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ITEM 12a

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May 7, 2024

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**”). The Coalition believes that the District’s Board members (the “**Board**”) can take action to protect the Beach Road Community from continuing shoreline erosion.

On May 2, 2024, the Coalition received a press release (the “**Press Release**”) from the Orange County Transportation Authority (“**OCTA**”) regarding its potential solutions to address threats to rail service between Dana Point and the San Diego County Line. As you know, OCTA has been evaluating a number of strategies to protect the railway within the 7-mile area between Dana Point and San Diego County Line. Beach Road is located within this vulnerable area, and the Press Release noted that OCTA will be updating its shoreline protection plans to include sand nourishment, rock revetment, rip raps and walls to protect the railway from coastal erosion and storm surges. OCTA’s goal is to preserve rail traffic for up to the next 30 years while longer term solutions are explored. The cost of implementing these near-term solutions ranges from \$210-\$340MM.

The Press Release also noted that there continue to be discussions regarding the implementation of “longer term solutions”. Eric Carpenter, a spokesman for the OCTA, noted in a 2022 LA Times article that the OCTA is performing repair work but that re-routing the rail line away from the coast is an option – however, it would be incredibly time consuming and expensive to move the rail line inland. The Coalition continues to stress that the proximity of the District to the railroad line is a strategic asset in terms of shoreline protection. Because the State and Federal governments will never allow the railroad line or the Pacific Coast Highway to be submerged by elevated seal level rise, managed retreat cannot and should not apply to Beach Road. Accordingly, (i) the Board needs to take the position with the California Coastal Commission (“**CCC**”) in any discussions that managed retreat is inapplicable to Beach Road; and (ii) the Board needs to engage in outreach to the OCTA to obtain its support of the District’s efforts to protect the homes in the District.

As an alternative to OCTA and California taxpayers incurring the cost to protect the railway along Beach Road, the Coalition believes that the Board needs to propose to the CCC that the District and the Beach Road private property owners should be able to construct barriers and devices that protect not only the Beach Road homes but also the railway. The homes in the District generate a large amount of property taxes for the operations of the County of Orange, so preventing the loss of the Beach Road homes would also benefit the County as well. Private property owners along Beach Road in the District would effectively be subsidizing the protection of the railway. The Coalition only asks that in exchange for such protection that the private property owners in the District also be permitted to protect their own homes.

This is common sense solution that would help protect the homes in the District and allow the rail line to continue operating in its current location, thereby avoiding the need for a costly relocation of the line inland. Accordingly, the District and its homeowners and the OCTA, County of Orange and California taxpayers would all benefit. However, the Board needs to reach out to the OCTA to obtain its support and buy-in for any such proposed plan. If the Board does so, it will be obtaining an important strategic ally in its discussions and negotiations with the CCC to protect the homes in the District.

To that end, the Board should be commenting on and participating in the public process in connection with the OCTA's Coastal Rail Resiliency Study. The OCTA will further detail the potential solutions outlined in the Press Release in front of the OCTA's full Board of Directors on May 13. In addition, the OCTA's Coastal Rail Resiliency Study is scheduled for public comment at San Clemente City Hall from 5-6:30pm on May 30. The District should have a representative present at all of these hearings to support the proposed near-term shoreline protection solutions and advocate for the ability of the Beach Road homeowners to protect their homes and, by extension, the railway.

Thank you for your attention to this critical issue.

Sincerely,

A handwritten signature in black ink, appearing to be 'AS', written in a cursive style.

Alexander W. Schwada
of Schwada Law, P.C.