Subject: RE: Geoffrey's easement
Date: Wed, 8 Mar 2000 09:59:42 -0800
From: Steve Hudson <shudson@coastal.ca.gov>
To: 'Brenda Buxton' <bbuxton@igc.org>

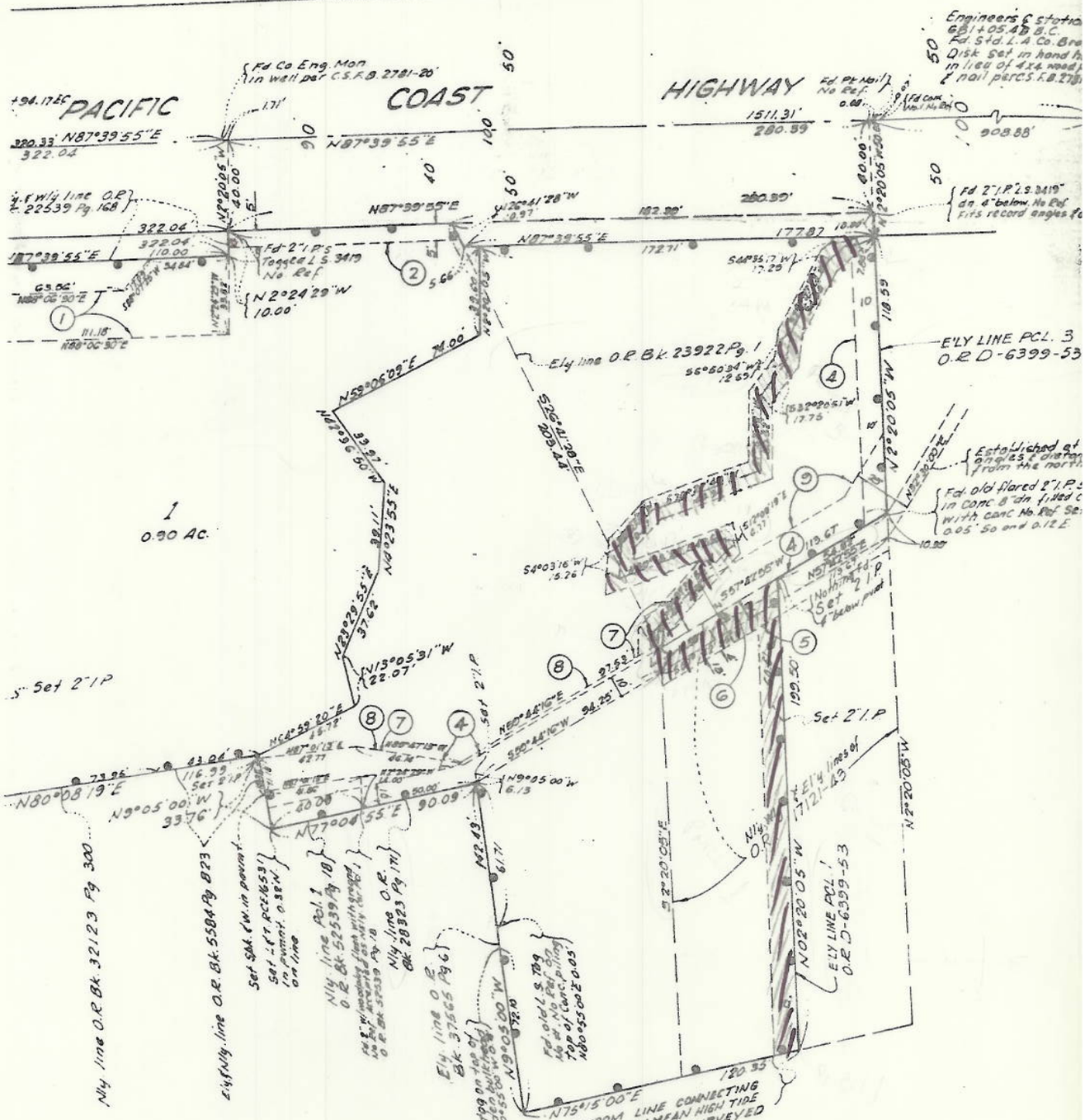
Hi Brenda,
It's been awhile since I've looked at the old files for the property. The original permit, issued sometime in the early '80s, did allow for the seawall within the easement (pretty much the whole easement if I remember correctly (very thick wall). Since the deck is actually just the top of the seawall, it is assumed the deck is approved as well. We have previously asked the applicant's engineer, if its possible, to remove the wall entirely from the easement (or as much as possible). In response, they submitted the plan that you now have. I don't know if they can do better, we are still in the initial stages of our review for this project - but we wanted to get your input as to what would "work" for the Conservancy. I

- Steve

-----Original Message-----
From: Brenda Buxton [mailto:bbuxton@igc.org]
Sent: Tuesday, March 07, 2000 3:02 PM
To: shudson@coastal.ca.gov
Subject: Geoffrey's easement

Steve:

Sorry it's taken me awhile to get back to you about the plans you sent for the Sterrett property. Unfortunately, it seems that our engineering retainer contract has run out so I can't get an engineer's comments for awhile.
However, I do have some concerns over the width of the stairway. My question for you is were the rest of the improvements in the easement (the deck, seawall,etc) permitted by the Commission previously? In other words, do we have any ability to request that all ten feet of the easement be available for public access, not just four feet? This depends of course on what was approved previously.
Please let me know. Thanks.
--
Brenda Buxton
e-mail: bbuxton@igc.org
phone: 510-286-0753
fax: 510-286-0470


PACIFIC
COAST
HIGHWAY
Fd Co Eng. Mon in well per C.S.F.B. 2781-20'
Engineers C station 681+05.40 B.C.
Fd. Std. L.A. Co. Brass Disk set in hand hole in lieu of 4x4 wood post & nail per C.S.F.B. 2781
N87°39'55"E
322.04
1511.31'
280.59'
908.88'
182.30'
177.87
177.71'
118.59
E'LY LINE PCL. 3 O.R. D-6399-53
Ely line O.R. Bk. 23922 Pg. 1
N59°06'09"E 74.00'
S26°41'28"E 209.44
N23°55'2"
0.90 Ac.
Set 2" I.P.
N80°08'19"E
N9°05'00"W
N77°00'55"E
90.09'
N75°15'00"E
BANDOM LINE CONNECTING POINTS ON MEAN HIGH TIDE ELEV. 4.85 Ft. AS SURVEYED MAY 10, 1978.
N2°20'05"W
E'LY LINE PCL. 1 O.R. D-6399-53
Nly line O.R. Bk. 32123 Pg. 300
Nly line O.R. Bk. 5584 Pg. 873
Nly line Pcl. 1 O.R. Bk. 5539 Pg. 18
Nly line O.R. Bk. 28923 Pg. 171
Ely line O.R. Bk. 37565 Pg. 6
Fd. old L.S. 789 No ref. Set 00 top of conc. piling N80°55'00"E 2.03
Set 199 on line of wooden building S80°55'00"W
N9°05'00"W 52.10
120.35
Set 2" I.P.
Set 2" I.P.
Established record, per angles described in each deed.

State of California, Coastal Conservancy
Memorandum

Confidential Communication
Attorney-Client Privilege

March 3, 2000

To: Elena Eger

From: Brenda Buxton BB

Re: Geoffrey's vertical access easement

As you may recall, there was a violation on the lower half of the Geoffrey's easement. The seawall was built into the easement in such a way that only inches of the ten foot easement were available for people to get to the beach.

At long last, the property owners are addressing the violation and have submitted plans to the Commission for comment. Steve Hudson from the Commission has forward a copy to me -- attached.

The plans seem to provide suitable access. My only concern is that the actual stair will only be four feet wide when, in fact, the easement is ten.

However, according to the Commission staff person working on this case, the Commission permitted the seawall and its deck to intrude into the easement. Since the permit applicant is already scaling back the seawall to allow for the accessway, I'm not sure how much ability we would have to require them to give us the entire ten feet.

Also, in practical terms, if constructed, the stairway would provide an accessway very similar to the one that existed when the Conservancy accepted the easement (except this time it would be entirely within the easement verses encroaching onto the neighbor's property).

Please let me know if you have additional concerns.

CALIFORNIA COASTAL COMMISSION
SOUTH CENTRAL COAST AREA
89 SOUTH CALIFORNIA ST., SUITE 200
VENTURA, CA 93001
(805) 641-0142

Memorandum

DATE: July 3, 1998

TO: Linda Locklin and Brenda Buxton

FROM: Sue Brooker SB

RE: 22348 PCH (Geoffrey's Restaurant Accessway)

On June 30, 1998, I spoke with Mr. Hagstorm, Ms. Sterret's husband, about the recent unpermitted activity that occurred on the property. During our phone conversation with Mr. Hagstrom, he informed me that the vertical accessway was located between their house and the neighbors house. When I questioned the current location of the vertical seawall, he said that the easement ran parallel to the seawall and not in it. However, I recalled from our site visit on June 12, 1998 that a portion of the existing seawall was located within the easement. Therefore, in order to clarify any confusion I was looking for a current survey of the site which illustrated the seawall in relations to the easement.

Please contact me if you have any information that could be useful.

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JUL - 6 1998
COASTAL CONSERVANCY
OAKLAND, CALIF.

CALIFORNIA COASTAL COMMISSION
SOUTH CENTRAL COAST AREA
89 SOUTH CALIFORNIA ST., SUITE 200
VENTURA, CA 93001
(805) 641-0142

July 3, 1998

Mr. Bob Hagstrom
27348 Pacific Coast Highway
Malibu, CA 90265

Property Address: 27348 Pacific Coast Highway, City of Malibu; Los Angeles County

Violation File Number: V-4-97-030 (Sterrett)

Dear Mr. Hagstrom:

This letter is in regards to our phone conversation on June 30, 1998 in regards to the alleged violations on the property referred to above. During our conversation we discussed the recent development which occurred on your wife's property including the placement of an unpermitted rock revetment within a vertical public accessway, increasing the height of the existing seawall located seaward of the single family residence, and repair work to the existing revetment wing walls.

Please note, as stated in our letter dated June 22, 1998 and during our recent phone discussion, any development as defined by Section 30106 of the California Coastal Act will require a coastal development permit. In addition, according to Section 13252(3) a coastal development permit is required for:

> ***Any repair and maintenance to facilities or structures or work located in an environmentally sensitive habitat area, any sand area, within 50 feet of the edge of a coastal bluff or environmentally sensitive habitat area, or within 20 feet of coastal waters or streams that include:***
>
> ***(A) The placement or removal, whether temporary or permanent, of rip-rap, rocks, sand or other beach materials or any other forms of solid materials***

The recent activities that have occurred on the property are considered development under Section 30106 of the Coastal Act and would require a coastal development permit under Section 13252(3). Therefore, we are requesting that you stop all unpermitted work on the property. Any additional work will be considered a knowing and intentional violation of the Coastal Act.

We would like to remind you that any development activity performed without a coastal development permit constitutes a violation of the California Coastal Act's permitting requirements. Coastal Act sections 30803 and 30805 authorize the Coastal Commission to initiate litigation to seek injunctive relief and an award of civil fines in response to any violation of the Coastal Act. Coastal Act section 30820(a) provides that any person who violates any provision of the Coastal Act may be subject to a penalty not to exceed $30,000. Further, section 30820(b) states that, in addition to any other penalties, any person who "intentionally and knowingly" performs any development in violation of the Coastal Act can be subject to a civil penalty of not less than $1000 nor more than $15,000 for each day in which the violation persists.

As the first step in resolving the alleged violation, please return a signed copy of the Waiver of Legal Argument. In addition, please submit a completed Coastal Permit Application as requested in our first letter by June 30, 1998. If we do not receive a completed Coastal Development Permit Application by June 30, 1998, this case may be referred to our Statewide Enforcement Unit in San Francisco.

Should you have any additional questions, please call me at the phone number listed above.

Sincerely,

Sue Brooker

Sue Brooker
Enforcement Officer

Enclosure: Waiver of Legal Argument

cc: Nancy Cave; Statewide Enforcement

Linda Locklin; Coastal Access Program

Brena Buxton; Coastal Conservancy

STATE OF CALIFORNIA—THE RESOURCES AGENCY

PETE WILSON, *Governor*

CALIFORNIA COASTAL COMMISSION
SOUTH CENTRAL COAST AREA
9 SOUTH CALIFORNIA ST., SUITE 200
VENTURA, CA 93001
(805) 641-0142

CERTIFIED MAIL

June 22, 1998

Nyda Sterrett
27348 Pacific Coast Highway
Malibu, CA 90265

Violation File Number: V-4-MAL-97-030

Property Address: 27348 Pacific Coast Highway, City of Malibu; Los Angeles County

Unpermitted Development: Non-compliance with Coastal Development Permits 5-83-517 and P-77-2130

Dear Ms. Sterrett:

On December 21, 1978, the Coastal Commission approved coastal development permit number P-77-2130 for the conversion of two apartment buildings containing ten units to condominium use and install separate utility meters for each condominium unit subject to three (3) special conditions. Special Condition Two (2) of your coastal development permit stated:

> ***Prior to issuance of permit, applicant shall submit/ agree:***
> ***2. a deed restriction for recording:***
> ***(a.) granting vertical access to give the public the privilege and right to pass and repass over a strip of Dedicator's said real property 10 feet in width and extending from the edge of the public right-of-way to the mean high tide line of the Pacific Ocean, to be existing stairway.***

On December 12, 1978 an Offer to Dedicate was recorded against the deed for a vertical access 10 feet in width located between 27336 and 27348 Pacific Coast Highway. Furthermore, on March 15, 1984 the Commission approved Coastal Development Permit 5-83-517 (B.F.S.A. Partnership) for the subdivision of a 1.44 acre beachfront parcel into four parcels; removal of an existing 11 unit apartment building; and the construction of three 3-level single family homes. Special Condition Two (2) of your coastal development permit stated:

> ***"Prior to the transmittal of permit, the applicant shall submit plans, subject to the approval of the Executive Director, for the improvement of the existing vertical accessway from Pacific Coast Highway to the beach. Improvements to the accessway are to be executed to the applicant. The revised plans shall clearly indicate that the vertical accessway will be signed for public beach use. The revised plans will also indicate the removal of any obstacles, including roof overhangs, from the accessway."***

On March 7, 1997 Coastal Commission staff first sent you a notice that the unpermitted development described as landscaping and placement of obstacles within a public access easement was undergone without a Coastal Development Permit and, therefore, is a violation of the Coastal Act. Furthermore, on June 12, 1998 during an on-site visit California Commission Enforcement Staff found development occurring on the site described as the placement of rock rip-rap within the vertical public access easement and improvements to the existing vertical seawall. We would like to remind you that the easement located on this property is held by the California Coastal Conservancy and has been established for public access. Therefore, any development within the access easement which is not approved through a coastal development permit violates the California Coastal Act of 1976.

"Development" is broadly defined by section 30106 of the Coastal Act to include:

> ***"Development" means, on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of the use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvest of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations....***

Section 30600(a) requires that any person wishing to perform or undertake development in the coastal zone must obtain a coastal development permit, in addition to any other permit required by law. Any development activity conducted in the coastal zone without a valid coastal development permit constitutes a violation of the Coastal Act. The construction of a rock revetment and improvements to the vertical seawall undertaken on your property constitutes "development" and therefore requires a coastal development permit.

Coastal Act sections 30803 and 30805 authorize the Coastal Commission to initiate litigation to seek injunctive relief and an award of civil fines in response to any violation of the Coastal Act. Coastal Act section 30820(a) provides that any person who violates any provision of the Coastal Act may be subject to a penalty not to exceed $30,000. Further, section 30820(b) states that, in addition to any other penalties, any person who "intentionally and knowingly" performs any development in violation of the Coastal Act can be subject to a civil penalty of not less than $1000 nor more than $15,000 for each day in which the violation persists.

<u>If the unpermitted development activity is not immediately stopped, you may be served a cease and desist order or sued in court.</u>

Coastal Act section 30809 states that if the executive director determines that any person has undertaken, or is threatening to undertake, any activity that may require a permit from the Coastal Commission without first securing a permit, the executive director may issue an order

directing that person to cease and desist. Coastal Act section 30810 states that the Coastal Commission may also issue a cease and desist order. A cease and desist order may be subject to terms and conditions that are necessary to avoid irreparable injury to the area or to ensure compliance with the Coastal Act. A violation of a cease and desist order can result in civil fines of up to $6,000 for each day in which the violation persists. Sections 30803 and 30805 of the Coastal Act authorize the Commission to initiate litigation to seek injunctive relief and an award of civil fines in response to any violation of the Coastal Act. Section 30820(a) of the Coastal Act provides that any person who violates any provision of the Coastal Act may be subject to a penalty amount not to exceed $30,000. Coastal Act section 30820(b) states that, in addition to any other penalties, any person who "knowingly and intentionally" performs any development in violation of the Coastal Act can be subject to a civil penalty of not less than $1000 nor more than $15,000 for each day in which the violation persists.

In a letter dated December 22, 1997, Commission staff notified you that an alleged violation existed on the site. The letter stated that "additional work could be considered a knowing and intentional violation of the Coastal Act." Because there is a pending Coastal Commission enforcement action on this property, Commission staff considers this additional work a "knowing and intentional" violation.

As one step toward resolving the violation, please stop all unpermitted work on the property and return a signed waiver of legal argument. Please submit a completed coastal development permit application for this activity, and any other development activities contemplated on this property in the near future, to this office by July 21, 1998. If we do not receive a coastal development permit application by July 21, 1998, we will be forced to proceed with enforcement action which could include a referral of this matter to our Statewide Enforcement Unit in San Francisco for further legal action.

Please contact Sue Brooker at our office if you have any questions regarding this matter. Please refer to your file number when communicating with this office.

Thank you for your anticipated cooperation.

Sincerely,

Sue Brooker

Sue Brooker
Enforcement Coordinator

RECEIVED
JUN 25 1998
COASTAL CONSERVANCY
OAKLAND, CALIF.

WAIVER OF LEGAL ARGUMENT

On June 12, 1998, Coastal Commission staff determined that unpermitted development had been undertaken at 27348 Pacific Coast Highway (APN: 4460-030-043) The unpermitted development is described as the construction of a rock revetment within the vertical public easement and improvements to the existing seawall. Commission staff notified me of the unpermitted status of this activity by letter, dated June 22, 1998.

Commission staff has informed me that they would prefer to resolve this matter administratively, but may have to pursue resolution through a court of law should I fail to agree on an administrative resolution to the violation.

I have stated that I wish to file a Coastal Development Permit application with the Commission and that I do not want the Commission to institute enforcement litigation to resolve this Coastal Act Violation pending Commission consideration of my application. Accordingly, I hereby waive my right to rely upon the time required for the administrative processing of my application (i.e., through the date of Commission action on my permit application, or withdrawal of that application, if I so choose) as a basis for any argument or defense in a court of law, including, but not limited to: (1) any applicable statute of limitation; (2) laches; and/or (3) estoppel. By agreeing to such a waiver, I understand that the Commission staff will not submit this Coastal Act violation file to the Office of the Attorney General for appropriate legal action, pending Commission consideration of my permit application.

_____

Property Owner or Authorized Representative

_____ _____

Signature **Date**

DANIEL E. LUNGREN
Attorney General

State of California
DEPARTMENT OF JUSTICE

300 SOUTH SPRING STREET, SUITE 5212
LOS ANGELES, CA 90013
(213) 897-2000

FACSIMILE: (213) 897-2801
(213) 897-2705

June 24, 1998

VIA FACSIMILE AND REGULAR MAIL

Judy V. Davidoff, Esq.
Baker & McKenzie
Two Embarcadero Center
Twenty-Fourth Floor
San Francisco, CA 94111-3909

RE: Cal. Coastal Commission v. Seacliff etc., et al.
(Los Angeles Superior Court Case No. SC022393)

Dear Judy:

As you know, on Friday, June 12, I met with defendant Martin H. Waldman (president of the condominium owners association) and his wife to discuss compliance with the stipulated judgment, i.e., opening the accessway to the beach and completing the construction of the two parking spaces on Pacific Coast Highway. Though you and your clients chose not to send an attorney from your office to the meeting, the Waldmans invited their consultant, Lynn Heacox, their engineer, Steve Hunter, and the person who is constructing the parking spaces, Rhys Burmann. From the Coastal Commission, we had in attendance Nancy Cave, Gary Timm, Jack Ainsworth and Sue Brooker. James Pierce, Esq., Linda Locklin and Brenda Buxton from the Coastal Conservancy also attended.

During our site visit, we viewed the parking spaces, vertical accessway and the lateral easement area. After the viewing, we expressed the collective opinion of the various State representatives that the unfinished parking spaces, the locked gate at the vertical accessway, the fence at the lateral easement area, and the various "No Trespassing" and "Danger" signs violated the judgment and/or constituted separate Coastal Act violations.

In order to avoid court intervention and/or the issuance of a cease and desist order, the Waldmans agreed to do the following by June 30, 1998: (1) complete the parking spaces so that they

DANIEL E. LUNGREN
Attorney General

State of California
DEPARTMENT OF JUSTICE

300 SOUTH SPRING STREET, SUITE 1212
LOS ANGELES, CA 90012
(213) 897-2000

SACRAMENTO 95814
(916) 445-9555

June 24, 1993

VIA FACSIMILE AND REGULAR MAIL

Judy V. Davidoff, Esq.
Baker & McKenzie
Two Embarcadero Center
Twenty-Fourth Floor
San Francisco, CA 94111-3909

RE: Cal. Coastal Commission v. Sausalito et al.
(Los Angeles Superior Court Case No. BC072797)

Dear Judy:

As you know, on Friday, June 18, I met with defendant Martin R. Waldman (president of the condominium owners association) and his wife to discuss compliance with the stipulated judgment, i.e., opening the accessway to the beach and completing the construction of the two parking spaces on Pacific Coast Highway. Though you and your clients chose not to send an attorney from your office to the meeting, the Waldmans invited their consultant, Lynn Hancock, their engineer, Steve Hunter, and the person who is constructing the parking spaces, Rhys Burmann. From the Coastal Commission, we had in attendance Nancy Cave, Gary Timm, Jack Ainsworth and Sue Kaplan. Jane Sieroda, Esq., Linda Lucklin and Brenda Buxton from the Coastal Conservancy also attended.

During our site visit, we viewed the parking spaces, vertical accessway and the lateral easement area. After the viewing, we expressed the collective opinion of the various State representatives that the unfinished parking spaces, the locked gate at the vertical accessway, the fence at the lateral easement area, and the various "No Trespassing" and "Danger" signs violated the judgment and/or constituted separate Coastal Act violations.

In order to avoid court intervention and/or the issuance of a cease and desist order, the Waldmans agreed to do the following by June 30, 1993: (1) complete the parking spaces so that they

are operational; (2) unlock all gates from PCH to the lateral easement area during daylight hours; (3) unlock the gate at the lateral easement area during daylight hours; (4) remove all "No Trespassing" and "Danger" signs; and (5) put up a new sign at the lateral easement area warning the public of the steep drop to the beach and directing the public to pass through the now-unlocked gate for easier access down to the beach.

The deadline of June 30th was agreed to because of our expressed concern over beach access during the summer, in general, and the Fourth of July holiday, in particular.

The Waldmans also agreed that in order to meet their concerns regarding the various access issues, the owners would file a new permit application to formalize access usage. The application would, therefore, address several practical matters including the location of the lateral easement, appropriate signage, and whether there is a need for construction of additional stairs from the lateral easement area to the beach. Mr. Heacox would act as their agent in the preparation of the application.

Furthermore, the Waldmans indicated that they will present the above agreements to the other owners for approval though there was no indication that approval would be difficult to obtain.

We hope the matter will be resolved informally and look forward to any updates that you can give us.

Sincerely,

DANIEL E. LUNGREN
Attorney General

DANIEL A. OLIVAS
Deputy Attorney General

cc: Nancy Cave
Gary Timm
Jack Ainsworth
Sue Brooker
James Pierce, Esq.
Linda Locklin
Brenda Buxton

RECEIVED
JUN 26 1998
COASTAL CONSERVANCY
OAKLAND, CALIF.

Coastal Conservancy

FACSIMILE COVER SHEET

TO/FAX #:	Kathy Jennings Marcie Espero Continental Lawyer's Title 818/796-5739
FROM:	James Pierce
DATE:	October 10, 1997
TIME:	10:00 a.m.
RE:	*Malibu Property Title Reports*
PAGES:	3
cc:	Elena Eger (510/286-0470)

MESSAGE:

1330 Broadway, 11th Floor
Oakland, California 94612-2530
510·286·1015 *Fax*: 510·286·0470

Coastal Conservancy

October 10, 1997

Via Facsimile and U.S. Mail
818/796-5739

Kathy Jennings
Marcie Espero
Continental Lawyer's Title
800 East Colorado Blvd.
Pasadena, CA 91101

RE: *Title Reports for Various Malibu Properties*

Dear Ms. Jennings and Ms. Espero:

I spoke to Ms. Espero last week concerning the Conservancy's need to obtain title reports (unrelated to any transfer) for certain properties in Malibu. We received your names from Attorney Laurie Collins of the Santa Monica Mountains Conservancy.

We would like to get title reports on the following properties:

1) 31376 Broad Beach Road

2) 27420/27428[1] Pacific Coast Highway

3) 26520/26524 Pacific Coast Highway

4) 26470 Pacific Coast Highway

5) 22466 Pacific Coast Highway

6) 22126-22132 Pacific Coast Highway

7) 19016 Pacific Coast Highway

8) 27348/27400 Pacific Coast Highway

9) 21202 Pacific Coast Highway

1 Certain street addresses in Malibu have been "merged," so you may need to search both numbers.

1330 Broadway, 11th Floor
Oakland, California 94612-2530
510·286·1015 *Fax*: 510·286·0470

10) 20802 Pacific Coast Highway

11) 22548/22550 Pacific Coast Highway[2]

Please contact me with an estimate of the cost for this work at your earliest opportunity, or to ask any questions you may have.

Very truly yours,

James Pierce
Staff Counsel
(510) 286-0332

cc: Elena Eger

---

2 For this property, we would also like to get copies of any maps you may be able obtain.

Memorandum May 15, 1997

To: Elena Eger, James Pierce

From: Brenda Buxton BB

Re: Geoffrey's (Gerstin) site visit

I'm tentatively scheduled to visit the Geoffrey's easement on May 29. You're both invited to join me and/or give me your sage legal advice before I go. (Elena, we've talked but I haven't gotten input from James yet...)

The purpose of the visit is to:

1. assess the improvements from an operations and maintenance perspective (i.e. are the stairs easy to maintain, will the gate suffice?? etc.). I'm not comfortable making this assessment without visiting the site.

2. investigate the neighbor's allegations:

   a. The easement has been encroached upon and in some places is as narrow as four feet (Does this matter? Maybe not, but I need to see it.)

   b. The accessway improvements trespass onto the neighbor's property or are built in such a way that the public will be encouraged to trespass on the neighbor's property. (Does this matter? Again, I can't tell until I see it.)

3. encourage the Commission to take the lead in solving problems detected on this site visit. I will be accompanied by an enforcement staff person, Steve Hudson, and will use this visit to communicate my concerns.

STATE OF CALIFORNIA—THE RESOURCES AGENCY

PETE WILSON, *Governor*

CALIFORNIA COASTAL COMMISSION
SOUTH CENTRAL COAST AREA
89 SOUTH CALIFORNIA ST., SUITE 200
VENTURA, CA 93001
(805) 641-0142

Brenda Buxton
Project Manager
California State Coastal Conservancy
1330 Broadway, 11th Floor
Oakland, CA 94612-2530

June 11, 1997

Re: Vertical Access Easement at 27348 PCH (Gersten Residence)

Dear Ms. Buxton:

Many of the letters originating from Coastal Commission violation files are confidential in nature. Commission staff considers Enforcement Files to be exempt from any public records requests as they are investigatory in nature and may potentially involve litigation action. We therefore request that the Coastal Conservancy protect the two enclosed violation letters addressed to Albert Gersten and Roger Wolk, dated June 11, 1997, as confidential material pursuant to Government Code Section 6254.5 sub E.

Thank you for attention to this matter.

Sincerely,

Steve Hudson
Staff Analyst

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JUN 13 1997
CALIF. CONSERVANCY
OAKLAND, CALIF.

STATE OF CALIFORNIA—THE RESOURCES AGENCY PETE WILSON, *Governor*

CALIFORNIA COASTAL COMMISSION
SOUTH CENTRAL COAST AREA
89 SOUTH CALIFORNIA ST., SUITE 200
VENTURA, CA 93001
(805) 641-0142

CERTIFIED MAIL

CONFIDENTIAL

June 11, 1997

Albert Gersten
Saltzburg, Ray and Bergman, LLP
10960 Wilshire Boulevard, 10th Floor
Los Angeles, CA 90024

Violation File Number: V-4-MAL-97-030

Property Address: 27348 Pacific Coast Highway, City of Malibu (Los Angeles County)

Re: Non-compliance with Coastal Development Permits 5-83-517 and P-77-2130

Dear Mr. Gersten:

Our office has confirmed that development undertaken on your property at 27348 Pacific Coast Highway does not fully comply with the terms and conditions of previously issued Coastal Development Permits 5-83-517 and P-77-2130. The unauthorized development activity on your property consists of the construction of various improvements within the 10' wide vertical access easement which are not consistent with the approved plans and conditions of previous permits. Furthermore, as constructed, these improvements have effectively reduced, or eliminated, the ability of the public to utilize the easement. As discussed on site between your attorney, Karrin Feemster, and Steve Hudson of this office on May 29, 1997, we are willing to work with you and your agents towards developing a solution to this situation in order to re-establish the viability of the public access easement.

The 10' wide public access easement located on your property, as required by special condition two of Coastal Development Permit P-77-2130, was recorded against your deed on December 12, 1978. The Coastal Commission issued Coastal Development Permit 5-83-517 for your property on March 15, 1984 for the subdivision of a 1.44 acre lot, removal of an existing 11-unit apartment building and the construction of three single family residences at 27348, 24350 and 27352 Pacific Coast Highway in Los Angeles County. Special Condition 2 states:

> ***Prior to the transmittal of permit, the applicant shall submit plans, subject to the approval of the Executive Director, for the improvement of the existing vertical accessway from Pacific Coast Highway to the beach. Improvements to the accessway are executed by the applicant. The revised plans shall clearly indicate that the vertical accessway will be signed for public beach use. The revised plans will also indicate the removal of any obstacles, including roof overhangs, from the accessway.***

Standard Condition 3 attached to this permit also states:

> ***All development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions set forth below. <u>Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.</u>***

Please be advised that non-compliance with the terms and conditions of an approved permit constitutes a violation of the Coastal Act. In many cases, when administrative resolution of an unpermitted development occurs in a timely manner, no additional enforcement action, penalties or fines are pursued. However, we do retain the ability to pursue such actions if a timely administrative resolution of a violation case is not possible. As such, we are obligated to inform you that Coastal Act sections 30803 and 30805 authorize the Coastal Commission to initiate litigation to seek injunctive relief and an award of civil fines in response to any violation of the Coastal Act. Section 30820(a) of the Coastal Act provides that any person who violates any provision of the Coastal Act may be subject to a penalty not to exceed $30,000. Further, Coastal Act section 30820(b) states that, in addition to any other penalties, any person who "knowingly and intentionally" performs any development in violation of the Coastal Act can be subject to a civil penalty of not less than $1000 nor more than $15,000 for each day in which the violation persists.

Please stop all work on the property that is not permitted by coastal development permit 5-83-517. Any additional work may be considered a knowing and intentional violation of the Coastal Act.

Please submit a completed coastal permit application or request for amendment for this activity or development to this office by July 21, 1997. In addition, please submit a copy of the recent survey conducted to determine the limits of the easement. If we do not receive a completed coastal permit application for your project by this date, we will be forced to proceed with enforcement action which could include a referral of this matter to our Statewide Enforcement Unit in San Francisco for further processing. Please contact Steve Hudson at our office with any questions you might have regarding this matter.

Thank you for your anticipated cooperation.

Sincerely,

John Ainsworth
Enforcement Supervisor

Steve Hudson
Staff Analyst

encl: CDP Application, waiver of legal argument

File: SMH6/v97-030

STATE OF CALIFORNIA—THE RESOURCES AGENCY PETE WILSON, *Governor*

CALIFORNIA COASTAL COMMISSION
SOUTH CENTRAL COAST AREA
89 SOUTH CALIFORNIA ST., SUITE 200
VENTURA, CA 93001
(805) 641-0142

CONFIDENTIAL

June 11, 1997

Roger Wolk
28 Malibu Colony Road
Malibu, CA 90265

Property Location: 27336 Pacific Coast Highway, Malibu (Los Angeles County)

Subject: Removal of unpermitted fence on beach

Dear Mr. Wolk:

Thank you for meeting with Steve Hudson of this office on May 29, 1997. As you are aware, a public access easement held by the California Coastal Conservancy is located adjacent to your property at 27336 Pacific Coast Highway. As discussed on site between you and Steve Hudson, we are aware of your concerns regarding use of your property by the public attempting to utilize the easement in its present state. We are currently working towards a permanent resolution of this issue. During this meeting you also mentioned that you would be amenable to removing the fence and allowing temporary use of the area immediately adjacent to the easement for public use until this issue is resolved. We greatly appreciate your removal of the fence and your cooperation in this matter.

In addition, although we understand your reasoning in erecting the fence, this development appears to have been constructed without the benefit of a coastal development permit. We must remind you that the above-referenced activity on your property does constitute development under Section 30106 and is not exempt under any other section of the Coastal Act. Any development activity performed without a coastal development permit constitutes a violation of the California Coastal Act's permitting requirements. Resolution of such a matter can occur through the issuance of an after-the-fact permit for the development or restoration of the site. As you have already mentioned that you would not object to removing the fence, we see no reason to pursue this matter with an enforcement action. Please contact Steve Hudson at our office by June 30, 1997, to confirm that the above mentioned fence has been removed.

We would like to thank you for anticipated cooperation in this matter.

Sincerely,

Gary Timm for

John Ainsworth
Enforcement Supervisor

Steven Hudson
Staff Analyst

cc: Brenda Buxton, California Coastal Conservancy

File: SMH6/V97-030a

STATE OF CALIFORNIA—THE RESOURCES AGENCY PETE WILSON, Governor

CALIFORNIA COASTAL COMMISSION
SOUTH CENTRAL COAST AREA
89 SOUTH CALIFORNIA ST., SUITE 200
VENTURA, CA 93001
(805) 641-0142

CONFIDENTIAL

June 11, 1997

Roger Wolk
28 Malibu Colony Road
Malibu, CA 90265

Property Location: 27236 Pacific Coast Highway, Malibu (Los Angeles County)

Subject: Removal of unpermitted fence on beach

Dear Mr. Wolk:

Thank you for meeting with Steve Hudson of this office on May 29, 1997. As you are aware, a public access easement held by the California Coastal Conservancy is located adjacent to your property at 27236 Pacific Coast Highway. As discussed on site between you and Steve Hudson, we are aware of your concerns regarding use of your property by the public attempting to utilize the easement in its present state. We are currently working towards a permanent resolution of this issue. During this meeting you also mentioned that you would be amenable to removing the fence and allowing temporary use of the area immediately adjacent to the easement for public use until this issue is resolved. We greatly appreciate your removal of the fence and your cooperation in this matter.

In addition, although we understand your reasoning in erecting the fence, this development appears to have been constructed without the benefit of a coastal development permit. We must remind you that the above-referenced activity on your property does constitute development under Section 30106 and is not exempt under any other section of the Coastal Act. Any development activity performed without a coastal development permit constitutes a violation of the California Coastal Act's permitting requirements. Resolution of such a matter can occur through the issuance of an after-the-fact permit for the development or restoration of the site. As you have already mentioned that you would not object to removing the fence, we see no reason to pursue this matter with an enforcement action. Please contact Steve Hudson at our office by June 30, 1997, to confirm that the above mentioned fence has been removed.

We would like to thank you for anticipated cooperation in this matter.

Sincerely,

John Ainsworth
Enforcement Supervisor

Steven Hudson
Staff Analyst

cc: Brenda Buxton, California Coastal Conservancy

/ma SUSDEVPT-026

Confidential
Attorney-Client Privilege

Memorandum June 2, 1997

To: Elena Eger, James Pierce

From: Brenda Buxton BB

Re: Status of Geoffrey's easement -- portion below Escondido Beach Road.

On May 29, 1997 I visited the Conservancy's easement at 24700 Pacific Coast Highway (Geoffrey's Restaurant easement). The lower portion of the easement, on Albert Gersten's property, is blocked and can only be used by the public with great difficulty. The current situation presents extensive problems for opening the easement for public use.

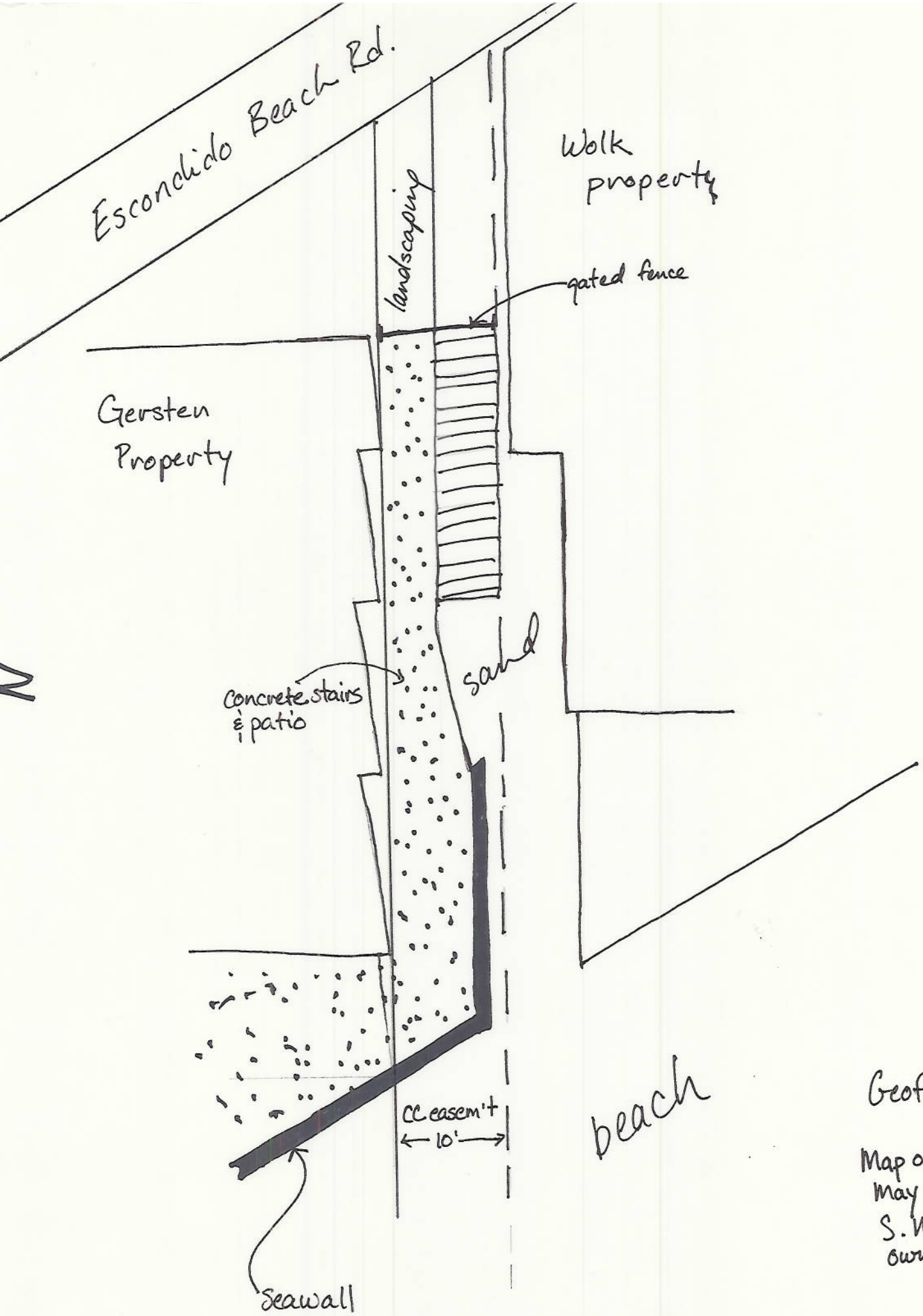
The neighboring easterly property owner, Roger Wolk, has placed fencing along his property line, preventing beach-goers from accessing his property. This makes getting to the beach challenging since a seawall cuts off the beach end of the easement. If beach goers stay off of Wolk's property, they must either jump off the end of the seawall (a drop of 4' or 5' at time of visit) or squeeze between the fence and seawall, a distance of 18 inches. Attached pictures and drawing illustrate situation.

Note on property lines. The property line was surveyed by three different groups (Wolk, Gerstin, and Holiday House homeowners) and according to the parties present, the surveys are all in agreement, give or take an inch.

My discussions with Steve Hudson, California Coastal Commission, can be summarized as follows: the Commission will pursue this as a violation; the seawall, while permitted, intrudes eight and a half feet further into the easement than the permit allows; the Commission is unlikely to approve a stair off of the end of the seawall since it would be beyond string line.

There will be a conference call between the Conservancy and Commission staff to elaborate strategies -- I'll let you know once we have some times.

Attendees: Brenda Buxton, Coastal Conservancy
Steve Hudson, Coastal Commission
Albert Gerstin's representatives: Karen Feemster (attny)
Paul Randall (real est. agent)
Roger Wolk
Seymour Morrow (Holiday House homeowners)



Geoffrey's +

Map of easeme
May 29, 1997
S. Morrow
owner).

Entrance to Geoffrey's easement (lower portion) from Escondido Bch. Road

Easement w/fence at east border, black line at west border. From top of stairs.

May 29, 1997

View from beach showing 18" gap between fence & seawall.

View from beach.

May 29, 1997

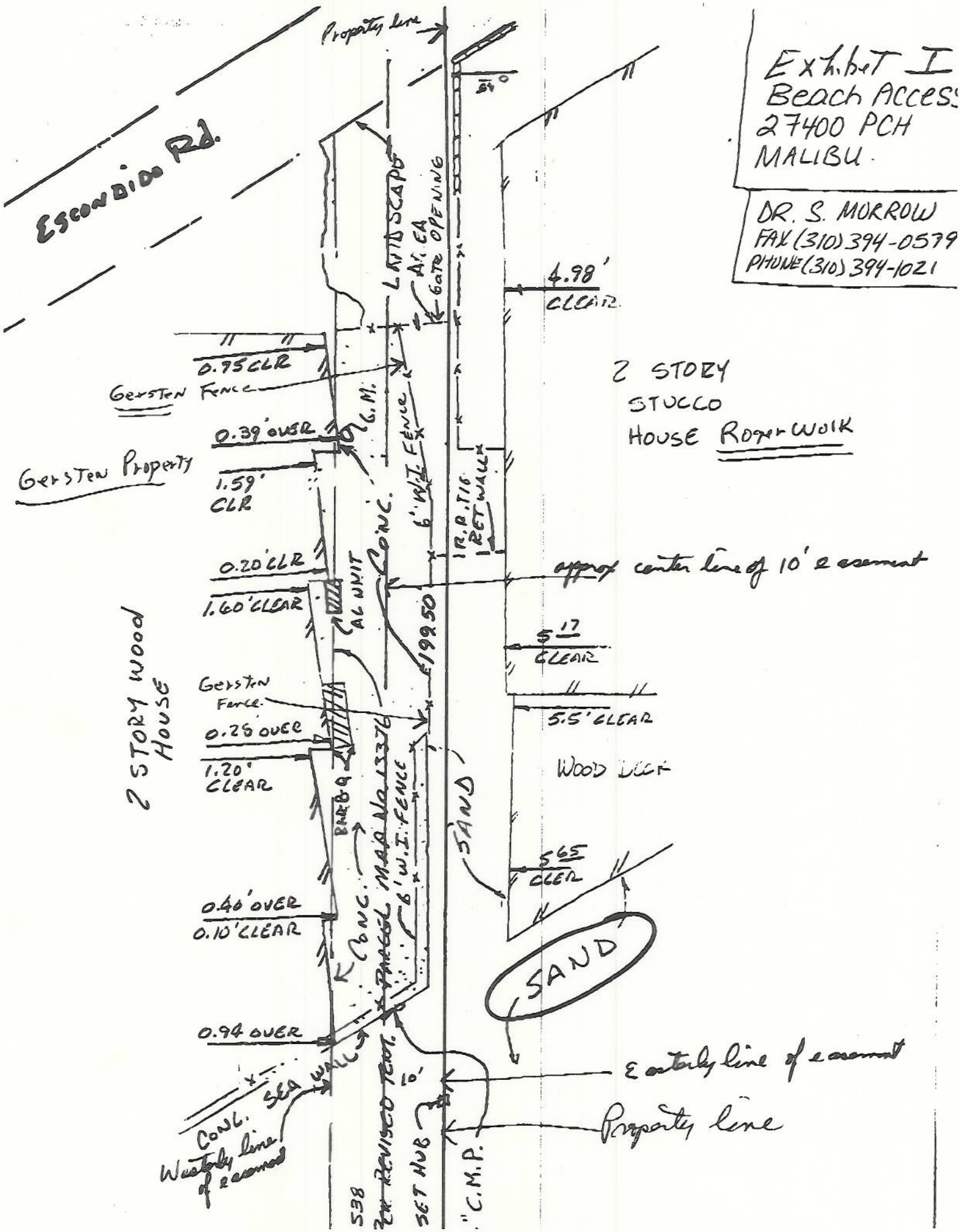


Exhibit I
Beach Access
27400 PCH
MALIBU.
DR. S. MORROW
FAX (310) 394-0579
PHONE (310) 394-1021
Escondido Rd.
Property line
LANDSCAPE AREA
GATE OPENING
4.98' CLEAR
0.75 CLR
Gersten Fence
G.M.
0.39' OVER
Gersten Property
1.59' CLR
6' W.I. FENCE
CONC.
IR.R.TIE RET WALL
2 STORY STUCCO HOUSE Roger Wolk
0.20' CLR
approx center line of 10' easement
1.60' CLEAR
AC UNIT
1995
5.17 CLEAR
2 STORY WOOD HOUSE
Gersten Fence
5.5' CLEAR
0.25 OVER
1.20' CLEAR
BARBQ
PARCEL MAP No 13376
6' W.I. FENCE
SAND
WOOD DECK
5.65 CLEAR
0.40' OVER
0.10' CLEAR
CONC.
SAND
0.94 OVER
SEA WALL
10'
Easterly line of easement
Property line
CONC.
Westerly line of easement
538
SET HUB
"C.M.P."

Seymour Morrow 310-394-1021

MORROW & MORROW CORPORATION
CONSTRUCTION • DEVELOPMENT
426 GEORGINA SANTA MONICA, CA 90402
310-394-1021 FAX 310-394-0579

TRANSMITTAL

SENT VIA: __ DELIVERY __ PICK-UP __ MAIL X FAX

FROM: DR. SEYMOUR MORROW

DATE: 5/29/97

TO: Brenda Buxton ATTENTION: _____

RE: _____

__ FOR YOUR REVIEW __ PER YOUR REQUEST

__ FOR YOUR FILES, PLEASE SIGN AND RETURN __ COPIES

__ FOR BIDDING, BIDS DUE _____

ATTACHED PLEASE FIND:

X Survey of Beach Access/27400 PCH, Malibu

__ _____

FAX # (510) 286-0470 2 PAGES INCLUDING THIS SHEET

f:\data\word\forms\transm

Coastal Conservancy

FAX

DATE: July 6, 1998

FAX #: 805-641-1732

TO: Sue Brooker
Geoffrey's

FROM: Brenda Buxton

PHONE: (510) 286-0753

TOTAL NUMBER OF PAGES (INCLUDING THIS PAGE): 3

MESSAGE: Sue - In response to your memo I'm faxing you a copy of survey prepared by Seymour Morrow, a Holiday House resident. Holiday House homeowners hold a vertical easement for beach access that I assume overlaps with the Conservancy-held vertical (I would need to survey the Cons-held easement to be 100% sure, but I'm assuming they overlap for now.) Please call if questions. Hope this helps.

Mr. Magstorn should review his title rpt since there a two vertical beach easements adjacent to his house.

P.P.S. The location of the Cons. and HH easements were extensively discussed with previous owner's (Gerstein) reps.

REPLY REQUESTED: [ ] NO [ ] YES

HARD COPY TO FOLLOW: [ ] NO [ ] YES

P.S. Let me know if you can't read map.

1330 Broadway, 11th Floor
Oakland, California 94612-2530
510·286·1015 Fax: 510·286·0470

✓ mf — jp — mb ✓ la — bb not to ee

SALTZBURG, RAY & BERGMAN, LLP

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*A PROFESSIONAL CORPORATION
†ALSO ADMITTED TO PRACTICE IN NEW JERSEY

10960 WILSHIRE BOULEVARD
TENTH FLOOR
LOS ANGELES, CALIFORNIA 90024
TELEPHONE (310) 444-6400
FACSIMILE (310) 444-6420

IN REPLY REFER TO:
4086.032

March 19, 1997

California Coastal Commission
South Central Coast Area
89 South California Street, Suite 200
Ventura, California 93001
Attention: Steven Hudson, Staff Analyst

Re: 27348 Pacific Coast Highway, Malibu, California - Albert H. Gersten, II

Dear Mr. Hudson:

This letter is being written to you in response to yours of March 7, 1997, as well as correspondence received from the Coastal Conservancy dated February 27, 1997 and March 10, 1997 with regard to the public access easement located on the southerly portion of the above referenced property.

Be advised that this office represents Mr. Gersten and has been authorized to advise you that it is Mr. Gersten's position that his activities within the access easement were not only lawful but for the betterment of the access easement and the safety of the beachgoing public. Mr. Gersten merely beautified the access with landscaping, railroad ties, handrail and gravel walkway in order to create a pleasant and safe access to the beach in accordance with his obligations. This is not construction in the sense of the word that would require that he go through the expense of the permitting process. I have further been informed that representatives of either your office or the Conservancy have visited the site, found the easement quite pleasant in appearance and have commented to the architect that all access easements should look like this, and even inquired if he would be interested in pursuing this work along the coastline.

In light of the foregoing, Mr. Gersten will take no further action and will consider this matter closed.

Very truly yours,

SALTZBURG, RAY & BERGMAN, LLP

Alan M. Bergman

cc: Martin Collier
Elena Eger, Esq., California Coastal Conservancy

F:\4086.032\11.SRB

Coastal Conservancy

March 10, 1997

Mr. Alan Bergman
Attorney at Law

Sent By FAX to 310-444-6420

Re: Your client, Albert Gerston, 27348 Pacific Coast Highway, Malibu, CA

Dear Mr. Bergman:

Thank you for your message returning my call of Thursday, March 6, 1997, to Mr. Gerston regarding Mr. Gerston's construction of an accessway within the public access easement held by the Coastal Conservancy.

We understand that you now represent Mr. Gerston. Attached for your information are copies of the Coastal Conservancy's February 27, 1997 letter to Mr. Gerston and a March 7, 1997 letter sent to Mr. Gerston's bankruptcy counsel, Ira D. Kharasch, from the California Coastal Commission. Ms. Nancy Cave of the Coastal Commission asked that we transmit a copy of the Commission's letter to you in your capacity as Mr.Gerston's counsel.

You mentioned in your March 6th message to me that Mr. Gerston is constructing the accessway as part of his obligation to his homeowner's association. We hope that the attached letters clarify our issues as the easement holder for the public accessway.

You may contact me at (510) 286-4089 to discuss this matter.

Sincerely,

Elena Eger
Staff Counsel

cc: Dan Olivas, DAG, Attorney General's Office, Los Angeles
Nancy Cave, Enforcement, California Coastal Commission
Laurie Collins, Counsel, Mountains Recreation and Conservancy Authority

1330 Broadway, 11*th* Floor
Oakland, California 94612-2530
510·286·1015 *Fax*: 510·286·0470

STATE OF CALIFORNIA—THE RESOURCES AGENCY

PETE WILSON, *Governor*

CALIFORNIA COASTAL COMMISSION
SOUTH CENTRAL COAST AREA
89 SOUTH CALIFORNIA ST., SUITE 200
VENTURA, CA 93001
(805) 641-0142

CERTIFIED MAIL

March 7, 1997

Ira D. Kharasch, Esq.
Paschulsci, Stang, Ziehl and Young
10100 Santa Monica Boulevard #1100
Los Angeles, CA 90067

Property Location: 10' wide public access easement on parcel 4460-029-024 located between 27336 and 27348 Pacific Coast Highway, Malibu (Los Angeles County)

Unpermitted Activity: Landscaping and the placement of obstacles within a public access easement

Dear Mr. Kharasch:

A recent review of the coastal development permits for the property owned by your client, Albert Gersten at 27348 Pacific Coast Highway, has lead us to the conclusion that the development undertaken on this property does not fully comply with the final approved plans and conditions of previously issued Coastal Development Permits P-77-2130 and 5-83-517. The unauthorized development activity performed on this property, which is described as landscaping within the public access easement, is not in compliance with the approved plans or conditions of Coastal Development Permits P-77-2130 and 5-83-517. In addition, garbage cans have been placed in front of the easement effectively obscuring and blocking access. The Offer to Dedicate for this property, recorded on December 12, 1978, and Condition 2 of Coastal Development Permit P-77-2130 state:

> *the Permittee grants vertical access to give the public the privilege and right to pass and repass over a strip of Owner's said real property ten (10) feet in width and extending from the edge of the public right-of-way to the mean high tide line of the Pacific Ocean...*

All conditions specified by these permits are binding upon this property and run with the land. Standard Condition 7 of Coastal Development Permit 5-83-517 states:

> *These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.*

As such, we must remind you that the easement located on this property is held by the California Coastal Conservancy and has been established for public access. This access easement was recorded by the Los Angeles County's Recorder's Office on December 12, 1978. Any development within the access easement which was not approved through a coastal development permit, such as the placement of obstacles or landscaping, violates the conditions of past coastal development permits issued for this property as well as the California Coastal Act of 1976.

Special Condition 2 attached to Coastal Development Permit 5-83-517 states:

> *The applicant shall submit plans, subject to the approval of the Executive Director, for the improvement of the existing vertical accessway from Pacific Coast Highway to the beach. Improvements to the accessway are to be executed by the applicant. The revised plans shall clearly indicate that the vertical accessway will be signed for public beach access use. The revised plans will also indicate the removal of any obstacles, including roof overhangs, from the accessway.*

Standard Condition 3 attached to Coastal Development Permit 5-83-517 also states:

> *All development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.* (emphasis added)

Any development activity performed without a coastal development permit constitutes a violation of the California Coastal Act's permitting requirements. In many cases, when administrative resolution of an unpermitted development occurs in a timely manner, no additional enforcement action, penalties or fines are pursued. However, we do retain the ability to pursue such actions.

Please stop all work on the site that is not permitted by Coastal Development Permits P-77-2130 and 5-83-517. Any additional work may be considered a knowing and intentional violation of the Coastal Act.

In order to resolve this issue, please remove all landscaping (including any overgrowth from your client's property which is encroaching upon the easement) irrigation devices and the garbage cans from within the access easement by March 21, 1997. Please contact Steve Hudson at our office if you have any questions regarding this matter.

Thank you for your anticipated cooperation.

Sincerely,

John Ainsworth
Enforcement Supervisor

Steven Hudson
Staff Analyst

cc: Albert Gersten, 27348 Pacific Coast Highway
cc: Marc Beyeler, California Coastal Conservancy

File: SMH/V-Gerstn

Special Condition 2 attached to Coastal Development Permit 5-83-517 states:

> *The applicant shall submit plans, subject to the approval of the Executive Director, for the improvement of the existing vertical accessway from Pacific Coast Highway to the beach. Improvements to the accessway are to be executed by the applicant. The revised plans shall clearly indicate that the vertical accessway will be signed for public beach access use. The revised plans will also indicate the removal of any obstacles, including roof overhangs, from the accessway.*

Standard Condition 3 attached to Coastal Development Permit 5-83-517 also states:

> *All development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.* (emphasis added)

Any development activity performed without a coastal development permit constitutes a violation of the California Coastal Act's permitting requirements. In many cases, when administrative resolution of an unpermitted development occurs in a timely manner, no additional enforcement action, penalties or fines are pursued. However, we do retain the ability to pursue such actions.

Please stop all work on the site that is not permitted by Coastal Development Permits P-77-2130 and 5-83-517. Any additional work may be considered a knowing and intentional violation of the Coastal Act.

In order to resolve this issue, please remove all landscaping (including any overgrowth from your client's property which is encroaching upon the easement) irrigation devices and the garbage cans from within the access easement by March 21, 1997. Please contact Steve Hudson at our office if you have any questions regarding this matter.

Thank you for your anticipated cooperation.

Sincerely,

John Ainsworth
Enforcement Supervisor

Steven Hudson
Staff Analyst

cc: Albert Gersten, 27348 Pacific Coast Highway
cc: Marc Beyeler, California Coastal Conservancy

File: SMH/V-Gerstn

STATE OF CALIFORNIA—THE RESOURCES AGENCY

PETE WILSON, *Governor*

CALIFORNIA COASTAL COMMISSION
SOUTH CENTRAL COAST AREA
89 SOUTH CALIFORNIA ST., SUITE 200
VENTURA, CA 93001
(805) 641-0142

CERTIFIED MAIL

March 7, 1997

Ira D. Kharasch, Esq.
Paschulsci, Stang, Ziehl and Young
10100 Santa Monica Boulevard #1100
Los Angeles, CA 90067

Property Location: 10' wide public access easement on parcel 4460-029-024 located between 27336 and 27348 Pacific Coast Highway, Malibu (Los Angeles County)

Unpermitted Activity: Landscaping and the placement of obstacles within a public access easement

Dear Mr. Kharasch:

A recent review of the coastal development permits for the property owned by your client, Albert Gersten at 27348 Pacific Coast Highway, has lead us to the conclusion that the development undertaken on this property does not fully comply with the final approved plans and conditions of previously issued Coastal Development Permits P-77-2130 and 5-83-517. The unauthorized development activity performed on this property, which is described as landscaping within the public access easement, is not in compliance with the approved plans or conditions of Coastal Development Permits P-77-2130 and 5-83-517. In addition, garbage cans have been placed in front of the easement effectively obscuring and blocking access. The Offer to Dedicate for this property, recorded on December 12, 1978, and Condition 2 of Coastal Development Permit P-77-2130 state:

> *the Permittee grants vertical access to give the public the privilege and right to pass and repass over a strip of Owner's said real property ten (10) feet in width and extending from the edge of the public right-of-way to the mean high tide line of the Pacific Ocean...*

All conditions specified by these permits are binding upon this property and run with the land. Standard Condition 7 of Coastal Development Permit 5-83-517 states:

> *These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.*

As such, we must remind you that the easement located on this property is held by the California Coastal Conservancy and has been established for public access. This access easement was recorded by the Los Angeles County's Recorder's Office on December 12, 1978. Any development within the access easement which was not approved through a coastal development permit, such as the placement of obstacles or landscaping, violates the conditions of past coastal development permits issued for this property as well as the California Coastal Act of 1976.

Special Condition 2 attached to Coastal Development Permit 5-83-517 states:

> *The applicant shall submit plans, subject to the approval of the Executive Director, for the improvement of the existing vertical accessway from Pacific Coast Highway to the beach. Improvements to the accessway are to be executed by the applicant. The revised plans shall clearly indicate that the vertical accessway will be signed for public beach access use. The revised plans will also indicate the removal of any obstacles, including roof overhangs, from the accessway.*

Standard Condition 3 attached to Coastal Development Permit 5-83-517 also states:

> *All development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.* (emphasis added)

Any development activity performed without a coastal development permit constitutes a violation of the California Coastal Act's permitting requirements. In many cases, when administrative resolution of an unpermitted development occurs in a timely manner, no additional enforcement action, penalties or fines are pursued. However, we do retain the ability to pursue such actions.

Please stop all work on the site that is not permitted by Coastal Development Permits P-77-2130 and 5-83-517. Any additional work may be considered a knowing and intentional violation of the Coastal Act.

In order to resolve this issue, please remove all landscaping (including any overgrowth from your client's property which is encroaching upon the easement) irrigation devices and the garbage cans from within the access easement by March 21, 1997. Please contact Steve Hudson at our office if you have any questions regarding this matter.

Thank you for your anticipated cooperation.

Sincerely,

John Ainsworth
Enforcement Supervisor

Steven Hudson
Staff Analyst

cc: Albert Gersten, 27348 Pacific Coast Highway
cc: Marc Beyeler, California Coastal Conservancy

File: SMH/V-Gerstn

STATE OF CALIFORNIA—THE RESOURCES AGENCY

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SOUTH CENTRAL COAST AREA
89 SOUTH CALIFORNIA ST., SUITE 200
VENTURA, CA 93001
(805) 641-0142

CERTIFIED MAIL

March 7, 1997

Roger Wolk
28 Malibu Colony Road
Malibu, CA 90265

Property Location: 10' wide public access easement on parcel 4460-029-024 located between 27336 and 27348 Pacific Coast Highway, Malibu (Los Angeles County)

Subject: Unpermitted Landscaping and placement of obstacles within a public access easement

Dear Mr. Wolk:

As you are aware, a public access easement held by the California Coastal Conservancy is located adjacent to your property at 27336 Pacific Coast Highway. This access easement was recorded by the Los Angeles County's Recorder's Office on December 12, 1978. Any development within the access easement which was not approved through Coastal Development Permits P-77-2130 and 5-83-517 is in violation of the conditions of these permits as well as the California Coastal Act of 1976. The Offer to Dedicate for the access easement and Condition 2 of Coastal Development Permit P-77-2130 state:

> *the Permittee grants vertical access to give the public the privilege and right to pass and repass over a strip of Owner's said real property ten (10) feet in width and extending from the edge of the public right-of-way to the mean high tide line of the Pacific Ocean...*

A recent inspection of the public access easement indicated that unpermitted landscaping (including the placement of irrigation devices) had occurred within the easement right of way. In addition, garbage cans have been placed in front of the easement effectively obscuring and blocking access. We believe that the above mentioned development may belong to you. Any development activity which violates the conditions of an approved coastal development permit constitutes a violation of the California Coastal Act's permitting requirements. In many cases, when administrative resolution of an unpermitted development occurs in a timely manner, no additional enforcement action, penalties or fines are pursued. However, we do retain the ability to pursue such actions.

In order to resolve this issue, all landscaping, irrigation devices and the garbage cans must be removed from within the access easement. Please contact Steve Hudson at our office regarding this matter within one week of receipt of this letter.

Thank you for your anticipated cooperation.

RECEIVED
MAR 10 1997
COASTAL CONSERVANCY
OAKLAND, CALIF.

Sincerely,

John Ainsworth
Enforcement Supervisor

Steven Hudson
Staff Analyst

cc: Marc Beyeler, California Coastal Conservancy

File: SMH/V-Wolk

Elena

Coastal Conservancy

February 27, 1997

Sent by Certified Mail, Return Receipt Requested

Mr. Albert Gerston
27348 Escondido Beach Road
Malibu, CA 90265

Dear Mr. Gerston:

We conducted several recent site visits to our public access easement which lies on your property and which was granted by Instrument No. 78-1378614 and accepted by Instrument No. 96-191567, as recorded in the official records of Los Angeles County. During our visits, we observed that you have planted vegetation and placed your garbage containers immediately in front of the easement, both of which interfere with our access to the easement from Escondido Beach Road.

Please remove the vegetation within the accessway by March 31, 1997. Please also immediately move your garbage containers so that they do not block the easement area.

You may address your comments to Marc Beyeler, Conservancy Program Manager, at (510) 286-4172.

Thank you.

Sincerely,

Michael L. Fischer
Executive Officer

cc: Dan Olivas, DAG, Attorney General's Office
Laurie Collins, Counsel, Mountains Recreation and Conservation Authority
Nancy Cave, Enforcement, California Coastal Commission

1330 Broadway, 11*th* Floor
Oakland, California 94612-2530
510·286·1015 *Fax*: 510·286·0470

Is your RETURN ADDRESS completed on the reverse side?

SENDER:

- Complete items 1 and/or 2 for additional services.
- Complete items 3, 4a, and 4b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write *"Return Receipt Requested"* on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

1. ☐ Addressee's Address
2. ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

Mr. Albert Gerston
27348 Escondido Beach Road
Malibu, CA 90265

4a. Article Number

Z 196 891 091

4b. Service Type

☐ Registered ☒ Certified
☐ Express Mail ☐ Insured
☐ Return Receipt for Merchandise ☐ COD

7. Date of Delivery

3-4-97

5. Received By: *(Print Name)*

6. Signature: *(Addressee or Agent)*

X

8. Addressee's Address *(Only if requested and fee is paid)*

PS Form **3811**, December 1994

Domestic Return Receipt

Thank you for using Return Receipt Service.

Z 196 891 091

UNITED STATES POSTAL SERVICE

Receipt for Certified Mail

No Insurance Coverage Provided
Do not use for International Mail
(See Reverse)

PS Form **3800**, March 1993

Sent to: Albert Gerston	
Street and No. 27348 Escondido Bch Rd	
P.O., State and ZIP Code Malibu 90265	
Postage	$
Certified Fee	
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt Showing to Whom & Date Delivered	
Return Receipt Showing to Whom, Date, and Addressee's Address	
TOTAL Postage & Fees	$
Postmark or Date	

MEMORANDUM July 25, 1995

To: Nancy Cave, Gary Timm, Jack Ainsworth, Rebecca Richardson

cc: Linda Locklin

From: Brenda Buxton bb

Re: Another possible violation at Escondido Beach.

Recently I wrote to you about a possible OTD violation at 27398-400 Pacific Coast Highway ("Geoffrey's Restaurant"). I was concerned about encroachments into the area dedicated for public access.

I have sincereceived some new information from a local homeowner regarding the same OTD -- see attached letter and my response. This homeowner argues that the easement crosses a private road (see attached map) and that the original grantor had no right to offer the road as part of the public access.

I have run into a similar situation before in Malibu. The Malibu Cedars Offer-to-Dedicate, permit no. 5-84-137 and 5-84-137A was a dedication over a road that provided access to the grantors' property. If I remember correctly, while the grantors had the right to use the road, they did not own fee-title to the road and thus had no right to give away an access easement over it. In order to grant access easements to others, a grantor needs to either 1) own the road outright or 2) hold an easement that includes "the right to grant to others" and even with this right, granting an easement on top of easement can be problematic (e.g. the neighbors could argue that public access "over burdens" the easement, etc.). Eventually, this dedication was determined to be invalid and the grantor paid a fine. Is this a similar situation or do other factors come into play?

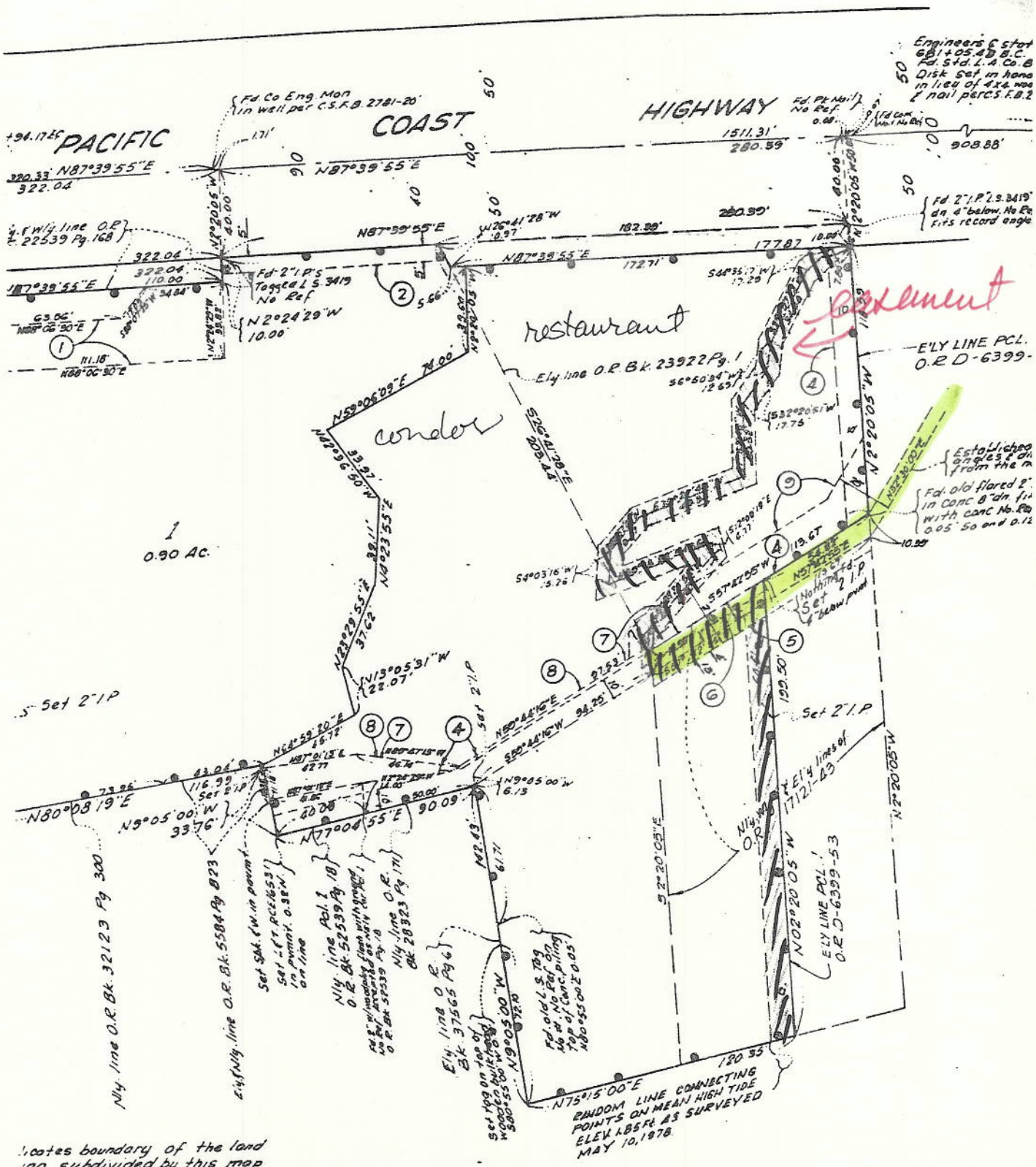
So my questions for the CCC are:

1. What justification did the original grantor use when making this dedication?

2. Since the stairway offered in the OTD is currently used by adjacent condo. owners (they have their own easements over the staircase), what right do these folks have to cross the private road? Why would the condo. owners have the right to cross the road but not the public?

3. Is this easement valid?

Unfortunately, the Conservancy will not be able to accept this easement until this issue is resolved so I appreciate your attention to this matter. Thanks.



...icates boundary of the land
...ing subdivided by this map

...tablished record, per angles
...escribed in each deed.

MEMORANDUM

July 17, 1995

To: Gary Timm, California Coastal Commission

cc: Jack Ainsworth, Rebecca Richardson, Susan Friend, Linda Locklin, Nancy Cave

From: Brenda Buxton, State Coastal Conservancy

Re: Escondido Beach OTDs

I am writing about several issues that have come up regarding the Escondido Beach OTDs that the Conservancy proposes to accept:

1. Public Meeting re: Escondido Beach accessways

The City of Malibu has invited us to attend a public meeting to discuss these access projects. The meeting has been set for Thurs. Aug. 10, 2 pm and, unfortunately, I cannot change it. As Gary pointed out, this conflicts with the CCC meeting. If Gary cannot go to the Malibu meeting, will other CCC Ventura office staff be able to? Linda, you're still available, right? Please RSVP and let me know who's going.

2. Possible violation at 27389-27400 PCH, the "Geoffrey's Restaurant" OTD.

In my conversations with local homeowners, several have mentioned that a recently constructed house has encroached into the easement area. Could you please investigate this further? The easement was dedicated in 1987 as part of permit no. P-77-2130. It looks like a deed restriction but it is in fact an OTD. (I have already mentioned this to Jack on the phone.)

The Conservancy would like to accept this OTD but will not be able to do so until any existing violations are resolved.

3. Possible damaged to dedicated stair at 27389-27400 PCH.

As you know, there was extensive storm damage to the cliff below Geoffrey's Restaurant. I took a quick look a few months ago but the area was covered in white plastic sheeting and I didn't get a good look. Do you know anything about the extent of the damage? Has the stair itself been damaged? Could it be opened to the public as is?

4. Repair of the stairway at 27389-27400 PCH.

As you know, this stair was dedicated for public use in an 1978 OTD. What obligation does the original applicant or current property owner have to repair this stair? Are they obligated to repair it under conditions of the OTD? Other permit conditions? Or will they be obliged to repair stair as a condition of any permits needed for repairs?

5. Sensitive resources at Escondido Beach.

Are there any "sensitive resources" such as plants, insects, and archeological artifacts at Escondido Beach, adjacent to the Geoffrey's Restaurant OTD or the Seacliff OTD, as alleged in attached letter? I doubt there are but I'd appreciate a confirmation.

STATE OF CALIFORNIA—THE RESOURCES AGENCY PETE WILSON, *Governor*

CALIFORNIA COASTAL COMMISSION
SOUTH CENTRAL COAST AREA
89 SOUTH CALIFORNIA ST., SUITE 200
VENTURA, CA 93001
(805) 641-0142

July 5, 1995

To: Brenda Buxton

From: Susan Friend

Re: Escondido Beach Road/Holiday House/Stern- Vertical Accessways

You asked Linda Locklin and Debra Bove questions regarding several old CDPs on Escondido Road. As you may be aware I did some research on the vertical accessways granted in the old CDPs you reference in your memo. As such, I have answers to some of your questions. I have ordered the old files from our archive files in Sacramento to provide you with the documents you have requested. Below I have provided some history on the three permits you have questions on and then provided answers to your questions listed in your memo. And finally, attached please find a table I prepared back in 1992 when I was working on a possible violation on the PCH site. If I can be of any further assistance, please let me know.

5-83-517

Owner: BFS, A Partnership (Charles Stern)

Property Address: 1.44 Acre parcel fronting Pacific Coast Highway

Project Description: Subdivision of lot into four parcels. One parcel fronts PCH; three front Escondido Beach Road.

Address of new parcels: 27400 PCH, 27348 Escondido Beach Road, 27352 Escondido Beach Road, and 24350 Escondido Beach Road.

Approved by the Commission on 12/14/83. Revised Findings for the project approved by the Commission on 3/15/84. CDP issued 5-11-84

Special Conditions included: Improvements to the vertical accessway and a lateral access easement.

P-77--2130

Owner: BFS, A Partnership (Charles Stern)

Property Address: 27309 and 27400 Pacific Coast Highway

Project Description: Convert two apartment buildings to condominium use.

Approved by the Commission on 1/30/78. CDP issued 12/21/78.

Special Conditions included: deed restriction for vertical access from the public right-of-way to the mean high tide line, and a deed restriction allowing access to PCH for adjacent properties.

P-75-4824

Owner: Property Development

Property Address: 27400 Pacific Coast Highway

Project Description: Conversion of motel into apartments.

Approved by the Commission on 5/19/75. CDP issued ?

Special Conditions included: Deed restriction for lateral access.

Deed Restriction instrument dated 12/9/77, recorded at the County 12/21/77. Also, there was a "Dedication" for lateral access instrument dated 2/20/76 and recorded 3/11/76.

In response to your questions regarding 5-83-517: there was not a vertical access easement, the correct addresses are above, and include one PCH address and three Escondido Beach Road Addresses. I do not know about the recordation of the OTD's. The revised findings staff report is enclosed.

In response to your questions regarding P-77-2130: there is a recorded OTD for this permit, dated 11/30/78, even though the special condition clearly stated a

deed restriction. The instrument date is 11/30/78, the recording date at the County is 12/12/78 and the CCC received it on 1/9/79. I can order the permit file if it necessary to see if there is a deed restriction as well.

Finally, in P75-4824, a deed restriction for lateral access was required and recorded 12/21/77 in the County, but there is also a dedication recorded in March of 1976.

cc: Linda Locklin
Debra Bove

stern.spf

RECEIVED
JUL 10 1996
STATE COASTAL CONSERVANCY
OAKLAND, CALIF.

			CONDITIONS
79-7620	VOID		
• 75-4824	conversion motel to apt	/ not issued	~~[illegible]~~
• 77-2130	conversion apt to condo	/ issued 12/21/77	deed not for lot acc gate open for v. access * vert access deed * revised plans to show ≠ impede v. access on adj. prop
• 79-6344	remodel 10 condo → 9 condo	/ issued 3/11/81	
✓ 82-49E	extension to 79-6344	/ issued 2/10/82	
✓ 82-353	more sign	/ ~~issued~~ app 7/12/82	
✓ 86-318	*units → 2 units	/ waived 5/22/86	
✓ 86-501 SOIR	grading / drainage	DENIED	
• 87-397	slope stabilization	/ ~~issued~~ NOI 8-10-87 EXPIRED	→ issue of brick no access cond. * → ATP for stairs
• 83-517	subdivision	/ issued 5.11.84	Comm found need to improve so as to not preclude access → improve v. access + lot. access appr

A : 1 sfr wall/no. A3 : A to SFR/issued
A2 : 1 sfr wall/no. A4 : inm/INT. AS/issued

V-5-MAL-86-011
-104
-054

lot access recorded: from 75-4824
- does not need to be picked up

vert. access recorded: from 77-2130 ← SR did not state offer to dedicate it deed restriction said granting v. access
- needs to be picked up

lot access recorded: from 5-83-517
- needs to be picked up

Copy of grant deed record ⇒ 10.12-7c states non-exclu. easement

PERMIT APPLICATION

27400 Pacific Coast Hwy. Malibu

Construction of retaining wall for restaurant parking lot.

A-7568

Cleo's Restaurant (Holiday House)

27400 PCH Malibu

repairs to existing units

P-4824

Alvin Levenson Property Dev.
15730 Ventura Blvd.
Encino, Ca 91436

27400 PCH Malibu

remodel 10 condo
to make 9 condos
combine #394 & one unit

see 75-484
77-2133
5-82-49E
79-6344

Holiday House Condos

27400 PCH Malibu

Extension request for remodel & viol. 10 unit condo.

see 79-6344

5-82-49E
Holiday House Home owners Assoc.

27400 Pacific Coast Hwy. MALIBU

5-86-501

PACIFIC COAST HIGHLAND #1
A CALIFORNIA CORP.

Removed approx. 2yards earth, placed drainage equipment (pipes) into existing storm drain as per approved plans by building & safety submitted by Jane Marshall landscape architect. Set railroad ties in concrete footings on hillside, and planted with native plants.

6/24/86

27400 Pacific Coast Hwy. - Malibu

Remodel & restore existing dining area (Restaurant).

A-6146

Cleo's Restaurant dba
Holiday House Rest.

27400 PCH Malibu

Change the roof to pitched tile + modify each unit (11)

7620 VOID
Holiday House Condo

27400 PCH Malibu

Holiday House Homeowners Ass.

Move existing sign 300 feet.

5-82-353

27400 PCH Malibu

5-86-318

Seymour Morrow

Revise two existing apartment units from a thirteen units

27400 Pacific Coast Hwy. MALIBU

PACIFIC COAST HIGHLAND NO. 1 a California Corp

Reconsideration for hearing of the project at 27400 P.C.H. in Malibu, which was denied on October 7, 1986.

11/7/86

5-86-501R

27400 Pacific Coast Highway MALIBU

GEOFFREY'S RESTAURANT

The Restaurant has been operating since approx. 1945 and during this time the steep slope below has eroded to the point where corrective measures had to be taken to stabilize the slope protect the buildings. The work included control of surface runoff, construction of small slope stabilization structures and erosion control planting. SEE

STATE OF CALIFORNIA—THE RESOURCES AGENCY

PETE WILSON, *Governor*

CALIFORNIA COASTAL COMMISSION
45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE AND TDD (415) 904-5200

Date: June 30, 1995

To: Brenda Buxton
State Coastal Conservancy

From: Deborah Bove
Calfiornia Coastal Commission

Re: CDP Nos. 5-83-517, P-77-2130 & P-2-75-4824
(BFS Partnership/Charles Stern)/Escondido Beach Road

In response to your memorandum of June 28, 1995, I have reviewed the above-referenced files and determined the following:

Regarding 5-83-517:

1) The permit was for the subdivision of a 1.44 acre parcel into 4 parcels. The special condition was for lateral access. The OTD was recorded (prior to the property being subdivided) against the entire property (then Parcel 2). The OTD runs with the land. Therefore, when the subdivision went through the OTD still remained on the 4 lots.

2) The addresses of 5-83-517 are as follows:
Lot 1 27400 PCH (existing restaurant site)
Lot 2 27348 Escondido Beach Road
Lot 3 27348 Escondido Beach Road
Lot 3 27348 Escondido Beach Road

3) Lots 2, 3 and 4 are the actual lateral access lots. A map is enclosed showing the accessway. It appears that this map should have been recorded with the OTD but for some reason was left off.

3) Copies of the OTD, Staff Report and PTR are enclosed.

Regarding P-77-2130:

1) The legal file confirms that an OTD Vertical was record on 12/12/78 as Instrument No. 78-1378614.

2) The condition required a deed restriction for granting vertical access.

3) A copy of the Staff Report is enclosed.

Regarding P-2-75-4824:

1) The information in the legal file concurs with the information in your memorandum.

I haven't forgotten about the open space properties regarding your prior inquiry! I apologize for the delay. I expect to send a response to you by next week.

cc: Linda Locklin

MEMORANDUM June 28, 1995

To: Linda Locklin, CCC
Deborah Bove

cc: Susan Friend

From: Brenda Buxton, SCC BB

Re: Escondido Beach Road/Holiday House/Stern OTD discrepancies

This all started when the City of Malibu asked whether or not there were any OTDs along Escondido Beach Road... here's what I found.

The old 1986 "paper" inventory states that there are 3 lateral OTDs with the addresses of 27348, 24350, and 27352 [Escondido] Beach Road (Stern, Permit No. 5-83-517). However, these laterals do not appear in the new computer inventory. On the new computer database, the entry for Stern, 5-83-517 is a "LAT and OTHER" OTD at 27400 PCH. My questions are:

1. What were the access conditions for permit 5-83-517?
2. What is the correct address for 5-83-517?
3. If lateral OTDs over three separate properties were required shouldn't they be listed separately?
4. What are the addresses of these laterals? Escondido Beach Rd. or PCH?

Please send me copies of the OTD(s), title reports, and staff reports for 5-83-517. I don't have any documents for this permit and would like to forward the lateral OTDs to the State Lands Commission for acceptance.

While we're on the subject of Stern (aka Holiday House)/Escondido Beach Road... let me note some other discrepancies I have found for this site.

1. Computer inventory lists P-77-2130, 27389 PCH as a vertical deed restriction recorded 11/30/78. The document I have for P-77-2130 is a vertical OTD (with no expiration) recorded 12/12/78. The Conservancy will accept this OTD.

What were the access conditions for P-77-2130? A deed restriction or OTD? And what's the real recording date? Or are there two different legal documents? An OTD and a deed restriction?

[Linda-- we have already spoken about this and I sent you a copy of the OTD that I have. Please forward to Deborah if necessary.]

2. I have another document for Stern (aka Holiday House) under P-2-25-75-4824, 27400 PCH. This document is called "Dedication" but is really a lateral deed restriction, recorded Doc. No. 3519 Bk D6999 Pg 765 on 3/11/76. I don't think this is on computer inventory. Could you double check?

I'll call Susan Friend and see if she prepared [or can remember] any permit history from when she investigated this file a while ago. In the meantime, please let me know what's going on with the computer inventory.

Thanks!