January 15, 2010

FIRST-CLASS MAIL

Joseph T. Edmiston
Executive Officer
Mountains Recreation and Conservation Authority
5810 Ramirez Canyon Road
Malibu, California 90265

Re: Your letter of January 5, 2010

Dear Mr. Edmiston:

I received your letter of January 5, 2010, attempting to respond to my letters of November 2, 2009. Your letter was delivered by electronic mail only hours before the January 6, 2010 MRCA governing board meeting (for which required notice was not provided) and following your unlawful removal of the Lot 1 (Bunnie Lane) gate. These recent actions demonstrate your failure, and the failure of your agency, to conduct itself with decorum, professionalism, and due process, and have deprived our members of the opportunity for a fair hearing before an impartial decision-maker.

The facts are, as previously recognized by the California Coastal Conservancy, that our Association has voluntarily facilitated public access to Lechuza Beach over its private property for over seventy years. In fact, until the MRCA's arrival, public access at Lechuza Beach was enjoyed peacefully with the residents based on a balance of public and private rights implemented in a manner that took into account the time, place and manner of public access to fit the unique conditions of the Lechuza Beach resources. No one complained. From the moment of the MRCA's arrival, there has been nothing but turmoil, uncalled-for assaults on the intent and integrity of the private residents and bizarre conduct, such as your removal of the Lot I gate in the middle of the night, designed for no other purpose than to intimidate the residents of our community.

Our Association also has a well documented record of trying to work with you in good faith over many years; a record which includes the involvement of other respected people and public agencies. Our Association's efforts have focused on fashioning the plan contemplated by the California Coastal Conservancy, when it authorized its grant to the MRCA for the acquisition of its Lechuza Beach interests, that would facilitate continuing public access consistent with the established property rights of our Association and its individual members. These efforts have included offers of compromises, the whittling down of important issues, and comprehensive draft plans. You have rejected every such reasonable effort for reasons of your own, and in derogation of the retained jurisdiction of the Coastal Conservancy and the restrictive covenants governing the MRCA's interests.

While responding to all of the contentions in your letter is not necessary, we wish to emphasize that we disagree with your contentions that the case of MEHOA vs. Lechuza

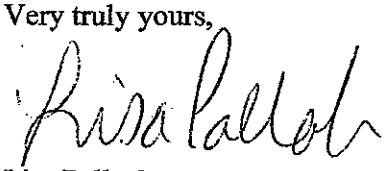
---

Village extinguished the CC&Rs in our community or render them invalid. In addition, that lawsuit did not in any way address the continuing right and entitlement of the private lot owners within the Malibu-Encinal tract to enjoy the benefits of the covenants and easements which, by law, encumber the later-acquired interests of the MRCA. Furthermore, MEHOA -- not the MRCA -- is the owner of the access ways of Lot A, known as East and West Sea Level Drive, and MRCA holds only a very specific easement which contains terms and conditions prescribing the terms of access, including hours, and the prohibition of vehicles other than handicap-licensed vehicles. That easement does not permit any physical improvements. The MRCA's recent improper and continued actions have entitled our Association to elect any and all available remedies for breach of the MRCA's easement, including termination. None of the rights you claim prevent the exercise of our remedies or give the MRCA greater rights to the property burdened by the easement.

We reserve all rights and remedies regarding the improper actions that you and your agency have taken, and hope that litigation will not be necessary. We believe that the proper course is for the MRCA to replace the gate it improperly removed, set aside its improper actions, and limit its activities in accordance with the easements the MRCA accepted and agreed to and with the restrictive covenants governing its interests until the California Coastal Conservancy has promulgated a beach management plan for Lechuza Beach as called for by the Grant Agreement governing the MRCA's interests. We are quite willing to meet with Coastal Conservancy staff on any reasonable basis for such purposes. We strongly recommend that you assign a neutral, non-conflicted representative to work on the MRCA's behalf in this effort, so that all parties can be spared further unnecessary conflict and waste of resources.

If you have any questions, or wish to discuss this matter further, please do not hesitate to contact our attorney, Allan Abshez at 310-586-7700.

Very truly yours,



Lisa Pallack
President Malibu-Encinal Homeowners Association

Enclosure
cc: MRCA Governing Board members
Laurie C. Collins, Chief Counsel, MRCA
Steven H. Kaufmann, Esq.
Peter Douglas, Executive Director, CCC
Pat Veesart, CCC
Doug Bosco, Chair, SCC

Samuel Schuchat, Executive Officer, SCC
Elena Eger, Senior Staff Counsel, SCC
Mary Small, South Coast Manager, SCC
SCC Members
James Thorsen, City Manager, Malibu
Christi Hogin, City Attorney, Malibu
Joyce Parker-Bozylinski, Planning Manager, Malibu
Susan Hori, Esq.
Allan Abshez, Esq.
Shari Sant Plummer