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DEPARTMENT OF JUSTICE



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March 22, 2010

Elizabeth A. Camacho
Greenberg Traurig, LLP
2450 Colorado Avenue, Suite 400E
Santa Monica, CA 90404

RE: MEHOA v. MRCA et al.
Los Angeles County Superior Court Case No. BS124911

Dear Ms. Camacho:

The Attorney General now also represents the MRCA as co-counsel with Pircher, Nichols & Meeks. Our representation of the Coastal Conservancy remains unchanged. With respect to the proposed Stipulation and Order, we have concluded regretfully that the differences between the parties are so fundamental that a standstill agreement is not feasible even without pre-conditions. As I indicated in my e-mail of last week, the MRCA will not enter into any agreement that places any restrictions on its ability to perfect public access at Lechuza Beach. For your client, the principal purpose of the standstill agreement is to prevent the MRCA from moving forward with its coastal development application to the City. Further, on the issues of ADA compliance and the application of Malibu Beach Ordinances, neither side appears willing to compromise. The MRCA believes it is obligated as a matter of law to comply with both. Your client is equally insistent that neither applies to its members by virtue of their easement rights. In short, the Conservancy and MRCA are unwilling to enter into a standstill agreement that has no real chance of success and will only further delay the completion of public access improvements at Lechuza Beach. Nonetheless, both agencies are open to any settlement proposal that MEHOA may have to offer as long as it is consistent with the ADA and does not depart from the requirements of the Malibu Beach Ordinance.

In light of the above, we would ask that you reconsider our proposed stipulation and order extending the time for the MRCA and Conservancy to respond to the non-writ causes of action. As you know, the Petition/Complaint raises both writ and non-writ causes of action. Under the pleading requirements of the Code of Civil Procedure, the MRCA's and Conservancy's responsive pleadings to the non-writ claims are due before responses to the writ actions are required. (See Code Civ. Proc., §1089.5.) The purpose of the Stipulation is to allow my clients to file their responses to both writ and non-writ claims at the same time.

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We would also propose severing and staying the non-writ causes of action until the Court hears and determines the merits of the writ claims. If this is acceptable to you, we can prepare a revised stipulation for your review and signature.

Further, the Conservancy is still struggling with your request for preparation of the administrative record. MEHOA has asked that the Conservancy "prepare the record of Respondents' proceedings relating to this action." However, as I indicated in my March 1, 2010 letter, the Conservancy is not aware of any action it has taken that relates to this lawsuit except the 2000 action approving the grant to the MRCA. (See Petition/Complaint, ¶¶ 27-36.) That action, however, is not the basis of any apparent claim against the Conservancy, and in any event, the statute of limitations under CEQA has long expired. (Cal. Code Regs, tit. 14, § 15112). If you could identify what you mean by the Conservancy's proceedings "relating to this action," it would assist and expedite preparation of the administrative record. At this point the Conservancy is unable to prepare an administrative record without further guidance from you.

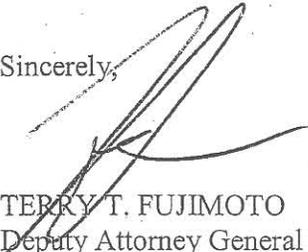
Finally, a matter was brought to my attention late last week before I left for vacation. In early March 2010, MRCA personnel received an e-mail from the President of MEHOA to its members entitled "Very Important Message for MEHOA members." Apparently, a MEHOA member, after receiving the e-mail, sent it to a third party who forwarded it to the MRCA because the MRCA as an owner of lots in the tract should have received it as well. After reviewing the e-mail, MRCA staff counsel referred the matter to our office. Briefly, the first sentence of the e-mail refers to statements made by MEHOA's attorney, Rick Davis, to the President. My understanding is that there is reference in the e-mail to this litigation. I, personally, have not reviewed the complete e-mail. Once I noticed the reference to Rick Davis I stopped reading the document. We reviewed the matter internally and consulted the State Bar ethics hotline to determine, first, whether the communication was privileged and second, whether the disclosure of the letter by a third party was a waiver of that privilege. I did not receive a definitive opinion on either issue. If a MEHOA member voluntarily gave the document to a third party, there may have been a waiver of the privilege. On the other hand, if MEHOA, and not the individual members, holds the privilege then the release of the document could be construed as an inadvertent disclosure. I have placed the document in a sealed envelop pending receipt of your instructions, and any support you may have for your instructions.

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I would appreciate it if you could call me next week when you return from vacation to discuss the matters set forth in this letter and any other issues you may have regarding the pending matter. I look forward to hearing from you.

Sincerely,



TERRY T. FUJIMOTO
Deputy Attorney General

For EDMUND G. BROWN JR.
Attorney General

cc: L. Collins, J. Goldman, E. Eger

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