

June 8, 2011

Access For All
Attn: Steve Hoye, Executive Director
P.O. Box 1704
Topanga, CA 90290

Re: Harner/Friedman Easements 19016 PCH, Malibu, CA

Dear Mr. Hoye;

This letter concerns the vertical and lateral easements on the property referenced above. As the holder of these easements, AFA is responsible for managing the easements according to the terms specified in the Offer to Dedicate, the Certificate of Acceptance and the Management Plan. The purpose of the easements as stated in the Offer to Dedicate is to provide public access to and along the shoreline. In the Management Plan approved by the Coastal Commission and the Coastal Conservancy, AFA agreed that it would work with the property owner to design the necessary site improvements, such as a see-through gate and stairway, once the pending litigation concerning encroachments was resolved. Following improvement of the accessway, the Management Plan calls for opening and management of the easements for public access. The Certificate of Acceptance conditions AFA's status as easement holder upon its carrying out the responsibilities as stated in the Management Plan.

AFA accepted these easements in June 2004. Six months later, Mr. Harner, the property owner, sued the Coastal Commission and AFA seeking to challenge the validity of the easements. However, in January of 2008 the litigation was settled and Mr. Harner has complied with the terms of the settlement agreement, including the removal of encroachments. Since then, the easements have been languishing for over 3 years now, and AFA needs to move forward to improve and open the public accessways.

Not only has AFA failed to act, it failed to accept a proposed grant for accessway development authorized by the Conservancy board by refusing to comply with three reasonable pre-grant conditions. These were: that AFA provide a work program indicating how the grant funds would be spent in developing the easement; that AFA provide documentation evidencing AFA's current status as a qualified 501(c)(3) nonprofit organization; and that AFA agree to amend the management plans for all of the easements it holds to provide that AFA seek Conservancy and Commission approval of any action that would potentially affect public access. (As you know, the third requirement arose out of the ill-advised attempted settlement by AFA of litigation related to the Ackerberg easement). The grant funds are, therefore, no longer available and the easements remain undeveloped and unavailable for public use.

In light of AFA's failure to carry out its obligations under the OTD, Certificate of Acceptance and Management Plan to develop and open the Harner easements for public use by installing the necessary site improvements, Conservancy staff will recommend to the Conservancy at its meeting of July 21, 2011

that the Conservancy find that AFA has violated the terms of the easement and the Management Plan and that all right, title and interest in the easements vest in the Conservancy.

If AFA wants to retain ownership of the easement, you need to provide a detailed plan explaining how AFA will develop the accessway, including dates by which specific tasks will be accomplished and the source of funding for each task. If AFA cannot fulfill its obligations then the Conservancy will take the necessary steps to assume ownership of the easement and open it for public use.

If we receive a credible plan from you by June 29, 2011, Conservancy staff will remove the item from the agenda for the July 2011 meeting and continue the item to a later meeting.

Best regards,

Joan Cardellino
South Coast Regional Manager
Coastal Conservancy