

CALIFORNIA COASTAL COMMISSION

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COASTAL COMMISSION ORDERS SEA WALL REMOVED, ISSUES \$1 MILLION IN FINES FOR COASTAL ACT VIOLATION

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Staff report (item 8 and 9): <https://www.coastal.ca.gov/meetings/agenda/#/2018/8>

LAGUNA BEACH, Calif. – The California Coastal Commission has fined two Laguna Beach property owners \$1 million for the unpermitted rebuilding of an ocean-front home and ordered the prompt removal of an adjacent seawall that has damaged a public beach.

“The property owners purposefully sought to avoid Coastal Commission review, and chose to disregard the agency’s repeated advice to comply with the law,” said Executive Director Jack Ainsworth. “They took a calculated risk that backfired. This did not have to turn out this way.”

Seawalls damage beaches by preventing sand from reaching the beach, which eventually causes beaches to shrink until they disappear. In an era of sea level rise, the long-term effect of sea walls is to temporarily protect the property behind them, at the permanent expense of public sandy beach space.

“This case is important as it is,” said Commissioner Donne Brownsey, “but it is also important as a harbinger, because of the challenges we know we are facing with sea level rise, and because of what we know now, that seawalls are harmful to beaches.”

The Commission voted unanimously to levy the fine and require the homeowners to remove the 11-foot-tall, 80-foot-long seawall which is damaging the public beach and public access at Victoria Beach. The property owners, Jeff and Tracy Katz, were aware that the Commission had placed specific limitations on the rebuilding the 62-year-old house as a condition of a previous permit. Nevertheless, they demolished the house down to the studs and replaced it with an entirely new and re-engineered structure which boosted the home’s value by \$11 million without notifying the Commission. The Katzes maintain their project was simply “minor repair and maintenance” which didn’t require a coastal development permit (CDP), and chose not to comply with a series of warnings sent to them by Commission staff during the year-long construction.

The original home at 11 Lagunita Drive was built in 1952 on a bluff overlooking Victoria Beach, a popular public beach that was the birth place of skim boarding. The home’s prior owners received temporary authorization for an emergency seawall in 2005, but never sought permanent approval for the structure as required by law. The property was sold in 2013.

The subsequent owners, MSSK Ventures LLC, received a local permit from the City of Laguna Beach for a new, fortified seawall and a major home remodel. The issue was appealed to the Commission. Facing a likely denial under the Coastal Act, the project architect, Jim Conrad, acknowledged in a November 21, 2014 e-mail to staff that the proposed remodel would not get Commission support. Instead he said his clients “would just like to do some cosmetic remodeling, not subject to a CDP, and move on with their lives.” Conrad offered to drop the remodel proposal, in exchange for fortification and full authorization for the existing, unpermitted seawall. The Commission approved a permit for a new seawall on the condition that it would not be used to protect any future development at the site. The purpose of this condition was to ensure that any future residence on the site would be located further back from the bluff to avoid the continuing need for a seawall. The Katzes bought the property one month later, and the permit was issued to them in 2015.

The permit specified that the approval for the sea wall would expire if the home were significantly remodeled. These requirements were crafted to protect the home as it existed at the time, but also ensure that any new construction which extended the life of the structure would have to be relocated further from the ocean bluff to avoid the need for a future seawall, and the beach could be restored.

Instead, after the permit was issued, the Katzes elected to move forward with the expansive rebuild. They retained Conrad as their architect and agent and instructed him to pursue local permits only, and avoid the Commission.

The reconstructed house increased the beachfront home’s value from \$14 million to \$25 million. Since construction began, the seawall has trapped as much as 18 large dump trucks of sand behind it, leaving very little dry sand on the beach at certain times of the year.

The Commission’s enforcement staff began investigating this Coastal Act violation in January 2017 after demolition began. Staff issued several enforcement letters requesting that construction cease and that they comply with the terms of their permit. Instead, the Katzes continued work on the house. Agent Steve Kauffman suggested that the Commission should confer with the City of Laguna Beach about how to interpret the city’s building codes instead of issuing fines and orders to remove the sea wall.

“Asking for forgiveness rather than permission sounds romantic in a movie or a novel, but when it comes to protection of public coastal resources, there’s nothing romantic about shirking the law,” said Delia Bense-Kang with the Surfrider Foundation.

“The facts are very clear,” said Chairwoman Bochco. “This was not a minor remodel. I’m disappointed. You’re on the beach. You just can’t just get away with this stuff.”

The Commissioners found that the Katzes and their representative willfully and knowingly disregarded the law, and directed them to come up with a plan to remove the sea wall within 60 days, and pay a fine of \$1 million.

“In the words of Ronald Reagan, Bring down this wall.” said Commissioner Roberto Uranga.