. Can transformers be located jointly with trash enclosures? Maybe there is a possibility there?

My vote at this moment is no! If my concerns could be adequately resolved, I would consider voting for this improvement. I would want design details explained and questions answered first before approving.

**Thanks to all you Board of Directors for your time taken out of personal life to guide and direct our Road affairs. I know some issues can be tricky and require more than a quick look. And thanks to Don Russell for the steady and solid job that you bring to the Road.**

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