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Refer To File # 501998-0002

June 4, 2021

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

ITEM 9a

Violation File No. V-5-16-0064

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

Dear Jordan:

I am responding to your May 12, 2021 letter on behalf of the Capistrano Bay District (“District”).

The District was surprised and disappointed that after our previous exchange of letters, your letter simply ignored the explanation, provided in detail, that the District has not undertaken any unpermitted development and it has no liability here for an unpermitted development or responsibility for resolving any unpermitted development that may have been undertaken by individual homeowners. The District also has no legal authority to act on behalf of those who may have undertaken unpermitted development.

The District has tried in earnest to cooperate with your inquiries, but it finds it necessary to restate what previously was set forth in its December 22, 2020 and March 12, 2021 letters to you. The District cannot solve the issues raised by your enforcement letters, and it hopes that you finally understand that it does not provide any path that can be of further help to the Commission.

First, the District itself has not undertaken any unpermitted development. Your most recent letter incorrectly asserts that the District undertook unpermitted construction of a sand berm that was built using public resources and impacted public access. The District did not undertake any construction of a sand berm.

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Second, your letters appear to be under the incorrect assumption that the District, as an entity, is somehow responsible to resolve any alleged violations that may have been undertaken by homeowners along Beach Road. As we previously explained, the District is not a homeowners association. It is a Community Services District (CSD) and its jurisdiction and authority are limited by its charter. The charter does not give the District and its Board any authority to compel homeowners to remove any existing unpermitted armoring, or to require anyone obtain a coastal development permit, or to negotiate terms, conditions, or other enforcement matters on behalf of individual homeowners.

For clarity sake, I am attaching the Resolution that created the CSD under the Community Services District Law (Gov. Code, § 61100) and which limits its purposes and authority. The District here is limited to:

- “1. The collection or disposal of garbage or refuse matter.
2. Public recreation by means of parks, playgrounds, swimming pools or recreation buildings.
3. Street lighting.
4. The equipment and maintenance of a Police Department or other Police protection to protect and safeguard life and property.
5. The opening, widening, extended, straightening and surfacing, in whole or part, of any street in such District, subject to the consent of the governing body of the county or city in which said improvement is to be made.
6. The construction and improvement of bridges, dams, culverts, curbs, gutters, drains and works incidental to the purposes specified in subdivision 5, subject to the governing body of the county or city in which said improvement is to be made.”

Beyond the foregoing limitations, the District’s authority does not extend to the beach or to seawall or armoring improvements thereon. The District does not own any properties on the beach side of the houses or any access path to the beach. It also does not own the sandy beach to the mean high tide line or own, possess or control any seawall or armoring by an individual homeowner.

The District is, of course, sympathetic to the homeowners and, as we repeatedly stated, to the difficulty the Commission may have in dealing with so many homeowners in the absence of a point of contact. But, simply put, the District has not undertaken any development or seawall construction, and it is not right entity to address it.

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We sincerely hope you ultimately conceive of an approach that can produce a win-win solution. I will close with what I said in my March 12, 2021 letter – As one public entity to another and to ensure the integrity of your enforcement process, the District requests acknowledgment that your enforcement efforts are not directed at the District itself. A further enforcement letter misdirected to the District will not be helpful and will not change the above facts or the narrow scope of the District’s legal authority as a CSD. Thanks once again.

Very truly yours,



Steven H. Kaufmann

CCs w/attachment:

Lisa Haage, Chief of Enforcement, CCC
Andrew Willis, Enforcement Supervisor, CCC
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