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VIA ELECTRONIC MAIL

Board of Directors
Capistrano Bay Community Services District
35000 Beach Road
Capistrano Beach, CA 92624
Attn: Donal S. Russell, General Manager
Email: drussell@capobay.org

Re: Capistrano Bay Community Services District (the “**District**”)

Dear Members of the Board:

As you know, this firm represents the Coalition to Protect Capistrano Beach (the “**Coalition**”), and the Coalition believes that the District’s Board members (the “**Board**”) can take action to protect the Beach Road Community from shoreline erosion.

The Coalition is in receipt of the Agenda for tomorrow’s meeting (Meeting # 670). The Coalition is incredibly encouraged that the Board has decided to focus its energy and efforts on shoreline protection, and taken concrete actions to do so by hiring dedicated legal counsel and a coastal engineering firm. The Coalition is thankful and appreciative that the Board has made these decisions, and the Coalition looks forward to working with the Board and the District on the issue of shoreline protection.

AGENDA ITEM NO. 5 – PAST MEETING MINUTES

The Coalition is pleased after its review of the meeting minutes for Meeting #669 to see that the Board has implemented many of the recommendations that the Coalition has supported and expressed over the years. These include the hiring of a coastal engineer and dedicated legal counsel with Coastal Act experience, as well as reaching out to stakeholders in the area including the OC Parks Department, the Orange County Transportation Authority (OCTA) and Metrolink (SCRRA). As the Coalition has noted in previous correspondences to the Board, creating relationships with such stakeholders is important in creating a broader group to address the shoreline protection issues with the California Coastal Commission (“**CCC**”). The Coalition also notes that there are other governmental partners and allies that the District can work with to protect the Beach Road Community. Here is a list of just

some of the other governmental and related entities that the District's Board should be contacting to create strategic partnerships to protect the homes, health and safety of the residents of Beach Road:

1. Orange County Flood Control District
2. City of Dana Point
3. Amtrak
4. California Department of Transportation
5. U.S. Military
6. Property and Casualty Insurers

As the District and the Board can see from the above list, the Beach Road Community and the District are literally surrounded by potential partners. Again, the Coalition is encouraged by the Board's outreach to Metrolink and OCTA, but believes that adding to the group of stakeholders will be helpful in creating a more unified front in discussions and negotiations with the CCC.

AGENDA ITEM NO. 9 – SHORELINE PROTECTION PROGRESS REPORT

No Managed Retreat. As the Coalition has noted in prior correspondences to the Board, the concept of “managed retreat” should be avoided at all costs in connection with any permits issued by the CCC (including, the proposed District-wide temporary coastal development permit discussed in the Agenda), because it would constitute the abandonment by the Board of the Beach Road community's private property rights. The Board needs to represent the interests of its constituents, and preserving the property of its constituents is the District's absolute priority. The District's geographic location renders managed retreat a severely misguided policy. As the Board knows, the District is located immediately adjacent to a railroad line, and the Pacific Coast Highway. The railroad is located just east of the District and Metro Link, Orange County Transportation Authority, and Amtrak have a vested interest in protecting their rail line operations from coastal erosion. In addition, federal national security supplies are delivered by rail to Camp Pendleton – as such, the U.S. Military has a vested interest in protecting its rail line operations. The County of Orange and Orange County Flood Control Districts have interests in protecting the storm drainage facilities along the District's coastline. The Pacific Coast Highway is a vital part of the transportation network in Southern California and is located just east of the District as well – Cal Trans has a vested interest in protecting this asset.

Accordingly, if the CCC were to permit a policy of managed retreat, ultimately some combination of the above-referenced governmental agencies would be forced to construct a large barrier to protect PCH and the railroad line from the rising sea levels - that would be an expensive construction project financed by California taxpayers. As such, the Coalition believes that the Board needs to propose to the CCC that the District and the Beach Road private property owners should, as an alternative, construct barriers and devices that protect not only the Beach Road homes but also the vital public infrastructure projects located immediately adjacent to the District. **In effect, the private property owners along Beach Road in the District would be subsidizing the protection of PCH and the railroad and the vital governmental, economic and public interests that they serve – all that the Coalition asks is that in exchange for the District's private property owners protecting these infrastructure projects, that they also be permitted to protect their own homes. Put another way, instead of the necessary protection being constructed in the front yard of the Beach Road homes (adjacent to the rail lines), the protective devices would be constructed in the backyard of the Beach Road homes at the private homeowners' expense.**

Moreover, the private homes in the District generate a substantial amount of property taxes for the operations of the County of Orange. A policy of managed retreat would lead to the loss of homes, and the erasure of an important funding source for the County. The Board should highlight this issue in any conversations with the CCC, and potentially reach out the County Assessor and/or Treasurer-Tax Collector to quantify the amount of property taxes generated from the Beach Road community, which will strengthen the Board's position when it discusses this issue with the CCC. **It is only logical that if protective devices have to be erected to protect PCH and the railroad lines, that such protective devices be constructed to also protect the revenue-generating homes along Beach Road.**

Private Property Rights – Equal Treatment of Private and Public Entities. In addition, while Amtrak would likely be permitted to protect its important rail line and the County of Orange has been permitted to protect its income producing parking lot located immediately north of the District, the District and its owners should be permitted to protect their own private property. **The Coalition believes that a double standard, whereby governmental agencies are exempt or not as closely regulated as private property owners with respect to an issue as important as the viability of private homes and the protection of the public safety and health of California residents, is unconscionable.**

Recently, the County of Orange received a coastal development permit from the CCC to strengthen and fortify its property located north of the District. The Board should also be working with the County of Orange to discuss the potential adverse currents created by such structures, which bolsters the District's case that it needs its own protective devices. The Board should be bringing this issue to the CCC's attention – the CCC cannot approve protective devices that cause increased shoreline erosion in the District and simultaneously deprive the District's homeowners the right to protect their property from such erosion.

District Response to the CCC Consent Letter. The Coalition was pleased by the Board's response to the Consent Letter from the CCC. The Coalition agrees that the District has no right to compel any homeowner in the community to remove any structures, that District can play a role in facilitating a solution between the homeowners on Beach Road and the CCC, and that the creation of Geologic Hazard Abatement District (GHAD) in exchange for the CCC not removing any armoring along the coast is a reasonable approach to take. The Coalition commends the District for not accepting the CCC's initial terms detailed in the Consent Letter.

Latent Powers – The Coalition supports the District's application to the Orange County Local Agency Formation Commission for the approval of the District's exercise of latent powers related to flood protection facilities.

Thank you for paying attention to the Coalition's requests, and for the renewed focus on shoreline protection. Again, the Coalition is appreciative of the Board's consideration of these issues, and looks forward to working with the Board and the District on a path forward on the issue of shoreline protection.

Sincerely,

A handwritten signature in black ink, appearing to be 'AS' with a long horizontal stroke extending to the right.

Alexander W. Schwada
Attorney at Law