

CAPISTRANO BAY DISTRICT  
AGENDA REPORT  
September 5, 2023

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Advisory Committee

## ITEM 5a

### Shoreline Protection Advisory Committee Report

#### **Test Case Report**

The Committee has finalized the details for the candidate that has been selected for the 'Post-Coastal' seawall scenario. Translated, this means a home built after January 1977, when the Coastal Act passed into law, that needs a seawall at the property for shoreline protection. The candidate with the existing conditions that best fit this test-case option is Chris Miller at 35127 Beach Road.

After extensive review and evaluation of the existing conditions, the Committee and consultants determined that this property is best suited for introducing a seawall permit to a home built after January 1977.

#### **Casa Mira HOA Court Ruling**

In a recent trial court decision, *Casa Mira Homeowners Assoc. v. California Coastal Commission*, the San Mateo County Superior Court ruled in favor of the homeowners who claimed their properties were entitled to shoreline protection by the simple fact that the structures were 'existing' at the time applications were submitted for Coastal Development Permits.

The CCC argued that 'existing' meant existing at the time the Coastal Act was passed into law on January 1, 1977. This was a complete turnabout by the CCC since for the past almost 40 years, their interpretation of 'existing' meant existing at the time one applies for a permit.

To be clear, homes built prior to 1977 are entitled to shoreline protection and there are many of them still intact here on Beach Road, however, the CCC continues creating entitlement roadblocks for these applicants, hence the purpose of the Shoreline Advisory Committee and the test-case concept that is currently being applied.

While the CCC has lost this round, it is confirmed that they will file an appeal sometime in the next two months which will begin what could be a two-year appeal battle in a higher court. The ruling is good news for coastal property owners but until the appeal has run its course, there is no relief from the CCC's current tactic of denying applicants' permits for shoreline protection, except for the efforts of the Shoreline Advisory Committee and its team of legal professionals and consultants to run these *test-cases* through the legal process.

**\*\*To read the full trial court ruling: go to the District's website at [www.capobay.org](http://www.capobay.org) under GOVERNMENT then REPORTS then SHORELINE PROTECTION/CCC Notices, etc**