



**MOUNTAINS RECREATION & CONSERVATION AUTHORITY**  
5810 Ramirez Canyon Road  
Malibu, California 90265  
(310) 589-3230 FAX (310) 589-3237

VIA ELECTRONIC MAIL

January 11, 2010

Ms. Stephanie Danner  
Senior Planner, Planning Division  
City of Malibu  
25815 Stuart Ranch Road  
Malibu, California 90265

Mr. Steve Hudson  
District Manager, South Central District  
California Coastal Commission  
89 South California Street, Suite 200  
Ventura, California 93001-2801

Mr. N. Patrick Veasart  
Enforcement Supervisor  
California Coastal Commission  
89 South California Street, Suite 200  
Ventura, California 93001-2801

**Unpermitted Gate, Lot I, (Bunnie Lane) Tract 10630, Lechuza Beach, Malibu  
Response to Susan Hori Letter of January 8, 2010**

Gentlepersons:

The Mountains Recreation and Conservation Authority (Authority) is the fee owner of Lot "I" of Tract 10630, the so-called "Bunnie Lane" access to Lechuza Beach.

You have previously received a letter from me pointing out that pursuant to the Authority having actual knowledge of an impending "official letter" regarding the unpermitted gate from the California Coastal Commission, such information having been transmitted to me personally in a meeting at the Commission office on December 29, 2009 by Mr. Hudson and Mr. Veasart, and after consultation with the Authority's

counsel and outside independent counsel, I directed that the unpermitted gate obstructing public access to Lechuza Beach be removed. This was done on Tuesday, January 5, 2010, at 3:30 p.m. by park rangers of the Authority. It is the policy of the Authority to fully comply with the law without having to be cited for a violation thereof.

This was only done after explicit statements from Mr. Hudson and Mr. Veasart on December 29, followed up by a telephonic conversation with Mr. Veasart, the Enforcement Supervisor, on January 4, 2010 that in this instance removal of the unpermitted gate did not require a coastal development permit because such action would not adversely impact coastal resources and would enhance public access.

These authoritative declarations transmitted to me directly by the agency ultimately charged with enforcement of the California Coastal Act constitute an estoppel and complete bar against the city of Malibu asserting any kind of jurisdiction purporting to find a violation of the Coastal Act as a result of the removal of the unpermitted gate at Lot I.

This action follows many letters from the Coastal Commission to you and to the Authority and to the Malibu-Encinal Homeowners Association regarding the unpermitted gates. You are referred to the California Coastal Commission violation file No. V-4-04-005 (MEHOA), the contents of which are hereby incorporated into this letter as though fully set forth herein.

I was advised by counsel for the Authority that, as custodian of the property of the Mountains Recreation and Conservation Authority pursuant to Sec. 10 of the Mountains Recreation and Conservation Authority Joint Powers Agreement, I had an obligation to ensure that the Authority was in compliance with applicable laws, in this instance the California Coastal Act of 1976.

Ms. Hori's letter demands that the city of Malibu issue an emergency permit directing the Authority to install a replacement gate on Lot I (Bunnie Lane). This request must fail in that the fee owner does not and has not consented to such "emergency" permit, there is no "emergency" within the meaning of the Coastal Act or the regulation, and a permit is just that, an enabling document, a permit may authorize a development, but cannot mandate one.

The Authority does have an application on file with the city of Malibu, CDP 07-087, to install an aesthetic gate at Lot "I" make safety improvements thereto, install disabled persons parking and other improvements. A simple amendment was recently filed with the city applying the Malibu Municipal Code as the managing document. We are

awaiting the city's determination that the application is complete.

In sum, an "emergency permit" may not issue, there has been no violation of the Coastal Act (except in the unpermitted gates, one of which has been removed), and we urge the city of Malibu to find the Authority's permit application complete and to proceed to Environmental Review Board hearing and subsequent consideration by the Malibu Planning Commission and perhaps by the City Council.<sup>1</sup>

Sincerely,



Joseph T. Edmiston, FAICP, Hon. ASLA  
Executive Officer

cc: MRCA Governing Board members  
Laurie C. Collins, Chief Counsel, MRCA  
Steven H. Kaufmann, Esq.  
Peter Douglas, Executive Director, CCC  
Samuel Schuchat, Executive Officer, SCC  
Elena Eger, Senior Staff Counsel, SCC  
Mary Small, South Coast Manager, SCC  
James Thorsen, City Manager, Malibu  
Christi Hogan, City Attorney, Malibu  
Joyce Parker-Bozylinski, Planning Manager, Malibu  
Susan Hori, Esq.  
Richard Davis, Esq.  
Lisa Pallack, President, MEHOA  
Shari Sant Plummer

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<sup>1</sup> This statement is made reserving all rights of the Authority to disqualify the Malibu City Council pursuant to applicable conflict of interest laws, because a member thereof is financially interested in the outcome of this permit, and this direct and personal financial interest may not be cured by a simple recusal.