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March 28, 2010

Terry T. Fujimoto, Deputy Attorney General
300 South Spring Street, Suite 1702
Los Angeles, CA 90013

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

Dear Mr. Fujimoto:

I am writing in response to your March 22, 2010 letter to my colleague Elizabeth Camacho regarding the above referenced litigation.

As you know, the 2000 Grant Agreement provided that “[t]he [Coastal] Conservancy will work with the MRCA, the State Lands Commission, the Coastal Commission, local governments, the Malibu-Encinal Homeowners Association, and other interested parties to develop agreements for the management of the beach.” The Grant Agreement also provided that “the Conservancy would continue to be responsible for the development of this management planning” and that pending the Conservancy’s completion of a plan “public beach use would continue in the same manner as has been permitted and signed since 1991.” Moreover, the Conservancy’s approval authority over the beach management plan was explicitly confirmed by MRCA’s outside counsel, Richards, Watson & Gershon, in a February 12, 2007 letter, which concluded that “while MRCA clearly has a role in the development and contents of the Management Plan, the Conservancy has approval authority over the Management Plan.” (emphasis added)

While MEHOA has been required to file the current litigation to protect its interests because these commitments have not been honored, MEHOA continues to believe that the most effective resolution would be a voluntary settlement by the parties based on a comprehensive plan that reflects the Conservancy’s reasonable accommodation of the interests of the various stakeholders (including MEHOA) as envisioned by the 2000 Grant Agreement. It seems to us that the most efficient way to explore the completion of such a plan is to enter into a standstill agreement that would allow the parties to focus their attention on resolving the issues pertaining to the plan, rather than escalating conflict over the actions which precipitated the litigation and which could result in judicial confirmation that the MRCA Access Easement has become void as a result of the MRCA’s actions in violation of the Easement.

LA 128,745,743v3 3-29-10

Your letter of March 22nd expresses concern that a standstill agreement would somehow impair public access to Lechuza Beach. Since public access -- including access to vehicles with handicap plates -- is presently being provided as envisioned by the Grant Agreement, this does not seem to be a well-founded concern. Moreover, the proposed standstill agreement was carefully drafted to allow either MEHOA or your clients to terminate the standstill upon short notice in the event settlement discussions are not productive, and thus poses no real prejudice to the position of any party. Therefore, we renew our request for a meaningful standstill agreement and ask that you and your clients give it your full consideration.

In the meantime, and again with the intent of providing time for the parties to consider settlement discussions, MEHOA is willing to stipulate to allow your clients to respond to the writ and non-writ causes of action at the same time, provided that the stipulation acknowledges that such an extension does not preclude MEHOA from engaging in discovery prior to the filing of responsive pleadings. At this time, however, MEHOA is not willing to agree to sever or stay the non-writ causes of action until the Court rules on the writ claims.

With respect to the preparation of the administrative record, this litigation alleges, in substance, that the Conservancy has the responsibility and obligation to prepare and approve a management plan for the Lechuza Beach interests and that the Conservancy warranted that it would maintain the status quo with respect to public access at Lechuza Beach until such a plan (and environmental review for it) was completed.¹ Therefore, the administrative record should contain the entire record of proceedings of both the Conservancy and the MRCA pertaining to Lechuza Beach, including but not limited to, the record of proceedings relating to the 2000 Grant Agreement as well as activities pertaining to Lechuza Beach subsequent to the 2000 Grant Agreement (including communications between the Conservancy and the MRCA pertaining to Lechuza Beach). With respect to the Conservancy's records, the Conservancy documents produced in response to MEHOA's public records act request should be included in the record of proceedings for this action (although this should not limit the record of proceedings as defined by CEQA Section 21167.6(e)).

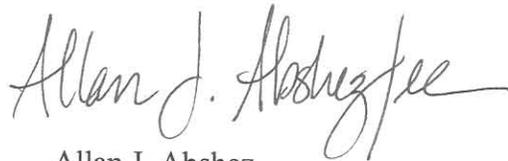
Finally, we thank you for your diligent attention to the MEHOA e-mail inadvertently received by MRCA. The Petitioner and Plaintiff in the litigation is MEHOA, and it is MEHOA that has retained counsel to prosecute this action on its behalf. It is MEHOA, and not individual homeowner members of MEHOA, that hold the attorney-client privilege, Smith v. Laguna Sur Villas Community Association, 79 Cal. App. 4th 639 (2000), and an individual MEHOA member has no authority to waive that privilege on behalf of MEHOA. While you assert that the MRCA should have received a copy of this e-mail directly from MEHOA, the MRCA has previously informed our client that it did not

¹ The Petition and Complaint presently sets forth in detail many of the relevant provisions of the 2000 Grant Agreement that establish the Conservancy's responsibility for developing and adopting the plan (see, e.g., ¶¶ 32 - 33), as well as specific requirements for the use of the beach in the interim (see, e.g., ¶¶ 34 - 36). However, should you find the Petition unclear in this regard, we would request your stipulation to allow clarifying amendments so as to avoid unnecessary motion practice.

want to become a member of MEHOA.² Since it is not a member, the MRCA has no right to claim any type of access to membership information. Even if the MRCA were to become a member of MEHOA, such status would not entitle it to receive privileged information from MEHOA, particularly in litigation where the MRCA and MEHOA are adverse. Accordingly, based on the information you have provided, there has been no waiver of the privilege, and MRCA has no basis for receiving or retaining such a communication. Please return all paper copies of the e-mail to our office and provide us with confirmation that any electronic copies have been destroyed.

In conclusion, we again renew our request that your clients consider a standstill that will allow the parties to meaningfully explore settlement possibilities and invite you to contact me to discuss this matter further.

Sincerely,



Allan J. Abshez

cc: Elena Eger, Esq.
Laurie Collins, Esq.
Richard F. Davis, Esq.
Elizabeth A. Camacho, Esq.
James Goldman, Esq.

RECEIVED

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COASTAL CONSERVANCY
OAKLAND, CALIF.

² In order to become a member, an owner must become enrolled and pay dues. It should be noted, however, that under the CC&R's governing the community, every owner is bound by the CC&R's whether or not the owner is an enrolled member of the homeowners association.