

CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE AND TDD (415) 904-5200
FAX (415) 904-5400



Th 7

MEMORANDUM

TO: Commissioners and Interested Parties Date: December 10, 2003

FROM: Commission Staff

SUBJECT: ADDENDUM TO STAFF REPORT FOR
CLAIM OF VESTED RIGHTS NO. 4-03-098-VRC
Hearing Date: Thursday, December 11, 2003

This Addendum is submitted to provide recent correspondence relative to this matter.

Exhibit 1 is correspondence from Martin N. Burton, attorney for Malibu Riviera One Homeowner's Association, requesting a postponement of the hearing on Claim of Vested Rights No. 4-03-098-VRC and indicating that the claimant would like to try to reach a negotiated resolution of the dispute regarding the sign and reschedule the matter to the January 2004 hearing in southern California.

Exhibit 2 is a letter from Commission staff responding to the request for postponement. Commission staff indicated that staff could not postpone this matter at this time, but only the Commission could do so. The letter also sets forth reasons Commission staff does not support postponing the hearing.

Exhibit 3 is a letter from a Malibu resident, Christina Forde, supporting the Commission staff recommendation to deny the claim of vested rights, and providing photographs of the site.

Exhibit 4 is a letter from Access for All, a non-profit organization based in Malibu, supporting the Commission staff recommendation to deny the claim of vested rights.

Alvarado, Smith & Sanchez

A PROFESSIONAL CORPORATION

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FAX (213) 229-2499
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December 8, 2003

MARTIN N. BURTON

MBURTON@ASANDS.COM
(213) 229-2405

VIA FACSIMILE AND U.S. MAIL

Mr. Steve Hudson
California Coastal Commission
89 South California Street, Suite 200
Ventura, CA 93001

Re: Request for Continuance – Vested Rights Claim for Malibu Riviera I Sign
Your File No. V-4-MAL-99-001; Our File No. L224.1

Dear Mr. Hudson:

I am writing to confirm the substance of our phone conversation on Friday afternoon, December 5, 2003, and to request a continuance for the Claim of Vested Rights currently scheduled for this Thursday in San Francisco.

In our phone conversation, we discussed a resolution of this matter by which the sign face would be altered to read, "No lifeguard on duty. Proceed at your own risk" or words to similar effect, and the sign would be moved to a mutually-agreeable new location. I have since spoken with my client and can represent to you that this resolution would be acceptable. My client would prefer to keep the sign in its current location, primarily because the sign is situated at the very border of the Malibu Riviera One private property, and alternate locations which you identified are owned by different parties. Retaining the sign location would also avoid the need to file for a permit, although the homeowners association is willing to agree to reasonable conditions on the sign. In any event, my client's representative is willing to personally inspect the site with you to come up with a mutually-agreeable location.

I am requesting formally that this matter be continued until next month's Commission meeting in Laguna Beach, to allow for additional time to work out the resolution we have initiated together. This request is also premised on the fact that holding a hearing in San Francisco on a small matter involving a single sign in Malibu will violate principles of due process requiring a fair opportunity to be heard, particularly where the claim for vested rights resulted from an enforcement action initiated by the Commission, where the Commission has shown no reason for urgency on this matter, where the parties are close to resolution, and where the very next meeting of the Commission is in Southern California such that the burden on the applicant is far less.

EXHIBIT 1

4-03-098-VRC

Alvarado, Smith & Sanchez

Mr. Steve Hudson
December 8, 2003
Page Two

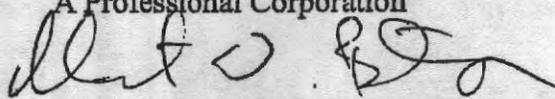
As I stated to you at the beginning of our phone conversation, my client has submitted more than sufficient evidence substantiating its claim, has neither constructed a new sign nor replaced the existing sign (contrary to the Commission Staff Report), and finds the aerial maps submitted by Commission staff as being taken from too great a distance to be of value. Nor, as the Staff Report ultimately concedes, has the homeowners' association ever excluded the public from tidelands. Since the primary concern of my client has been one of liability, the resolution which you and I discussed on Friday is eminently achievable.

Based on my conversation with you and having spoken with my client, I am convinced that this matter can be resolved in fairly short order. However, until our resolution is implemented, nothing in our phone conversation or in this letter is intended to, nor shall, waive any rights my client may have in this matter.

Please confirm that this matter has been continued, and please call me to work out the details of our resolution. Thank you very much for your time and professional consideration.

Sincerely,

ALVARADO, SMITH & SANCHEZ
A Professional Corporation



Martin N. Burton

MNB:sm

cc: Mr. Robert Adler (via facsimile)
Sandy Goldberg, Esq. (via facsimile)

CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
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December 8, 2003

By Telecopy and Mail

Martin N. Burton
Alvarado, Smith & Sanchez
633 W. Fifth Street, Suite 1150
Los Angeles, CA 90071

Re: *Request for Continuance of Hearing Claim of Vested Right No. V-4-03-098 (Malibu Riviera One Homeowners Association)*

Dear Mr. Burton:

I received your letter dated December 8, 2003, which requests a continuance of the hearing on this matter. As you know, the hearing is scheduled for the Coastal Commission meeting in San Francisco on Thursday, December 11, 2003. We appreciate your clients' interest in trying to resolve this matter and are very interested in trying to find a way to reach a settlement that would resolve the issue of the sign itself. Mr. Hudson will contact you to pursue that further, by arranging a joint site visit, if necessary.

However, the Commission staff cannot grant a postponement of the hearing on the above-referenced claim of vested rights. After the agenda is mailed and the staff report has been sent to Commissioners and parties, unless the applicant has a right to a postponement under the Commission's regulations, a request for postponement could only be made to the Commission itself. In the case of a vested rights claim, under the Commission's regulations, an applicant does not have a right to a postponement, and for the reasons below, staff would not support such a postponement.

You indicate that postponement to the January hearing is requested to reduce the burden of attending a hearing in San Francisco. Regrettably, the Commission staff cannot accommodate all requests for a local hearing, because this would impose a severe administrative burden. The Commission also incurs significant additional time and expense to re-notice matters, and re-send staff reports, when something is postponed. In the current fiscal situation, Commission staff must be extremely conscious of limiting these costs.

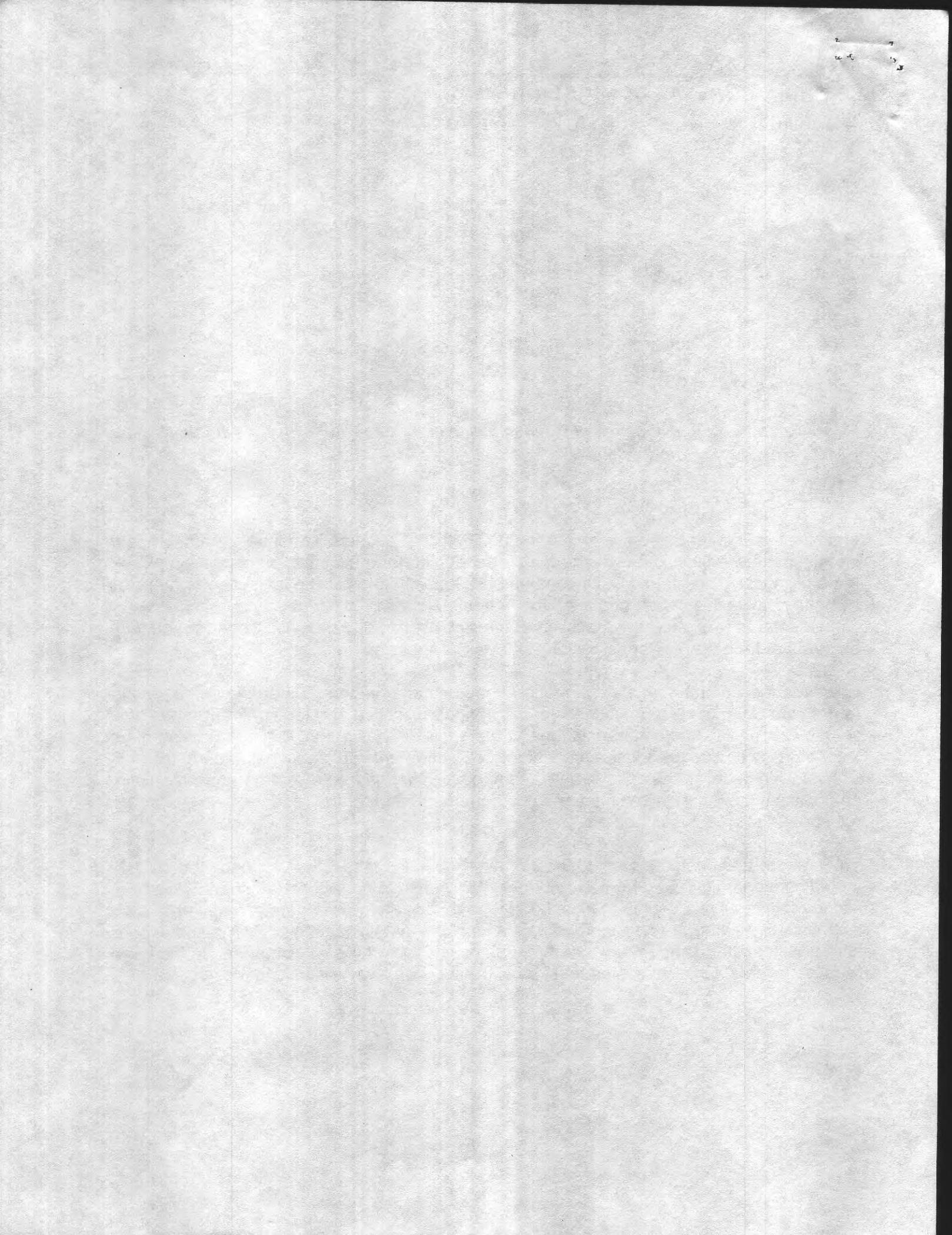
Sincerely,

Sandra Goldberg

SANDRA GOLDBERG
Staff Counsel

EXHIBIT 2

4-03-098-VRC



Staff Goldberg

Cristina Forde

28128 Pacific Coast Hwy., #195
Malibu, California 90265-8195

Tel. 310-457-1427 ✪ Cell 310-508-8160 ✪ Fax 310-457-0911 ✪ E-mail FordeFiles@aol.com

California Coastal Commission
45 Fremont, Suite 2000
San Francisco, California 94105-2219

RE: **Claim of Vested Rights
Number 4-03-098-VRC**
(Malibu Riviera One sign on beach)

Dear Commissioners:

Dec. 1, 2003

I vehemently oppose the presence of this sign. I have lived in Malibu since 1974 and at Paradise Cove for 25 years. I am intimately familiar with this beach and with Zumirez Drive, on which I once owned property.

Paradise Cove is a friendly day-use place that attracts families, tours and international and urban visitors who enjoy the restaurant and beach. Often the visitors stroll west from cove to cove after eating at the restaurant or after playing at Paradise Cove Beach. From this location, when the tide is right, a visitor can walk on the beach several miles to the Pt. Dume headlands with its unique whale-watching station and protected habitat. There is no public access between Paradise Cove and the headlands.

Many times since the erection of that sign, I have observed visitors stop, read it, appear puzzled, look longingly at the beach-goers to west (known as "Hut Beach"), shake their heads and turn around. Sometimes they lay out a blanket east of what would be a precise line from the sign to the water, not daring to breach what they have concluded is private property. Thus visitors are prevented from exploring the next beaches, Little Dume and Big Dume and ultimately, the headlands.

I can't stand to watch. I tell the visitors to go ahead and enjoy.

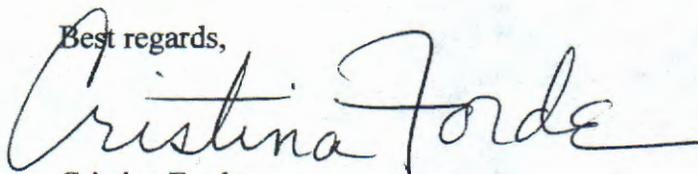
"The beach is yours," I say. "Don't let that sign stop you."

The sign's chilling effect is magnified by its location and the lack of any other explanation. The CCC should post a sign there informing the public it may pass. I don't know precisely where the property line is, but the tide often reaches the base of the cliffs, which - using the mean high tide line as the barrier -- leaves a lot of room for the public.

Property rights aside, the insensitivity of people who would place such an invasive sign on this beautiful spot is incomprehensible. Without the sign, that portion of the coast would look as it did 106 years ago. [Please see the attached copy of William Wendt's painting, "Pt. Dume, 1897." The sign would be in the center of this scene.]

No one should be allowed to intimidate the public in this manner. Nor should they be permitted to defile such a natural place. That sign is offensive to anyone who loves Malibu. Please order its removal.

Best regards,



Cristina Forde

EXHIBIT 3

Encl: 4

4-03-098-VRC

CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000
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November 21, 2003

Page 1

IMPORTANT PUBLIC HEARING NOTICE
CLAIM OF VESTED RIGHTS**Claim of Vested Rights Number: 4-03-098-VRC****Applicant:** Malibu Riviera One Homeowner's Association**Description and Location:** Public hearing and action on claim of vested rights by Malibu Riviera One Homeowner's Association for sign on the beach stating "Private Property/No Trespassing" between Zumirez Drive and Ramirez Mesa Drive (and between Point Dume and Paradise Cove) in Malibu (Assessor's Parcel No. 4466-003-015).**HEARING DATE AND LOCATION:**

DATE: Thursday, December 11, 2003
TIME: Meeting begins at 9:00 a.m., Agenda #: Th. 7
PLACE: Hyatt Regency, 5 Embarcadero Center
San Francisco, CA
PHONE: (415) 788-1234

HEARING PROCEDURES:

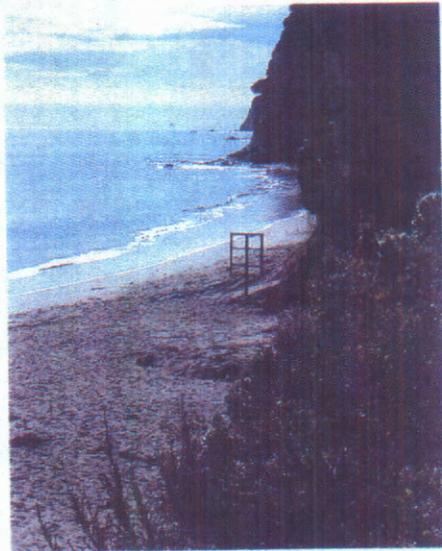
This item has been scheduled for a public hearing and possible action. People wishing to testify on this matter may appear at the hearing and/or may present their concerns in writing to the Commission before the hearing date.

SUBMISSION OF WRITTEN MATERIALS:

If you wish to submit written materials for review by the Commission, please observe the following suggestions:

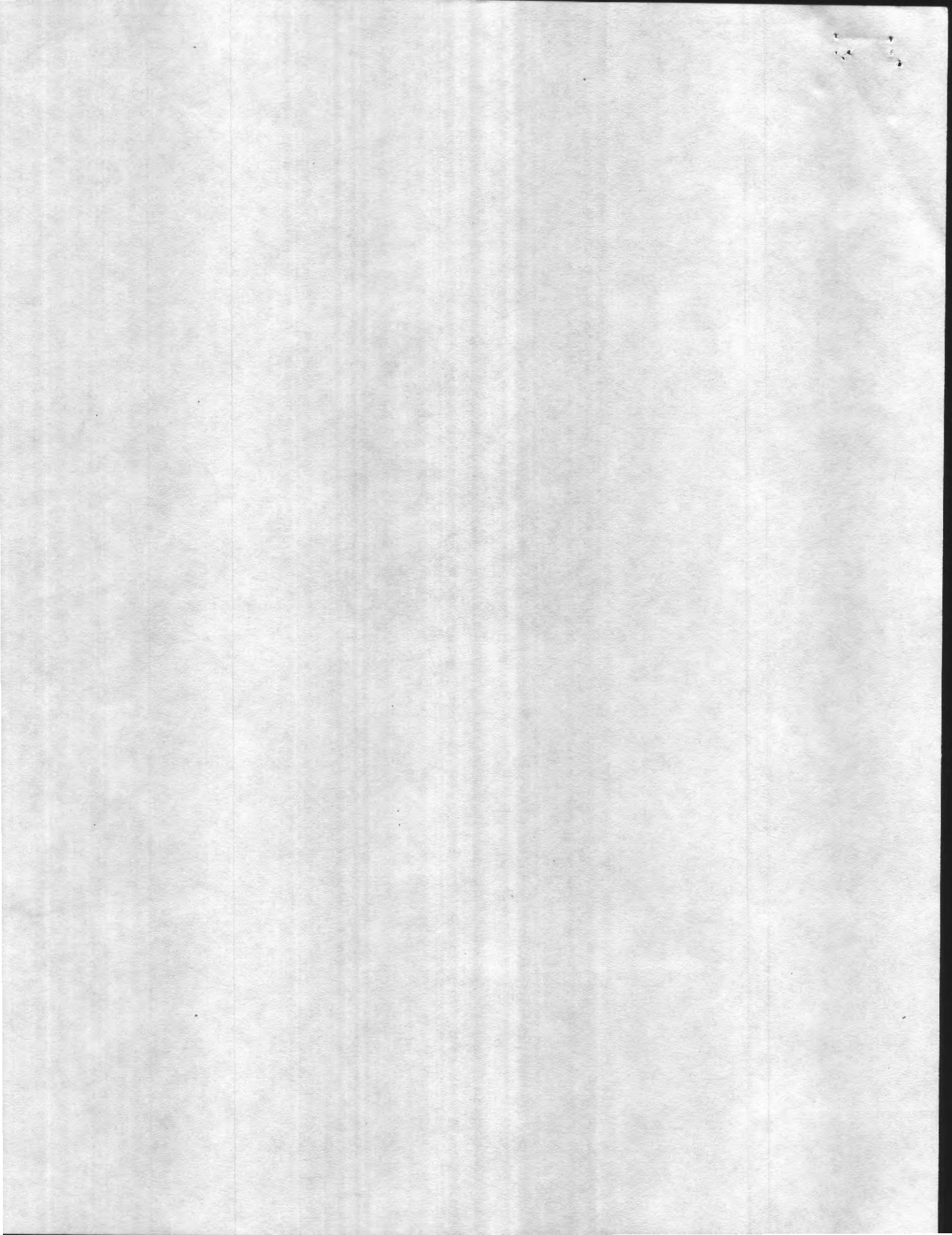
- We request that you submit your materials to the Commission staff no later than three working days before the hearing (staff will then distribute your materials to the Commission).
- Mark the agenda number of your item (listed above), the application number, your name and your position in favor or opposition to the project on the upper right hand corner of the first page of your submission. The agenda is available on the Commission's website at www.coastal.ca.gov, under "Public Meetings."

Claim of vested rights no: 4-03-098-VRC



Nov. 29 2003

Frame of sign



Claim of vested rights no: 4-03-098-VRC

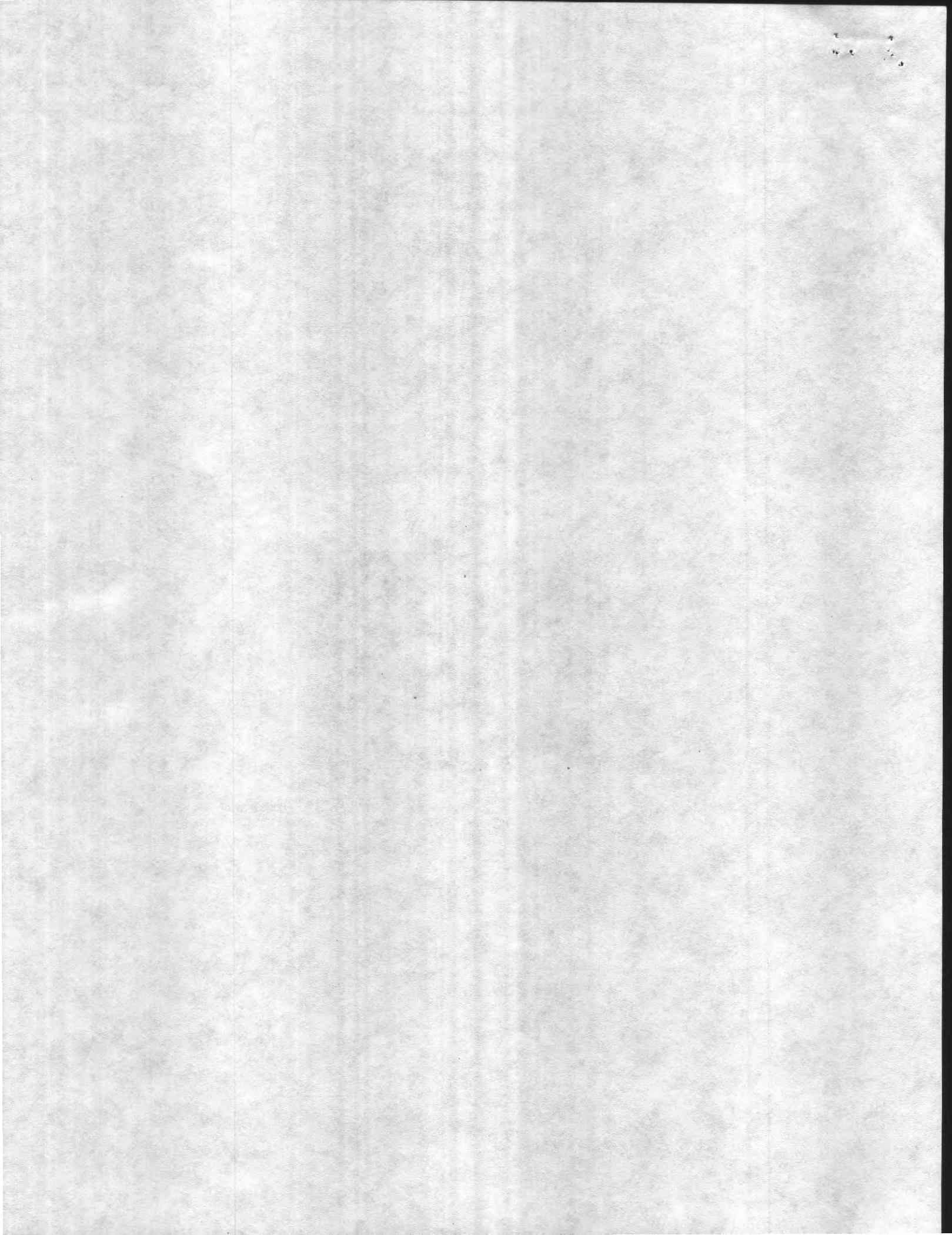


Nov. 29, 2003 Frame of sign

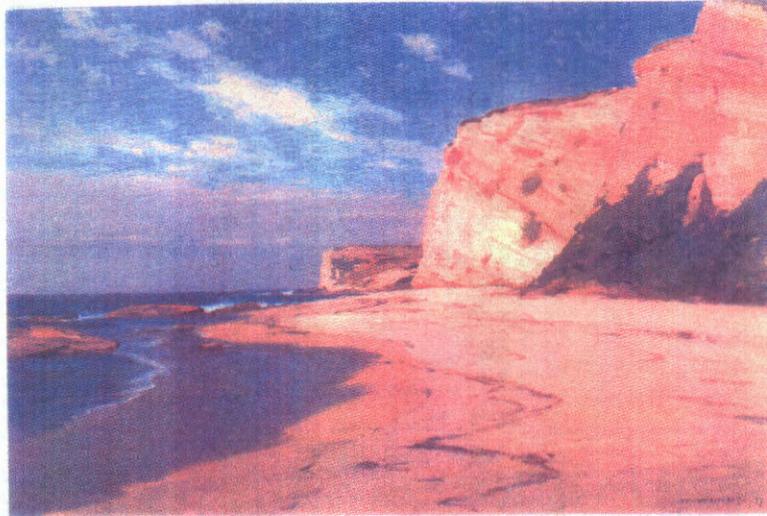
LOCATION: FAR POINT IS EAST END OF "BIG DUNE"



Nov. 29, 2003 Sign color enhanced,
as white panel is missing.



Claim of vested rights no: 4-03-098 VRC



WILLIAM WENDT - POINT DUME, 1897 - OIL ON CANVAS

NOTE: THE FAR POINT IS NOT THE HEADLANDS. IT IS THE POINT BETWEEN "LITTLE DUME" AND "BIG DUME" BEACHES.



PHOTO OF POINT DUME, NOVEMBER 30, 2003
SAME LOCATION AS 1897 PAINTING.
SIGN IS EXACT SIZE BUT COLOR ENHANCED AS
WHITE PANEL IS MISSING FROM METAL FRAME.
NOTE GROWTH OF VEGETATION AND LOSS OF
BASE OF NEAR CLIFF DUE TO NATURAL OCEAN FORCES.



People stop
here and turn
around.

Note ~~erased~~
tideline.

Access for All

"opening up the California coast"

PO Box 1704

Topanga, CA 90290

sierrasteve@earthlink.net

December 9, 2003

California Coastal Commission
Hyatt Regency
5 Embarcadero Center
San Francisco, CA 94111

Re: Malibu Riviera Homeowner's Association
Claim of Vested Rights
Item # 4-03-098VRC

Commissioners:

Access for All would like to strongly support the staff recommendation on this issue – that is denial of these vested rights.

This sign is a perfect example of the sort of intimidation and threats to the public that are all too common on the Malibu beaches these days. Nowhere does the sign describe the public's absolute right under the Public Trust Doctrine and the Coastal Act to access the California coast up to the Mean High Tide Line. Rather it implies that the public simply does not belong there, and seeks to bully them away from their public lands.

Please deny this issue.

Sincerely,

Steve Hoyer
Executive Director

EXHIBIT 4

4-03-098-VRC

CALIFORNIA COASTAL COMMISSION

45 FREMONT STREET, SUITE 2000
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Filed: 9/26/03
Staff: SG-SF
Staff Report: 11/21/03
Hearing Date: 12/11/03
Commission Action:



CLAIM OF VESTED RIGHTS
STAFF REPORT AND RECOMMENDATION

CLAIM NO: 4-03-098-VRC

RECORD PACKET COPY

CLAIMANT: MALIBU RIVIERA ONE HOMEOWNER'S ASSOCIATION

PROJECT LOCATION: Vacant beachfront parcel between Zumirez Drive and Ramirez Mesa Drive (and between Point Dume and Paradise Cove) in Malibu (Assessor's Parcel Number 4466-003-015).

DEVELOPMENT CLAIMED: Sign on beach, including face and post, stating Private Property, No Trespassing, Malibu Riviera One Owner's Only and No Lifeguard on Duty and citing CA Penal Code.

FILE DOCUMENTS: Photographs of site taken on or about February 7, 1994, November 21, 2002 and July 30, 2003. Aerial photographs of site taken in 1972, 1975 and 2002.

SUMMARY OF STAFF RECOMMENDATION

Staff recommends **denial** of the claim of vested rights. Malibu Riviera One ("Malibu Riviera") claims a vested right for a sign on the beach on a vacant parcel, that states Private Property, No Trespassing. The sign is located between Point Dume State Preserve (where a stairway provides public access from the bluff to the beach) and the Paradise Cove Beach Café restaurant and parking lot located on the beach. Due to its location on the beach, the sign purports to exclude the public from property that includes public tidelands. The public has a right to use public tidelands that is protected by the California Constitution, statutes and caselaw. Malibu Riviera does not own the public tidelands and does not have a lease or authorization from the State to exclude the public from the public tidelands at this location. Therefore, Malibu Riviera did not obtain all necessary government approvals for the sign, which is required to establish a vested right. Even if Malibu Riviera did demonstrate that a private property sign was present at this location prior to the effective date of the Coastal Act, its claim of vested rights should be denied.

because the sign that was present prior to the Coastal Act has been removed because it was damaged and/or destroyed. There is no vested right to build a new structure to replace a vested structure that has decayed or been damaged and reached the end of its useful life. Furthermore, Commission regulations provide that any repair to a vested structure at this location requires authorization in a coastal development permit. In addition, aerial photographs from 1972 and 1975 do not show any sign at the location where the sign is currently present. Thus, there is a question as to whether the subject sign is in the same location as a private property, no trespassing sign that witnesses state was located on the parcel prior to the Coastal Act. For these reasons, staff recommends that the Commission find that Malibu Riviera does not have a vested right for the sign.

ACTION: Commission Hearing and Vote

STAFF RECOMMENDATION FOR DENIAL OF CLAIM: The Executive Director has made an initial determination that Claim of Vested Rights 4-03-098-VRC has not been substantiated. Staff recommends that Claim of Vested Rights 4-03-098-VRC be rejected.

Motion: *"I move that the Commission determine that Claim of Vested Rights 4-03-098-VRC is substantiated and the development described in the claim does not require a Coastal Development Permit."*

Staff recommends a **NO** vote. Failure of the motion will result in a determination by the Commission that the development described in the claim requires a Coastal Development Permit and in the adoption of the resolution and findings set forth below. The motion passes only by an affirmative vote of a majority of the Commissioners present.

Resolution for Denial of Claim:

The Commission hereby determines that Claim of Vested Rights 4-03-098-VRC is not substantiated and adopts the Findings set forth below.

Findings and Declarations

1. Legal Authority and Standard of Review

Section 30608 of the Coastal Act, in relevant part, provides that:

"No person who has obtained a vested right in a development prior to the effective date of this division or who has obtained a permit from the California Coastal Zone Conservation Commission pursuant to the California Coastal Act of 1972 (commenting with Section 27000) shall be required to secure approval for the development pursuant to this division; provided, however, that no substantial change may be made in any such development without prior approval having been obtained under this division."

The effective date of the division, i.e., the Coastal Act, is January 1, 1977. This site was also subject to the Coastal Act's predecessor statute, the Coastal Zone Conservation Act of 1972, which went into effect on February 1, 1973. The Coastal Zone Conservation Act required a coastal development permit for new development on this site occurring after February 1, 1973. Thus, the critical date for evaluating this Claim of Vested Rights is February 1, 1973 and this will be referred to as the effective date of the Coastal Act.

Pursuant to Section 30608, if a person obtained a vested right in a development prior to the effective date of the Coastal Act, no coastal development permit (CDP) is required for that development. However, no substantial change in the development may be made until obtaining either approval in a coastal development permit, or approval pursuant to another provision of the Coastal Act. In addition, any repair to the development must be conducted in compliance with the Coastal Act section 30610(d) and the regulations at Title 14 California Code of Regulations, section 13252.

The Coastal Act defines "development" as:

"the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including but not limited to, subdivision pursuant to the Subdivision Map Act ... change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure,

As used in this section, "structure" includes but is not limited to, any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line, and electrical power transmission and distribution line." (Coastal Act Section 30106).

The procedural framework for Commission consideration of a claim of vested rights is found in Sections 13200 through 13208 of the Commission's administrative regulations. (Title 14, California Code of Regulations). These regulations require that the staff prepare a written recommendation for the Commission and that the Commission determine, after a public hearing, whether to acknowledge the claim. If the Commission finds that the claimant has a vested right for a specific development or development activity, then the claimant is exempt from coastal development permit requirements for that specific development only. Any changes to the exempt development after February 1, 1973 will require a permit. If the Commission finds that the claimant does not have a vested right for the particular development, then a coastal development permit must be obtained to authorize the development or, if a coastal development permit is not obtained, then the development is not authorized under Coastal Act.

The Commission must apply certain legal criteria to determine whether a claimant has a vested right for a specific development. These criteria are based on the terms of the Coastal Act and case law interpreting the Coastal Act's vested right provision, as well as common law vested rights claims. The general standard of review for determining the validity of a claim of vested rights is summarized as follows:

1. The claimed development must have received all applicable governmental approvals needed to complete the development prior to February 1, 1973, the effective date of the Coastal Zone Conservation Act of 1972. Typically this would be a building permit, grading permit, Final Map, Health Department approval for a well or septic system, etc. or evidence that no permit was required for the claimed development. (*Billings v. California Coastal Commission* (1988) 103 Cal.App.3d 729, 735).

2. If work was not completed by February 1, 1973, the claimant must have performed substantial work and/or incurred substantial liabilities in good faith reliance on the governmental authorization received prior to February 1, 1973. (*Tosh v. California Coastal Commission* (1979) 99 Cal.App. 3d 388, 393; *Avco Community Developers, Inc. v. South Coast Regional Commission* (1976) 17 Cal.3d 785).

To acknowledge a claim of vested right for a specific development, the Commission must find that the claimant obtained all necessary governmental authorization for the project and, at a minimum, performed substantial work and/or incurred substantial liabilities in good faith reliance on the permits or authorizations that were granted. Similarly, a claim of vested right will be acknowledged if the claimant performed substantial work and/or incurred substantial liabilities in good faith reliance on the ability to conduct the development without any permits or governmental approvals prior to February 1, 1973.

The burden of proof is on the claimant to substantiate the claim of vested right. (Title 14, California Code of Regulation, Section 13200). If there are any doubts regarding the meaning or extent of the vested rights exemption, they should be resolved against the person seeking the exemption. (*Urban Renewal Agency v. California Coastal Zone Conservation Commission* (1975) 15 Cal.3d 577, 588).

A narrow, as opposed to expansive, view of vested rights should be adopted to avoid seriously impairing the government's right to control land use policy. (*Charles A. Pratt Construction Co. v. California Coastal Commission* (1982) 128 Cal.App.3d 830, 844, citing, *Avco v. South Coast Regional Commission* (1976) 17 Cal.3d 785, 797). In evaluating a claimed vested right to maintain a nonconforming use (i.e., a use that fails to conform to current zoning), courts "follow a strict policy against extension or expansion of those uses." (*Hansen Bros. Enterprises v. Board of Supervisors* (1996) 12 Cal.4th 533, 568; *County of San Diego v. McClurken* (1957) 37 Cal.2d 683, 687).

The following vested rights analysis is based on information submitted by the claimant and supplemental Commission staff research or official Commission records.

2. Background Regarding Property

The subject property is currently owned by Malibu Riviera One Homeowner's Association ("Malibu Riviera") and is identified as APN Number 4466-003-015. The configuration of the parcel is shown on Exhibit 1. The parcel borders the Pacific Ocean. The approximate location of the sign is shown on Exhibit 2. Public records indicate that Malibu Riviera

acquired the property in 2000. Public records indicate that it was purchased from D.L. Stein, who had acquired it in June 1984 from Oscar Altman, who had acquired it in February 1984. The Commission has not located any earlier ownership records.

The Claim of Vested Rights is for a "Private Property, No Trespassing" sign, including face and post, that is under six feet high. (Exhibit 3, Claim of Vested Rights and August 11, 2003 cover letter). The cover letter states that the sign also includes citation to a code section and "advises that the Property is private property of the Riviera One Homeowner's Association and warns that no lifeguard is on duty." Photographs from 1994 and 2002 (Exhibit 4 and 5, respectively) show that, in addition to Private Property, No Trespassing, the sign at this location cited CA Penal Code Sec. 602(N) and stated: "Malibu Riviera One Owner's Only" and "No Lifeguard on Duty." This Penal Code section states that a person is guilty of a misdemeanor if they willfully commit a trespass by refusing or failing to leave property "lawfully occupied by another an not open to the general public, upon being requested to leave by ... (2) the owner, the owner's agent, or the person in lawful possession." It is assumed that Malibu Riviera's Claim of Vested Rights is for a sign that includes all of the statements that were on the sign shown in the 1994 and 2002 photographs.

Additionally, Malibu Riviera also has stated that the sign face was removed in the summer of 2003 as part of periodic maintenance. (See Exhibit 6, July 2003 photograph). It is seeking a vested right for replacement with a new sign face. Malibu Riviera must therefore assert that the scope of its vested right allows it to replace the sign face periodically, after the effective date of the Coastal Act, without complying with the permit requirements of the Coastal Act.

A member of the public contacted Commission staff about the sign in July 1998 and requested an investigation. Her letter is attached as Exhibit 7. She stated that the sign was just constructed at the foot of the bluff and stands 7 feet 4 inches high. (Id.) She also stated that the sign itself is 4 feet 1 inch high by 3 feet 1 inch wide and is attached to a three inch square steel post. (Id.) Commission staff determined that the sign is not authorized in a coastal development permit and sent a letter to John Mazza, a representative of Malibu Riviera One, asserting that the sign was constructed in violation of the Coastal Act. (Exhibit 8). No response was received, and Commission staff sent another letter to Mr. Mazza dated June 27, 2003 requesting removal of the unpermitted sign. (Exhibit 9). Martin Burton, attorney for Malibu Riviera One, responded in a letter to Commission staff dated July 21, 2003. (Exhibit 10). This letter asserts that the sign was installed prior to enactment of the Coastal Act and therefore does not constitute "development" under the Act. (Id.) The letter also states: "in accordance with the Association's periodic maintenance activities, the sign was removed." (Id.) Similarly, Mr. Mazza had informed Commission staff that the sign was removed. However, Commission staff subsequently observed that only the face of the sign was removed, but the sign frame and post remained. (Exhibit 6). Commission staff then sent a letter dated August 1, 2003 to Malibu Riviera One requesting removal of the sign frame and post. (Exhibit 11). The Commission received Malibu Riviera's Claim of Vested Rights on September 26, 2003.

The sign is located on the beach downcoast (east) of Point Dume State Preserve. A stairway in the Preserve that provides public access from the bluff to the beach is about one mile west of the sign. The sign is located about ¼ mile upcoast (west) of Paradise Cove Beach Café, where the public can park (for a fee) and access the beach. About a mile east of the Paradise Cove Beach Cafe public access to the beach is available at the Escondido Beach Accessway. Because the wording on the sign generally faces east, it is particularly visible to people approaching from that direction.

3. Evidence Presented by Claimant

Malibu Riviera submitted a Claim of Vested Rights with numerous exhibits, including declarations from several longtime residents stating that they observed a private property sign at this location prior to the Coastal Act. These declarations are summarized below.

Charlie Spevak, who has lived at 6642 Zumirez Drive, Malibu since the 1950s, states: "Sometime during the 1950's the Riviera One Homeowner's Association erected a "No Trespassing" sign between our property and Paradise Cove. No substantial changes have been made to this sign since that time. The location and wording of the sign have remained the same over the years." (Exhibit 3, Claim of Vested Rights, Declaration attached as Exhibit B).

Eric Jacobsen, who has lived at 6840 Zumirez Drive, Malibu since 1951, states: "I recall the "No Trespassing" sign on the east boundary of the Malibu Riviera One Homeowner's Association property prior to 1963." (Exhibit 3, Claim of Vested Rights, Declaration attached as Exhibit C). He also states: "Our property lies just above this sign and we are quite familiar with the location. No substantial changes have been made to this sign over the years. The verbal communication on the sign is the same in that it has always stated words to the effect of "Private property-No Trespassing-No lifeguard" and it has always contained a code reference relating to trespassing on private property." (Id.)

John Mazza has lived in Point Dume since 1972 and has walked the beach between Paradise Cove and Point Dume on a daily basis for over 30 years. (Exhibit 3, Claim of Vested Rights, Declaration attached as Exhibit D). Mr. Mazza states "there has always been a "No Trespassing" sign nearby the boundary between the private land owned by the Paradise Cove Mobile Home Park and Malibu Riviera One since I have lived in the area. No substantial changes have been made to the sign from that time to this." (Id.)

Shirley Johnson, who has lived at 6604 Zumirez Drive, Malibu since 1966, states that "there was a "No Trespassing" sign on the beach in the area where our beach property meets Paradise Cove's property since at least the early 1970's and it may have been there in the 1960's." (Exhibit 3, Claim of Vested Rights, Declaration attached as Exhibit E).

In support of its Claim of Vested Rights, Malibu Riviera also submitted two documents on Malibu Riviera One stationary. The first is a Newsletter dated February 6, 1967 from Jo Ann Rector, Secretary-Treasurer of the organization, regarding: "Annual Meeting of Malibu Riviera One - 1-26-67, Subjects of Discussion." (Exhibit 3, Claim of Vested Rights,

attached Exhibit F). This letter states: "The board was appointed to purchase four new beach signs to replace the old ones on the bluff; also, a new sign will be placed on the gate stating "All Persons Pass Beyond This Point at Their Own Risk." (Id.) The second document is entitled "Minutes of the Annual Meeting of Malibu Riviera One Corporation" dated March 16, 1971. (Exhibit 3, Claim of Vested Rights, attached Exhibit G). This document states: "The President then presented a resume of the past year's activities. Topics discussed were: ... 3. Beach signs--this is being taken care of by John Guldemann, who is President of Malibu Riviera Two." (Id.)

Malibu Riviera also submitted a letter dated June 16, 1972 from George R. Pfeiffer, Attorney at Law, to Mrs. Leland Schwab, 6667 Zumirez Drive, Malibu regarding "Use of beach for advertising purposes by Playboy Magazine." (Exhibit 3, Claim of Vested Rights, attached Exhibit H). Malibu Riviera's cover letter for the Claim of Vested Rights describes this as a letter to the Malibu Riviera Board from its attorney. This letter refers to an advertisement in the July 1972 issue of Playboy magazine that has a photograph taken on the beach on Lot 51 of Malibu Riviera One (the parcel at issue in this claim). The letter also refers to: "a "No Trespassing" sign in the immediate vicinity of the area where the commercial photograph was taken ..." The letter included a proposed "demand to Playboy for payment of damages which I think should be made." (Id.)

4. Analysis of Claim of Vested Rights

A. Malibu Riviera Did Not Obtain State Authorization to Exclude the Public From Tidelands at this Location Or To Declare That Those Tidelands Are Private Property

Malibu Riviera seeks a vested right for a sign that is located on the beach and visible to anyone walking along the beach, particularly when approaching from the east (Paradise Cove Beach Café or Escondido Beach). Malibu Riviera asserts that no governmental authorization was necessary for construction of the sign prior to the Coastal Act. It asserts that the County, which had jurisdiction until the City of Malibu incorporated in 1990, does not require a building permit for a fence or sign that does not exceed six feet. To establish a vested right, Malibu Riviera must show that it had all necessary government authorization for the sign. (*J.D. Patterson v. Central Coast Regional Coastal Zone Conservation Commission* (1976) 58 Cal.App.3d 833, 844, citing, *People v. County of Kern* (1974) 39 Cal.App.3d 830, 838) (unless owner possesses all necessary permits, the mere expenditure of funds or commencement of construction does not vest any rights in the development).

Due to its location on the beach, the sign purports to exclude the public from property that includes tidelands owned by the State, which the public has a right to use under state law. Tidelands include "those lands lying between the lines of mean high tide and mean low tide which are covered and uncovered successively by the ebb and flow thereof." (*Lechuza Villas West v. CA Coastal Commission* (1997) 60 Cal.App.4th 218, 235). The State owns all tidelands and holds such lands in trust for the public. (*Id.*; *State of Cal. Ex rel. State Lands Com. V. Superior Court* (1995) 11 Cal.4th 50, 63; California Civil Code

section 670). "The owners of land bordering on tidelands take to the ordinary high water mark. The high water mark is the mark made by the fixed plan of high tide where it touches the land; as the land along a body of water gradually builds up or erodes, the ordinary high water mark necessarily moves, and thus the mark or line of mean high tide, i.e., the legal boundary, also moves." (*Lechuza*, 60 Cal.App.4th at 235) (citations omitted). In other words, the boundary between private property and public tidelands is an ambulatory line. (*Id.* at 242.)

Under Public Resource Code section 6301, enacted in 1941, the State Lands Commission has authority over all public tidelands owned by the State. This section states: "The commission has exclusive jurisdiction over all ungranted tidelands and submerged lands owned by the State...." The California Constitution contains certain absolute prohibitions on alienation of public tidelands (Article 10, section 3). The Constitution also provides:

"No individual, partnership, or corporation, claiming or possessing the frontage or tidal lands of a harbor, bay, inlet, estuary, or other navigable water in this State, shall be permitted to exclude the right of way to such water whenever it is required for a public purpose, nor to destroy or obstruct the free navigation of such water...." (Article 10, section 4).

Under the public trust doctrine, the state holds a trust interest on behalf of the public in tidelands. (*City of Berkeley v. Superior Court* (1980) 26 Cal.3d 515.) The public has a right to "use such properties for purposes such as commerce, navigation, and fishing, as well as for environmental and recreational purposes. These lands may be conveyed to private persons only to promote trust uses, and grants not made for that purpose remain subject to the rights of the public." (*Los Angeles v. Venice Peninsula Properties* (1982) 31 Cal.3d 288, 291.)

In this case, the State Lands Commission, the agency with regulatory authority, has not granted a lease or any other authorization for Malibu Riviera to exclude the public from use of the tidelands at this location. The 1972 letter from Malibu Riviera's attorney recognizes that there are public tidelands at the site that are not private property. He wrote: "An interesting question arises from the location of the equipment and models on the beach, and that is whether or not they are above or below the mean high tide line. A map showing Lot 51 describes its boundary along the ocean as the "Ordinary high tide line" and of course, anything below that line belongs to the "public." From the photograph in Playboy it is not possible for me to answer the question." (Exhibit 3, Claim of Vested Rights, attached Exhibit H).

The statements "Private Property" and "No Trespassing" on the sign must be understood as declaring that the beach between the sign and the Pacific Ocean is "Private Property" and that anyone walking in this area is trespassing, in violation of the CA Penal Code. These statements fail to acknowledge that, at various times, some of the area between the sign and the Pacific Ocean is public tideland (i.e., land between mean high tide and mean low tide) that is owned by the State and is not private property. Malibu Riviera has no right

to exclude the public from these tidelands. In fact, it is possible that, at certain times the sign itself is located on public tidelands. (See Exhibit 12, photograph showing the line of wet sand approaching very close to the sign).

The letter from Ms. Forde to the Commission indicates that she understood the sign to be informing members of the public that they have no right to walk along the beach at this location. (Exhibit 7). She also states that she was informed that another member of the public who was walking along the beach saw the sign and was afraid to go past it. The language on the sign (Private Property, No Trespassing, CA Penal Code Sec. 602, and Malibu Riviera One Owners Only) is intimidating. It conveys the message that if you walk along the beach past this sign, you are violating the cited Penal Code section. The effect of the sign is to intimidate and confuse the public and cause the public to refrain from walking along the beach on public tidelands. It will prevent people approaching from the east from walking along the beach past Malibu Riviera's property for about another mile, until they reach the Point Dume Headlands.

Malibu Riviera does not expressly claim that it has a vested right to exclude the public from tidelands at this site. As discussed above, Malibu Riviera has no legal right to do so. However, that would be the effect of the sign – if the public in fact obeys its directives. Since Malibu Riviera has not demonstrated that it was authorized by the State Lands Commission to exclude the public from the tidelands at the site, the Commission finds that Malibu Riviera does not have all necessary governmental authorization for a sign that purports to do so. Therefore, the Commission finds that Malibu Riviera has not established that it has a vested right for the sign.

B. Malibu Riviera Has No Vested Right to Construct a New Sign Without Complying With Coastal Act Permit Requirements

Malibu Riviera seeks a vested right to construct a *new sign* to replace the sign that it asserts was built prior to the Coastal Act and had a vested right. As explained below, the Coastal Commission rejects Malibu Riviera's position.

The Coastal Act recognizes vested rights "in a development." (Section 30608). Vested rights cannot be established for new development that is constructed after the effective date of the Coastal Act. "Development" under the Coastal Act includes "construction, reconstruction, demolition, or alteration of the size of any structure, ..." (Section 30106). "Structure" includes but is not limited to, any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line, and electrical power" (Coastal Act Section 30106).

A vested right for a nonconforming structure, such as the unpermitted sign, is limited to the particular structure that existed before enactment of the new law or ordinance in question. Thus, even assuming that Malibu Riviera could establish a vested right for a sign that existed on February 1973, there is no vested right to replace that vested structure with a new structure, without complying with the permit requirements of the Coastal Act. This simply means that when the useful life of the vested structure has ended, a permit under the Coastal Act is required before it can legally be replaced with a new structure.

This conclusion is consistent with the rule that any doubts about availability of the vested rights exemption should be resolved against the person making the claim. (*Urban Renewal Agency v. California Coastal Commission* (1975) 15 Cal.3d 577). It is also consistent with the principles of equitable estoppel upon which the vested rights doctrine is based, i.e., that it would be unfair for the government to impose a new restriction if a property owner has expended substantial funds for construction, in detrimental reliance on a prior government approval. (*Raley v. California Tahoe Regional Planning Agency* (1977) 68 Cal.App.3d 965, 977; *J.D. Patterson v. Central Coast Regional Coastal Zone Conservation Commission* (1976) 58 Cal.App.3d 833, 844). Thus, the government is estopped from preventing completion of construction, and must allow the structure that fails to conform to current ordinances or regulations to exist as a "nonconforming" structure.

However, the law favors the eventual elimination of nonconforming structures. When such a structure becomes damaged or destroyed and has reached the end of its useful life, there is no longer any "detrimental reliance" – the owner has received the full benefit of its investment. Thus, it is not unfair to impose current regulatory requirements to a proposed replacement structure. (*O'Mara v. Council of Newark* (1965) 238 Cal.App.2d 836 (where non-conforming building is in large measure destroyed by an accident, the investment in the improvement has been taken away, and it is not unreasonable to require compliance with current regulatory requirements)).

Municipal zoning ordinances generally provide that there is no right to rebuild a nonconforming use after destruction. (*Sabek, Inc. v. County of Sonoma* (1987) 190 Cal.App.3d 163, 166). An ordinance granting a vested right to maintain a nonconforming use is not open ended: "The object of such provision is the gradual elimination of the nonconforming use by obsolescence or destruction by fire or the elements, and it has been frequently upheld by the courts." (*Id.*, citing *Rehfeld v. San Francisco* (1933) 218 Cal.83, 84-85). "It is the general purpose to eventually end all nonconforming uses and to permit no improvements or rebuilding which would *extend the normal life* of nonconforming structures." (*Sabek, Inc.*, 190 Cal.App.3d at 168). With respect to nonconforming uses, "courts should follow a strict policy against extension or enlargement of those uses." (*Hansen Brothers Enterprises v. Board of Supervisors* (1996) 12 Cal.4th 533, 568; *County of San Diego v. McClurken* (1951) 37 Cal.2d 683, 687; *Sabek, Inc.*, 190 Cal.App.3d at 166. Accordingly, Malibu Riviera does not have a vested right to extend its nonconforming use (the unpermitted sign) indefinitely into the future by periodically replacing the sign that existed prior to the Coastal Act with a new sign.

In addition, the Coastal Act specifies that when a vested right to a development is established "no substantial change may be made in any such development without prior approval having been obtained under this division." (Section 30608). Installing a new sign constitutes a "substantial change" in the vested development present at the site, which pursuant to Section 30806 requires compliance with the permit requirements of the Coastal Act.

The Commission's regulations that apply to repair and maintenance of existing structures also support this conclusion. Section 30610(d) of the Coastal Act provides a permit exemption for: "Repair or maintenance activities that do not result in an addition to, or enlargement or expansion of, the object of those repair or maintenance activities; ..." The Commission's regulation implementing this section distinguishes exempt repair and maintenance from replacement with new development, which is not allowed without a permit. Title 14, California Code of Regulations, section 13252(b) states:

"Unless destroyed by a natural disaster, the replacement of 50 percent or more of a single family residence, seawall, revetment, bluff retaining wall, breakwater, groin or any other structure is not repair and maintenance under Section 30610(d) but instead constitutes a replacement structure requiring a coastal development permit."

This provision applies to all existing structures, including those authorized by the Commission in a permit as well as those for which a vested right was obtained prior to the effective date of the Coastal Act. Accordingly, even if Malibu Riviera had a vested right for a sign that existed in February 1973, replacement of 50 percent or more of the sign was not allowed without a coastal development permit. It is apparent that the entire sign (face and post) has been replaced since February 1973 on at least one occasion. (See Exhibit 6, letter regarding new sign installed in July 1998). Malibu Riviera has informed Commission staff that the sign previously had a wooden post that has been replaced. Currently, Malibu Riviera seeks to replace the sign face, and keep the existing post. Even replacing just the sign face constitutes "replacement of 50 percent or more" of the structure -- and is not allowed without a coastal development permit.

In summary, the Coastal Commission finds that Malibu Riviera does not have a vested right for installation of a new sign. The Commission finds that installation of a new sign is new development occurring after the effective date of the Coastal Act. Even if it was for the purpose of replacing a vested structure, the new development is not exempt from the permit requirements of the Coastal Act. The Commission also finds that installation of a new sign constitutes a substantial change to any prior vested development and is not exempt from the permit requirements of the Coastal Act.

C. Even if Replacement of the Sign Is Considered Repair and Maintenance, Such Activities Occurring on the Beach Are Not Exempt And A Coastal Development Permit is Required

Even if the replacement of the sign is considered repair and maintenance to an existing structure, the Commission's regulations require a permit for the repair and maintenance because it is located on the beach and near the edge of a coastal bluff. Title 14, California Code of Regulations, section 13252(a)(3), provides that repair and maintenance shall require a permit in certain instances, including:

"Any repair or maintenance to facilities or structures or work located in an environmentally sensitive habitat area, any sand area, within 50 feet of the

edge of a coastal bluff or environmentally sensitive habitat area, or within 20 feet of coastal waters or streams that include: (A) The placement or removal, whether temporary or permanent, of rip-rap, rocks, sand, or other beach materials or any form of solid materials."

The sign is located in at least one of these identified areas – a "sand area" – and may also be located in an environmentally sensitive habitat area, within 50 feet of the edge of a coastal bluff, and/or within 20 feet of coastal waters. The sign repair (i.e., installation of a new sign) constitutes placement of "solid materials." Accordingly, it is not exempt repair and maintenance and cannot legally proceed without a coastal development permit.

D. A Sign Is Not Visible At This Location In Aerial Photographs From 1972 And 1975

The Commission has aerial photographs of the site from 1972 and 1975. These are attached as Exhibits 13 and 14. Commission staff examined the slides that these Exhibits were made from using a light table and magnifying lens, and was unable to detect a sign at the location where the sign is currently present. These photographs were taken from low altitudes and are of sufficient quality and scale that, using this method, an object the size of the sign at issue should be visible if it was present when the photographs were taken. In a similar low altitude photograph taken in 2002 the sign is visible. (Exhibit 12). Malibu Riviera did not submit any photographs showing a sign at this location prior to February 1973. The declarations that Malibu Riviera submitted from long-time residents assert that, prior to February 1973, they observed a private property, no trespassing sign at the location where it is currently present. Nevertheless, the aerial photographs do not show such a sign. The 1967 newsletter from Malibu Riviera One refers to the purchase of "four new beach signs to replace the old ones on the bluff." (Exhibit 3, Claim of Vested Rights, attached Exhibit F). The location of these four signs is not known. It is not clear if they were located "on the bluff", rather than on the beach where the existing sign is located (and where such a sign was located in 1994, see Exhibit 4). Accordingly, it is not established that a sign was present on the beach in this particular location prior to February 1973. Therefore, Malibu Riviera has not met its burden of proving that it has a vested right for the sign.

Conclusion

For all the reasons set forth above, the Commission finds that Malibu Riviera has not met the burden of proving its claim of vested rights for a Private Property, No Trespassing sign on APN 4466-003-015. This is not a final determination of whether, ultimately, a Private Property, No Trespassing sign can be allowed on the site. Rather, the decision to deny the claim of vested rights means only that no development is authorized until the claimant goes through the permitting process under the Coastal Act.

Paul Swallen

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SEE SHEET 2

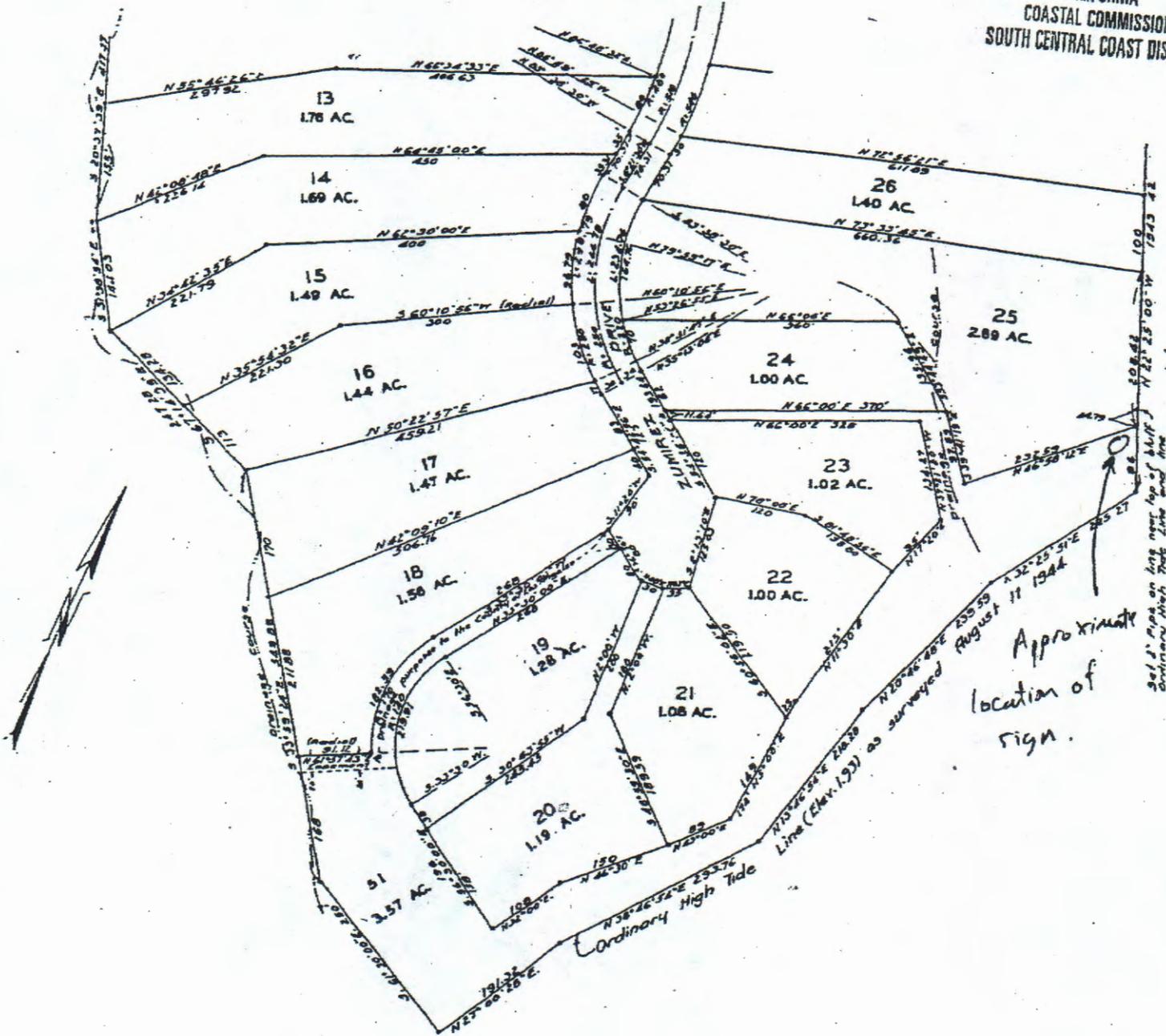
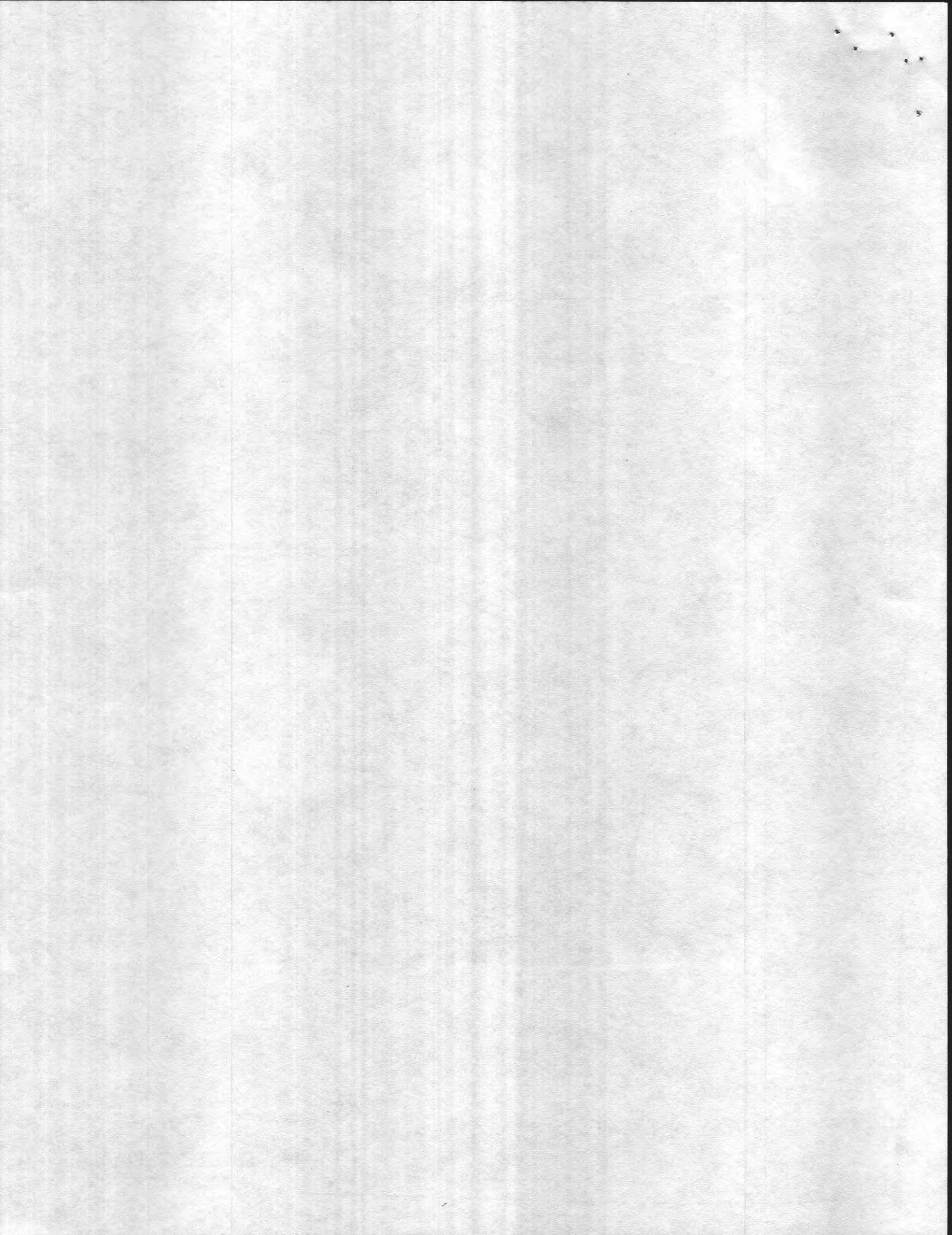


EXHIBIT 1
No. 4-03-098 - VRC



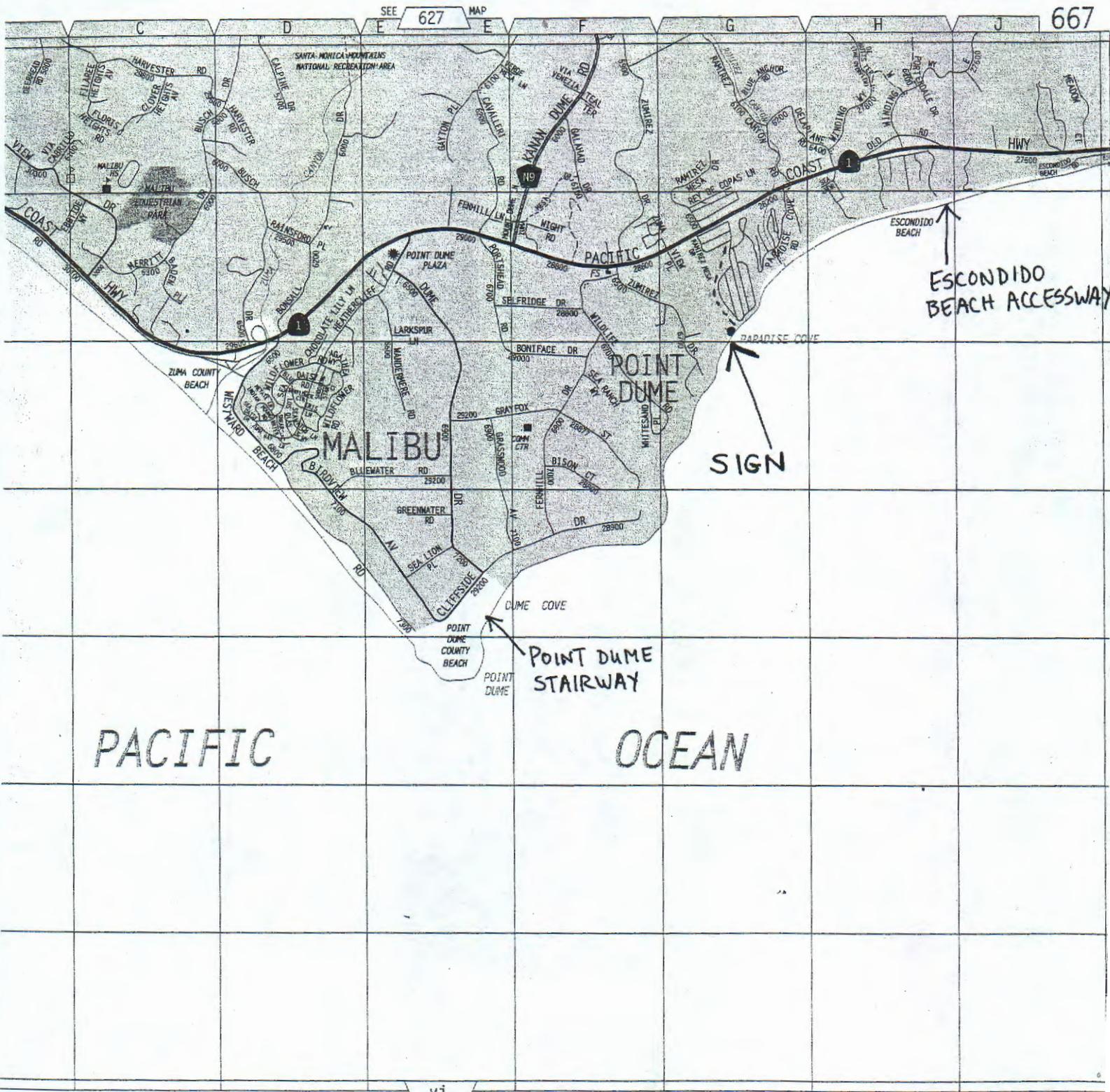
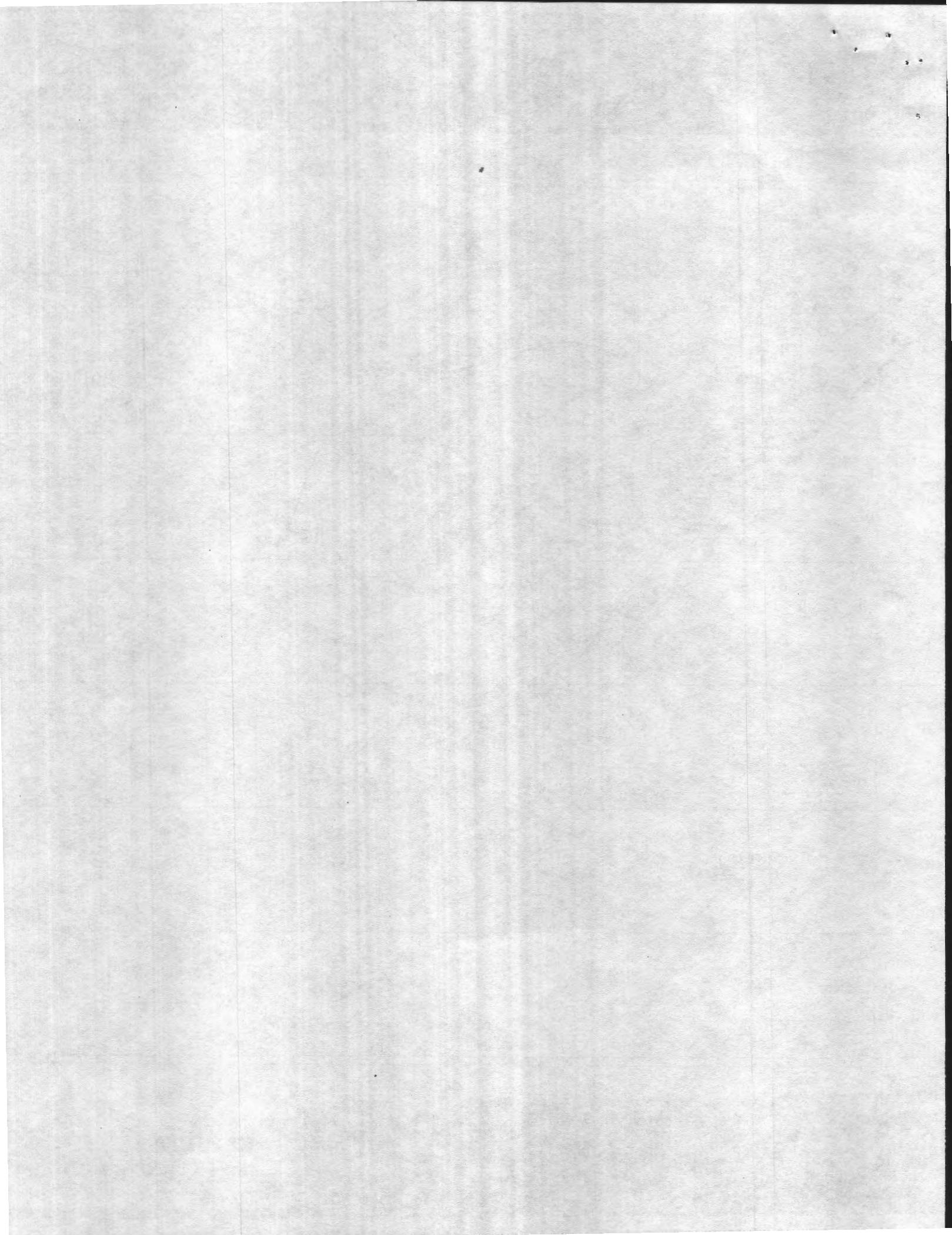


EXHIBIT 2
 No. 4-03-098 - VRC



Alvarado, Smith & Sanchez

A PROFESSIONAL CORPORATION

LIBRARY TOWER

633 W. FIFTH STREET, SUITE 1150
LOS ANGELES, CALIFORNIA 90071
(213) 229-2400
FAX (213) 229-2499
www.asands.com

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CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

IRVINE OFFICE:
4 PARK PLAZA
SUITE 1200
IRVINE, CALIFORNIA 92614
(949) 955-8800
FAX (949) 955-8899

September 25, 2003

MARTIN N. BURTON

MBURTON@ASANDS.COM
(213) 229-2405

Mr. Richard A. Rojas
California Coastal Commission
89 South California Street, Suite 200
Ventura, CA 93001

Re: Malibu Riviera I Sign on Private Property
Your File No. V-4-MAL-99-001; Our File No. L224.1

Dear Mr. Rojas:

This Claim of Vested Rights is filed in response to that certain "Notice of Violation of the California Coastal Act" dated June 27, 2003 and August 1, 2003, identifying a "Private Property, No Trespassing" sign as an "unpermitted development" and requiring its removal.

Background: The sign in question (the "Sign") is under six feet in height and declares to the reader that no trespassing is allowed on the Property, citing a code section; advises that the Property is private property of the Riviera One Homeowners' Association; and warns that no lifeguard is on duty. The Sign is located at the eastern edge of Lot 51 of Tract No. 12778 of Los Angeles County Records, Assessor Parcel No. 4466-003-015 (the "Property"), near a large drainage ditch, as indicated on the map attached hereto as Exhibit A.¹ The Property is owned in fee by the Malibu Riviera One Homeowners' Association ("Riviera One"), which is administered by a Board which holds regular meetings.

Relevant Law: Public Resources Code Section 30608(a) provides that "No person who has obtained a vested right in a development prior to the effective date of this division ... shall be required to secure approval for the development pursuant to this division; provided, however, that no substantial change may be made in any such development without prior approval having been obtained under this division."

The effective date of the division - i.e., the California Coastal Act of 1976, Public Resources Code Section 30000 et seq. - is January 1, 1977. (The voter initiative which established the Coastal Commission was approved in 1972.)

¹ The periodic maintenance of the Sign face, as indicated in my letter to you dated July 21, 2003, has been completed and the newly-renovated Sign face has been returned to its posts.

EXHIBIT 3
No. 4-03-098 - VRC

Mr. Richard A. Rojas
Assistant Enforcement Officer
September 25, 2003
Page Two

Application of Law:

A. RIVIERA ONE HAS A VESTED RIGHT IN THE SIGN BECAUSE THE SIGN WAS ERECTED LONG BEFORE 1977 AND EVEN LONG BEFORE 1972

1. Several Homeowners Attest to the Fact that the Sign Was Constructed At Least in the 1960's and Probably in the 1950's.

The Sign had been erected on the Property long before 1977, and even long before 1972. Several Riviera One homeowners have submitted declarations attesting to the fact that the sign was in place since the 1950's (Declaration of Charlier Spevak, resident since the 1950's, attached hereto as Exhibit B); prior to 1963 (Declaration of Eric Jacobson, resident since 1951, attached hereto as Exhibit C); prior to 1972 (Declaration of John Mazza, resident since 1972, attached hereto as Exhibit D); and prior to the early 1970's (Declaration of Shirley Johnson, resident since 1966, attached hereto as Exhibit E). While the exact date of erection of the Sign appears to pre-date the precise memory of the long-time residents, all testimony concurs that the Sign was in place long before 1972.

2. Riviera One Board Minutes from 1967 and 1971 Establish that the Sign Was In Place Long Prior to 1972

References to the Sign in documents created prior to 1972 establish that the Sign had been constructed on the Property many years before the effective date of the California Coastal Act legislation. Minutes from the January 26, 1967 meeting of the Riviera One Board, attached hereto as Exhibit F, refer to the Sign as one of four the Board had erected on Lot 51: "The board was appointed to purchase four new beach signs to replace the old ones on the bluff...."

Minutes from the March 16, 1971 meeting of the Riviera One Board, attached hereto as Exhibit G, refer to "Beach signs" as item no. 3, again confirming the presence of the Sign.

Mr. Richard A. Rojas
Assistant Enforcement Officer
September 25, 2003
Page Three

3. A 1972 Attorney's Letter Confirms that the Sign Was Established Prior to 1972

In fact, the presence of the sign was the basis for a legal opinion issued to the Board by attorney George R. Pfeiffer dated June 16, 1972 and attached hereto as Exhibit H.² A Playboy magazine ad featured photographs of cars and models on the beach nearby the sign, and Mr. Pfeiffer, the Board's attorney, wrote to the Board to advise on whether the Board had an action against the magazine. The letter refers unequivocally to the same "No Trespassing" Sign on Lot 51.

Thus, by 1972, the Sign had been in place for many years, if not decades.

B. RIVIERA ONE HAS A VESTED RIGHT IN THE SIGN BECAUSE IT WAS ERECTED CONSISTENT WITH EXISTING LAW

The erection of the sign, moreover, was made in full compliance with existing law. No building permit was necessary for erection of the sign. During the years in question, the Property was under the jurisdiction of the County of Los Angeles. The Building Code of Los Angeles County is revised every three years, and the applicable provisions exempt signs that are under six feet in height from the requirements of building permits. Section 108 of the 1962, 1965, and 1968 County Building Code, attached hereto as Exhibit I, Exhibit J, and Exhibit K, respectively, uniformly provide that

The following structures are exempted from all provisions of this Code except those contained in Chapter 45.³

1. Wire fences not over twelve feet (12') in height and other fences not over six feet (6') in height.

According to the County Building and Safety Division, the County has always considered "signs" in the same category as "fences" for purposes of determining the necessity for a building

² Given that the statute of limitations on the action referred to in the letter has long since passed and the issue has been dead for over 30 years, the Board waives any applicable attorney-client privilege remaining on this letter for the limited purpose of submitting evidence to the Coastal Commission demonstrating the longstanding presence of the Sign.

³ Chapter 45, attached to each respective Exhibit, allows signs to extend beyond the property line under certain conditions.

Mr. Richard A. Rojas
Assistant Enforcement Officer
September 25, 2003
Page Four

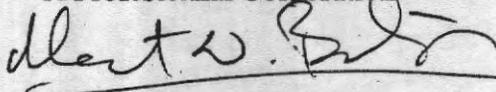
permit.⁴ The same interpretation applies to this day in the existing County Building Code at Section 106.3, attached hereto as Exhibit L: "A building permit shall not be required for the following: ... 2. Fences not over 6 feet (1829 mm) in height."

Accordingly, the Sign was lawfully erected on the Property prior to the effective date of the California Coastal Act of 1976, and Riviera One holds a vested right in the Sign.⁵

Conclusion: We respectfully request that the California Coastal Commission recognize the Vested Right of the Malibu Riviera One Homeowners' Association in the Sign and withdraw its enforcement action.

Sincerely,

ALVARADO, SMITH & SANCHEZ
A Professional Corporation



Martin N. Burton

MNB:sm

cc: Malibu Riviera I Homeowners Association

⁴ Personal conversation on September 15, 2003 with Roy Itani, P.E., Senior Civil Engineer, Building and Safety Division, County of Los Angeles Department of Public Works, 900 S. Fremont Avenue, 3rd Floor, Alhambra, CA 91803-1331.

⁵ Because no "entitlement for use" was necessary to erect the Sign, construction of the Sign does not even fall within the definition of a "project" under the California Environmental Quality Act ("CEQA"), Public Resources Code Section 21065(c), and would in any event be exempt as a pre-existing project under Public Resources Code Section 21169.

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
VENTURA CA 93001
(805) 585-1800

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SEP 26 2003



CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

CLAIM OF VESTED RIGHTS

NOTE: Documentation of the information requested, such as permits, receipts, buildings department inspection reports, and photographs, must be attached.

- 1. Name of claimant, address, and telephone number:
(Please include zip code & area code):

Malibu Riviera One Homeowner's Association c/o Robert Adler,

6625 Zumires Drive, Malibu, CA 90265 (310) 457-7797

- 2. Name, address and telephone number of claimant's representative, if any:
(Please include zip code & area code):

Martin N. Burton; Alvarado, Smith & Sanchez;

633 W. Fifth Street, Suite 1150, Los Angeles, CA 90071 (213) 229-2400

- 3. Describe the development claimed to be exempt and its location. Include all incidental improvements such as utilities, road, etc. Attach a site plan, development plan, grading plan, and construction or architectural plans.

"Private Property, No Trespassing Sign", including face and posts.

Located on the far eastern side of Lot 51, Tract 12778 of Los Angeles

County Records, APN4466-003-015, as depicted on Map attached.

- 4. California Environmental Quality Act/Project Status.

Check one of the following: **Not a project per Public Resources Code 21065(c) but exempt in any event under PRC 21169. See attached**

a. Categorically exempt _____. Class: _____. Item: _____

Describe exempted status and date granted: _____

b. Date Negative Declaration Status granted: _____

c. Date Environmental Impact Report approved: _____

Attach environmental impact report or negative declaration.

FOR COASTAL COMMISSION USE:

Claim Number: 403-098-VRC

Date Submitted 9-26-2003
Date Filed _____

5. List all governmental approvals which have been obtained (including those from federal agencies) and list the date of each final approval. Attach copies of all approvals.

Not applicable. See attached

6. List any governmental approvals which have not yet been obtained and anticipated date of approval.

Not applicable.

7. List any conditions to which the approvals are subject and date on which the conditions were satisfied or are expected to be satisfied.

Not applicable.

8. Specify, on additional pages, nature and extent of work in progress or completed, including (a) date of each portion commenced (i.e., grading, foundation work, structural work, etc.); (b) governmental approval pursuant to which portion was commenced; (c) portions completed and date on which completed; (d) status of each portion on January 1, 1972 and/or January 1, 1977 (e) status of each portion on date of claim; (f) amounts of money expended on portions of work completed or in progress (itemize dates and amounts of expenditures; do not include expenses incurred in securing any necessary governmental approvals).

Please see attached.

9. Describe those portions of development remaining to be constructed.

Not applicable.

10. List the amount and nature of any liabilities incurred that are not covered above and dates incurred. List any remaining liabilities to be incurred and dates when these are anticipated to be incurred.

Not applicable.

11. State the expected total cost of the development, excluding expenses incurred in securing any necessary governmental approval(s).

Not applicable.

12. Is the development planned as a series of phases or segments? If so, explain.

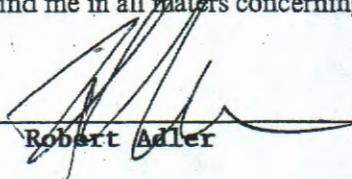
Not applicable.

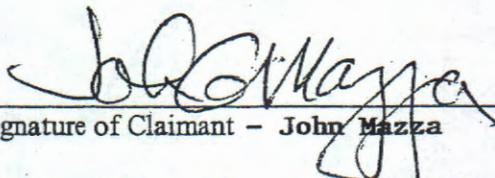
13. When is it anticipated that the total development would be completed?

Not applicable.

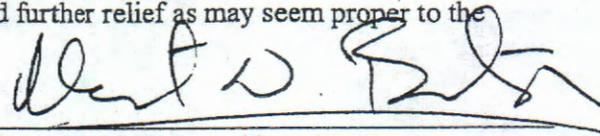
14. Authorization of Agent.

I hereby authorize Martin N. Burton to act as my representative and bind me in all matters concerning this application.


Robert Adler


Signature of Claimant - John Mazza

15. I hereby certify that to the best of my knowledge the information in this application and all attached exhibits is full, complete, and correct, and I understand that any misstatement or omission, of the requested information or of any information subsequently requested, shall be grounds for denying the exemption or suspending, or revoking any exemption allowed on the basis of these or subsequent representations, or for the seeking of such other and further relief as may seem proper to the Commission.


Signature of Claimant(s) or Agent

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SOUTH CENTRAL COAST DISTRICT

TRACT NO. 12778

SCALE 1" = 100'

SHEET 3 OF 3 SHEETS

RECORDED
Dec. 5, 1944
1:12 PM
262
NAME: RAFFI

Paul Hamilton

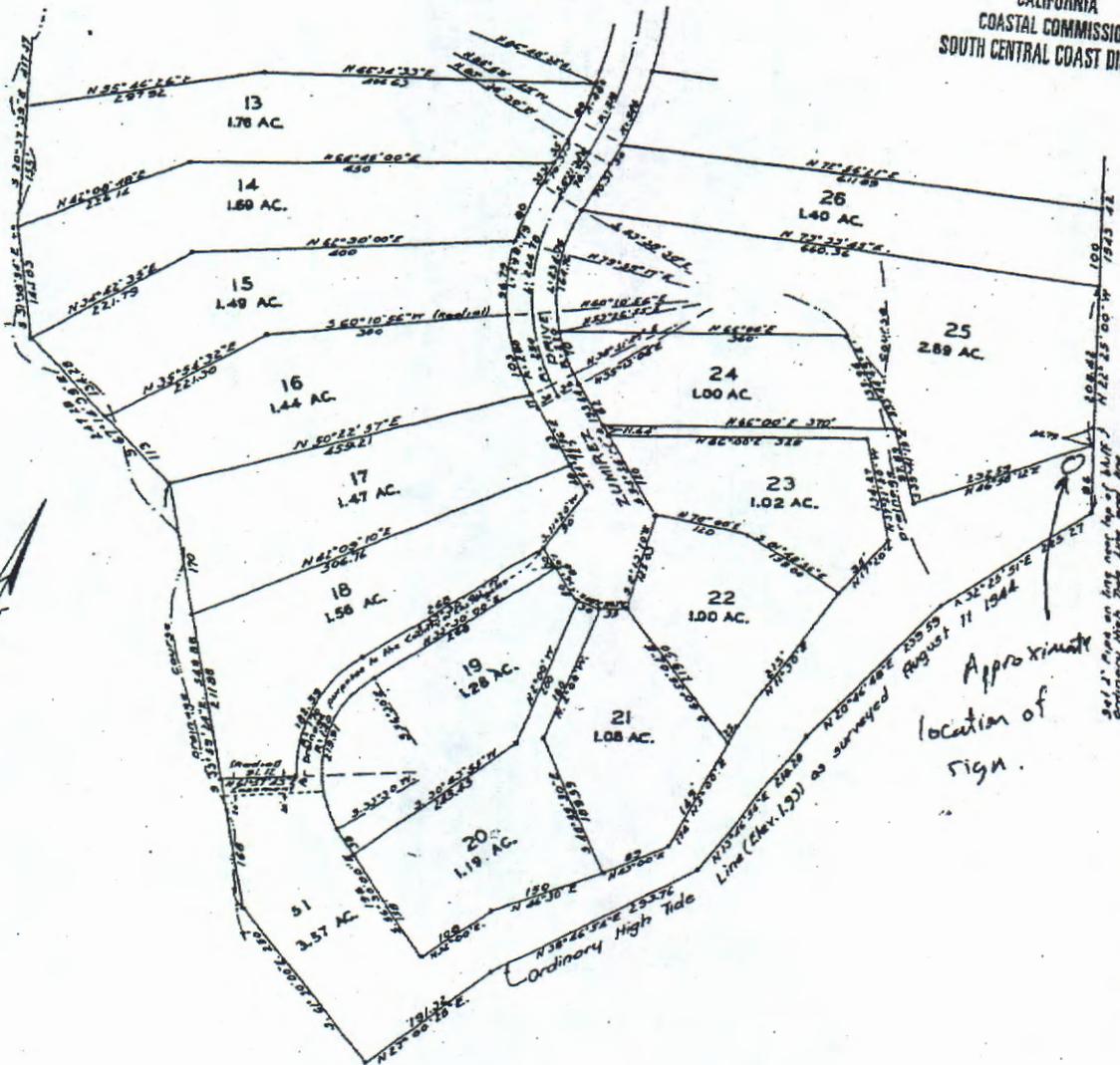
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SEE SHEET 2



Approximate location of sign

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SOUTH CENTRAL COAST DISTRICT

EXHIBIT B

DECLARATION OF CHARLIE SPEVAK

I, Charlie Spevak, declare as follows:

1. This declaration is based on personal information, except as to those matters stated on information and belief, and as to those, I believe them to be true. If called as a witness, I could and would competently testify thereto.

2. My name is Charlie Spevak. I have lived at 6642 Zumirez Drive, Malibu since the early 1950's.

3. Sometime during the 1950's the Riviera One Homeowner's Association erected a "No Trespassing" sign between our property and Paradise Cove. We were advised to do so to prevent a prescriptive easement over our property. No substantial changes have been made to this sign since that time. The location and wording of the sign have remained the same over the years.

I declare under penalty of perjury under the laws of the state of California that the foregoing is true and correct to best of my knowledge.

Executed this 19 day of September, 2003 in Los Angeles, California.

By: Charlie Spevak
Charlie Spevak

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ATTORNEYS AT LAW
LOS ANGELES

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SOUTH CENTRAL COAST-DISTRICT

EXHIBIT C

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SOUTH CENTRAL COAST DISTRICT

EXHIBIT D

DECLARATION OF JOHN MAZZA

I, John Mazza, declare as follows:

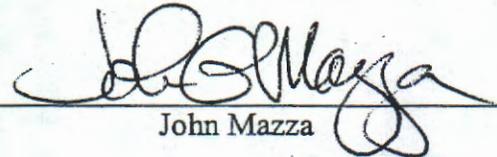
1. This declaration is based on personal information, except as to those matters stated on information and belief, and as to those, I believe them to be true. If called as a witness, I could and would competently testify thereto.

2. I reside at 6613 Zumirez Drive. I have been a resident of Point Dume continuously since 1972. I have walked the beach between Paradise Cove and Point Dume on a daily basis for over thirty years and I can honestly testify to the fact that there has always been a "No Trespassing" sign nearby the boundary between the private land owned by the Paradise Cove Mobile Home Park and Malibu Riviera One since I have lived in the area. No substantial changes have been made to the sign from that time to this.

I declare under penalty of perjury under the laws of the state of California that the foregoing is true and correct to best of my knowledge.

Executed this 18 day of September, 2003 in Los Angeles, California.

By:


John Mazza

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EXHIBIT E

DECLARATION OF SHIRLEY JOHNSON

I, Shirley Johnson, declare as follows:

1. This declaration is based on personal information, except as to those matters stated on information and belief, and as to those, I believe them to be true. If called as a witness, I could and would competently testify thereto.

2. I have lived in our house at 6604 Zumirez since 1966. I can state that there was a "No Trespassing" sign on the beach in the area where our beach property meets Paradise Cove's property since, at least the early 1970's and it may have been there in the 1960's.

I declare under penalty of perjury under the laws of the state of California that the foregoing is true and correct to best of my knowledge.

Executed this 18 day of September, 2003 in Los Angeles, California.

By: Shirley R. Johnson
Shirley Johnson

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SOUTH CENTRAL COAST DISTRICT

EXHIBIT F

Malibu Riviera One

A NON-PROFIT CORPORATION

ZUMIREZ DRIVE

MALIBU, CALIFORNIA

February 6, 1967

Newsletter #1

Subject: Annual Meeting of Malibu Riviera One - 1-26-67
 "Subjects of Discussion"

The board members elected for 1967 are:

President - Jim Johnson
 Vice-President - Nan Bryan
 Sec'y-Treasurer - Jo Ann Rector

The problem of raising the levy of assessments was discussed but the matter was not pursued since we did not have a majority of votes, including proxies, present. Dues and assessments will remain the same this year, but keep this problem in mind since there might be a possible need for an increase in the near future.

* The board was appointed to purchase four new beach signs to replace the old ones on the bluff; also, a new sign will be placed on the gate stating "All Persons Pass Beyond This Point at Their Own Risk".

The board, for the safety of its members and guests, has placed an additional lock on the large gate to prevent anyone from driving down the road, until it can be graded. When the road has been graded the lock will be replaced on the gate, each time it rains, to allow sufficient time for the road to dry out.

Due to the heavier rains in the past few years the road has deteriorated considerably, in spite of annual grading and up-keep. The run-off water has eroded the surface of the road to such an extent that it has exposed a jagged rock base. It also has caused other serious problems that will need special attention, particularly concerning drainage. We plan on having the road graded sometime in March or April. Time is short and a decision on the drainage has to be made before then to avoid further collapse of the road.

PLEASE, if anyone can help us or give us suggestions toward solving this problem, contact any one of the board members. This is your road too and under its present condition driving on it is prohibited.

Respectfully,

Jo Ann Rector

Sec'y-Treasurer

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EXHIBIT G

Malibu Riviera One

A NON-PROFIT CORPORATION
ZUMIREZ DRIVE
MALIBU, CALIFORNIA

MINUTES OF THE ANNUAL MEETING OF MALIBU RIVIERA ONE CORPORATION

March 16, 1971

At the meeting of the Malibu Riviera One Corporation, held March 16, 1971, 8:00P.M. at the home of Mr. Charles Nelson, 6744 Zumirez Drive, Malibu, President Jack Streckewald welcomed the members. Present were 17 members, with 8 votes represented by proxy ballots. Minutes of the 1969 Annual meeting, held February 16, 1970, were read and approved. The Treasurer's Report was given with a balance on hand of \$113.18.

The President then presented a resumé of the past year's activities. Topics discussed were:

1. The new lower fence-built at a cost of \$585. President advised that the new gate will be locked very soon. The same key will be used for the top and lower gates.
2. Grading of Parking Lot-gravel was suggested for the low spots.
3. Beach signs-this is being taken care of by John Guldemann, who is President of Malibu Riviera Two
4. Articles of Incorporation-A letter was read to the members from Attorney George Pfeiffer. A summation of the letter advised that our corporation owns the beach and has control of the gate and keys to Lot 51. However, the corporation cannot force anyone to pay for maintenance or taxes of Lot 51. He advised that we would have to change the Articles of Incorporation to have the assessments paid.
5. Subdivision of Parcels

NEW BUSINESS

1. Nominations for officers for 1971 were as follows; President-Jack Streckewald; Vice-President-Leo Pann; Secretary-Treasurer-Diane Schwab. There being no other nominations, election of these officers was unanimous.
2. Change of keys and locks-the old keys will remain this year-unless there are any summer disturbances.

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SOUTH CENTRAL COAST DISTRICT

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Malibu Riviera One

A NON-PROFIT CORPORATION
ZUMIREZ DRIVE
MALIBU, CALIFORNIA

minutes continued---

3. Assessments -they will remain at \$12.00.

4. Mr. Calhoun Jacobson asked for a signature check on the 1969 Deed Restriction Petition-to see if they are all legal.

There being no further business to transact-a motion to adjourn was made and seconded. Carried.

Laine Schaub - Secy-Treasurer


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SOUTH CENTRAL COAST DISTRICT

EXHIBIT H

GEORGE R. PFEIFFER
ATTORNEY AT LAW

SUITE 408 UNION BANK BUILDING
2444 WILSHIRE BOULEVARD
SANTA MONICA, CALIFORNIA 90403
TELEPHONE 828-3475

June 16, 1972

Mrs. Leland Schwab
6667 Zumirez Drive
Malibu, California 90265

Re: Use of beach for advertising purposes
by Playboy Magazine

Dear Mrs. Schwab:

★
After your telephone call Wednesday I purchased a copy of the July 1972 issue of Playboy magazine and found the advertisement at page 77 which shows the models, kite, dune buggy and Toyota jeep on the beach at Lot 51 of Malibu Riviera One. I understand that other pictures taken by your husband or officers of the corporation show a "No Trespassing" sign in the immediate vicinity of the area where the commercial photograph was taken, and that in the past a rental payment has been made by motion picture producers using the beach.

An interesting question arises from the location of the equipment and models on the beach, and that is whether or not they are above or below the mean high tide line. A map showing Lot 51 describes its boundary along the ocean as the "Ordinary high tide line" and, of course, anything below that line belongs to the "public". From the photograph in Playboy it is not possible for me to answer the question. It becomes important in the event of suit because Playboy's attorneys will undoubtedly raise it in resistance to a claim for damages based on a trespass. It is also involved with the determination of whether or not the case can be tried by the Malibu Justice Court which does not have jurisdiction to try "cases at law which involve the title or possession of real estate." (Code of Civil Procedure, Section 112.)

The same contention may well be made in reply to a written demand to Playboy for payment of damages which I think should be made. Enclosed is a copy of such proposed demand.

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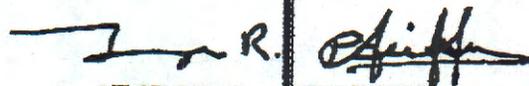
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SOUTH CENTRAL COAST DISTRICT

Mrs. Leland Schwab
June 16, 1972
Page Two

Concerning the "invasion of privacy" aspect of the claim, I have encountered law saying that this type of claim is "Personal" and not one enforceable except by the individual person affected thereby. Further search will be needed to determine if a corporation can recover damages for such an intrusion to its privacy. If not, it would be necessary to have individual owners join as parties plaintiff in the suit.

Without proceeding further with legal questions of this nature, I think we should first make the demand along the lines stated in the enclosed letter. If anything requires correction for the sake of accuracy, please let me know. After we get the response of Playboy we can, if necessary, go more fully into the technicalities of a lawsuit against the publication.

Very truly yours,


GEORGE R. PFEIFFER

GRP:hh
Encl.

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COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

EXHIBIT I

Tests

Sec. 106. Whenever there is insufficient evidence of compliance with the provisions of this Code or evidence that any material or any construction does not conform to the requirements of this Code, or in order to substantiate claims for alternate materials or methods of construction, the Building Official may require tests as proof of compliance to be made at the expense of the owner or his agent by an approved agency.

Test methods shall be as specified by this Code for the material in question. If there are no appropriate test methods specified in this Code, the Building Official shall determine the test procedure.

Copies of the results of all such tests shall be retained for a period of not less than two years after the acceptance of the structure.

Amendments to Ordinances

[Sec. 107. Whenever any reference is made to any other ordinance such reference shall be deemed to include all future amendments thereto.

Work Exempted

Sec. 108. The following structures are exempted from all the provisions of this Code except those contained in Chapter 45.

1. Wire fences not over twelve feet (12') in height and other fences not over six feet (6') in height.
2. Steel tanks supported on a foundation not more than two feet (2') above grade when the height does not exceed one and one-half times the diameter.
3. Gantry cranes and similar mechanical equipment.
4. Detached private lath houses, glass houses, and pergolas not over four hundred square feet (400 sq. ft.) in area.
5. Bridges not involving buildings.
6. Retaining walls that retain not more than three feet (3') of earth, unless supporting a surcharge or impounding flammable liquids.
7. Motion picture sets except when used as a building.]

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CALIFORNIA COASTAL COMMISSION SOUTH CENTRAL COAST DISTRICT

[Sec. 201. There is hereby established the Department of County Engineer to be known as "Building and Safety Division."]

[Sec. 202. (a) General. The County Engineer is authorized and directed to enforce all of the ordinances, of the electrical ordinance, a ordinance, and to make all inspections in accordance with the provisions of each such ordinance. For such purposes he shall have the powers of a police officer.]

(b) Deputies. In accordance with the provisions of this Code, the approval of the chief appointing authority, the Building Official may appoint such inspectors and assistants, and other employees, as may be necessary to carry out the duties of the Building Department.

(c) Reports and Records. The Building Official shall submit a report to the proper [County] Official at least once a year. The Building Official may be directed by the Board of Supervisors to submit a report to the Board of Supervisors of the work of the Division subsequent to the annual report. The report shall incorporate in said report a summary of the amendments to this Code as desirable amendments to this Code.

The Building Official shall keep a permanent record of all fees and other moneys collected under this Code, the names of the persons who have paid the same, the date and amount of the same, and together with the location of the building or structure to which they relate.

(d) Right of Entry. Upon presentation of a complaint to the Building Official or his duly authorized representative, the Building Official or his duly authorized representative may enter at reasonable times any building or premises in the [unincorporated territory] to perform any duty imposed upon him by this Code. No person who denies or prevents, obstructs, or interferes with such access is guilty of a misdemeanor.

(e) Stop Orders. Whenever any building or structure is found to be in violation of the provisions of this Code, the Building Official may order the work stopped by the contractor or persons engaged in the doing of such work to be done, and any such persons shall be liable for such work until authorized by the Building Official to continue with the work.

(f) Occupancy Violations. Whenever a building or structure is found to be in violation of the provisions of this Code, the Building Official may order such use discontinued or portion thereof, vacated by notice served on the owner causing such use to be discontinued. Such use shall continue the use within 10 days after receipt of such notice.

Protection of
Pedestrians
on Public
Property
(Continued)

The entire structure shall be designed to carry the loads to be imposed on it, provided the minimum live load to be used in design shall be not less than 35 pounds per square foot, uniformly loaded.

If materials are stored or work is done on the roof of the canopy, the street sides and ends of the canopy roof shall be protected by a tight curb board not less than one foot (1') high and a railing not less than three feet (3') high.

The space under the canopy over the walkway and the approaches thereto shall be kept well lighted with artificial lighting continuously between sunset and sunrise.

Sec. 4407. When the area or a portion thereof occupied by a public sidewalk is to be excavated, the holder of the building permit shall construct a substantial temporary walkway not less than four feet (4') in width for pedestrian travel over the areas to be excavated or around the same.

The walkway over the excavated area shall be designed for a uniform live load of 150 pounds per square foot. The walkway shall be provided with suitable ramps or stairs at each end and with a handrail not less than three feet (3') high along each side or with a railing on one side and a fence on the other, as the case may require.

The walkway around the excavated area shall be as close to the excavation on the street side as possible and constructed with a railing not less than three feet (3') high and a fence on the excavation side of the walkway.

Protection of
Sidewalk
Excavations

CHAPTER 45—PERMANENT OCCUPANCY OF PUBLIC PROPERTY

Sec. 4501. No part of any structure or any appendage thereto, except signs, shall project beyond the property line of the building site, except as specified in this Chapter. General

[For the purpose of this Chapter in cases where a Building Line Ordinance applies, the building line established in such ordinance shall be deemed to be the street property line, and a line on the street side twelve feet (12') from said building line shall be deemed to be the curb line. The area included within the boundaries established by a Building Line Ordinance shall, for the purposes of this Chapter, be deemed to be public property.]

Structures or appendages regulated by this Code shall be constructed of materials as specified in Section 1710 and Chapter 35.

The projection of any structure or appendage shall be the distance measured horizontally from the property line to the outermost point of the projection.

No provisions of this Chapter shall be construed to permit the violation of other laws or ordinances regulating the use and occupancy of public property.

Sec. 4502. No part of any structure or any appendage thereto shall project into any alley. Projection
Into Alleys

A curb or buffer block may project not more than nine inches (9") and not exceed a height of nine inches (9") above grade.

Footings located at least eight feet (8') below grade may project not more than twelve inches (12").

Sec. 4503. The space adjoining a building below a sidewalk on public property may be used and occupied in connection with the building for any purpose not inconsistent with this Code or other laws or ordinances regulating the use and occupancy of such spaces on condition that the right so to use and occupy may be revoked by the city at any time and that the owner of the building will construct the necessary walls and footings to separate such space from the building and pay all costs and expenses attendant therewith. Space
below
Sidewalk

Footings located at least eight feet (8') below grade may project not more than twelve inches (12").

Sec. 4504. Oriel windows, balconies, unroofed porches, cornices, belt courses, and appendages such as watertables, sills, capitals, bases, and architectural projections, may project over the public property of the building site a distance as determined by the clearance of the lowest point of the projection above the grade immediately below, as follows: Balconies
and
Appendages

Balconies
and
Appendages
Continued)

Clearance above grade less than eight feet (8')—no projection is permitted.

Clearance above grade over eight feet (8')—one inch (1") of projection is permitted for each additional inch of clearance, provided that no such projection shall exceed a distance of four feet (4').

Marquees

Sec. 4505. (a) General. For the purpose of this Section a marquee shall include any object or decoration attached to or a part of said marquee.

(b) Projection and Clearance. The horizontal clearance between a marquee and the curb line shall be not less than two feet (2').

A marquee projecting more than two-thirds of the distance from the property line to the curb line shall be not less than twelve feet (12') above the ground or pavement below.

A marquee projecting less than two-thirds of the distance from the property line to the curb line shall be not less than eight feet (8') above the ground or pavement below.

(c) Length. A marquee projecting more than two-thirds of the distance from the property line to the curb line shall not exceed twenty-five feet (25') in length along the direction of the street.

(d) Thickness. The maximum height or thickness of a marquee measured vertically from its lowest to its highest point shall not exceed three feet (3') when the marquee projects more than two-thirds of the distance from the property line to the curb line and shall not exceed nine feet (9') when the marquee is less than two-thirds of the distance from the property line to the curb line.

(e) Construction. A marquee shall be supported entirely from the building and constructed as specified under Types of Construction and shall be of incombustible material or, when of Type V construction, of not less than one-hour fire-resistive construction.

(f) Roof Construction. The roof or any part thereof may be a skylight, provided wire glass is used not less than one-fourth inch (1/4") thick with no single pane more than eighteen inches (18") wide.

Every roof and skylight of a marquee shall be sloped to downspouts which shall conduct any drainage from the marquee under the sidewalk to the curb.

(g) Location Prohibited. Every marquee shall be so located as not to interfere with the operation of any exterior standpipe or to obstruct the clear passage of stairways or exits from the building or the installation or maintenance of electroliners.

Sec. 4506. (a) Definition. AWNING is a movable shelter supported entirely from the exterior wall of a building and of a type which can be retracted, folded or collapsed against the face of a supporting building.

Movable
Awnings or
Hoods

Such awning or hood may extend over public property not more than seven feet (7') from the face of a supporting building nor within two feet (2') of the curb line measured horizontally.

Collapsible awnings shall be so designed that they shall not block a required exit when collapsed.

(b) Movable Awnings or Hoods. Movable awnings or hoods may have combustible coverings supported on incombustible frames attached to the building.

Such awning or hood may extend over the public property not more than two-thirds the distance from the property line to the nearest curb in front of the building site.

The lowest part of any movable awning or hood frame shall be not less than eight feet (8') above the ground immediately below, and the lowest part of any fringe attached to such awning or hood shall be not less than seven feet (7') above the grade immediately below.

Sec. 4507. Doors in Fire Zones No. 1 and No. 2, either fully opened or when opening, shall not project more than one foot (1') beyond the property line, except that in alleys no projection beyond the property line is permitted. Doors in Fire Zone No. 3, that swing over the property line, shall be maintained normally closed.

Doors

Sec. 4508. Overhead structures as defined in Section 141 of Ordinance No. 3597 entitled "Highway Permit Ordinance," adopted May 28, 1940, may project beyond a street property line or building line as provided in a permit issued by the Road Commissioner pursuant to Section 147 of said Ordinance No. 3597.

Overhead
Structures

Sec. 4509. Fences not exceeding forty-two inches (42") in height may extend beyond a building line to the actual street property line.

Fences

Sec. 4510. Lighting standards not exceeding ten inches (10") in horizontal dimension, where such standards are not less than fifty feet (50') apart, may be established beyond the building line to within one foot (1') of the actual street property line.

Lighting
Standards

Sec. 4511. (a) Sign Projection. Signs may project beyond a street property line or building line as set forth in Chapter 62.

Signs

(b) Location. Signs may occupy the area between the actual street property line and a building line provided they advertise a business conducted on the property and are at

Signs
(Continued)

least twelve feet (12') above the ground and are supported on posts not exceeding ten inches (10") in horizontal dimension, and do not exceed fifty square feet (50 sq. ft.) in area and are placed not less than fifty feet (50') apart.

PART X
PLASTER AND WALLBOARDCHAPTER 47—LATHING, PLASTERING AND INSTALLATION
OF WALLBOARD

Sec. 4701. Lathing and plastering and installation of wallboard shall be done in the manner and with the materials specified in this Chapter, and when required for fire protection shall also comply with the provisions of Chapter 43. General

No plaster shall be applied until the lathing has been inspected and approved by the Building Official.

The Building Official may require that test holes be made in the wall for the purpose of determining the thickness and proportioning of the plaster, provided the permit holder has been notified 24 hours in advance of the time of making such test.

Sec. 4702. (a) General. Materials shall conform to the following standards: Materials

MATERIALS	U.B.C. DESIGNATION
AGGREGATE	
Sand	47- 1-61
Perlite	47- 1-61
Vermiculite	47- 1-61
GYPSUM PLASTER	47- 2-61
LIME	
Special Finishing Hydrated Lime (autoclaved) ..	47- 3-61
Quicklime for Structural Purposes	24-16-61
KEENE'S CEMENT	47- 4-61
PORTLAND CEMENT	
Type I, II, or III	26- 1-61
Type I-A, II-A, or III-A Air-entraining Portland Cement	24-14-61
WOOD LATH	47- 5-61
FIBER INSULATION LATH	22- 1-61
GYPSUM LATH	47- 6-61
METAL AND WIRE LATH, METAL ACCESSORIES AND CHANNELS	47- 7-61
GYPSUM WALLBOARD	47- 8-61

(b) Aggregate. Sand shall conform to U.B.C. Standard No. 47-1-61 and shall be washed when used with portland cement for scratch coat plastering. The amount of sand retained on a No. 8 sieve shall be not less than 10 per cent or more than 30 per cent.

Containers for perlite and vermiculite aggregate shall be marked indicating that the material therein conforms to U.B.C. Standard No. 47-1-61.

(c) Gypsum Plaster. Gypsum plaster shall conform to U.B.C. Standard No. 47-2-61.

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SOUTH CENTRAL COUNTY

EXHIBIT J

Tests

Sec. 106. Whenever there is insufficient evidence of compliance with the provisions of this Code or evidence that any material or any construction does not conform to the requirements of this Code, or in order to substantiate claims for alternate materials or methods of construction, the Building Official may require tests as proof of compliance to be made at the expense of the owner or his agent by an approved agency.

Test methods shall be as specified by this Code for the material in question. If there are no appropriate test methods specified in this Code, the Building Official shall determine the test procedure.

Copies of the results of all such tests shall be retained for a period of not less than two years after the acceptance of the structure.

Amendments to Ordinances

[Sec. 107. Whenever any reference is made to any other ordinance such reference shall be deemed to include all future amendments thereto.

Work Exempted

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3. Gantry cranes and similar mechanical equipment.
4. Detached private lath houses, glass houses, and pergolas not over four hundred square feet (400 sq. ft.) in area.
5. Bridges not involving buildings.
6. Retaining walls that retain not more than three feet (3') of earth, unless supporting a surcharge or impounding flammable liquids.
7. Motion picture sets except when used as a building.]

[Sec. 201. There is hereby created the Department of County Engineer as "Building and Safety Division"

[Sec. 202. (a) General. The Building Official is authorized and directed to enforce the ordinance, of the electrical ordinance, and to make all inspections of each such ordinance. The Building Official shall have the powers of a police officer.

(b) Deputies. In accordance with the approval of the chief appointing authority, the Building Official may appoint inspectors and assistants, and other employees as may be necessary to carry on the work of the Building Department.

(c) Reports and Records. The Building Official shall submit a report to the proper authority at the end of each year, covering the work of the department during the year. He shall incorporate in his report his recommendations as to desirable changes in the ordinance.

The Building Official shall keep a record of all fees and other monies received under this Code, the names of the persons who pay the same, the date when the same were paid, the date when the same were due, together with the location of the building to which they relate.

(d) Right of Entry. Upon presentation of a complaint, the Building Official or his duly authorized representative may enter at reasonable times any premises in the unincorporated area to perform any duty imposed upon him by this Code, and no person who denies or prevents, obstructs, or obstructs such access is liable for such access.

(e) Stop Orders. Whenever an order is issued contrary to the provisions of this Code, the Building Official may order the work stopped on any persons engaged in such work to be done, and any such person shall not be permitted to continue such work until authorized by the Building Official with the work.

(f) Occupancy Violations. Whenever a building is used contrary to the provisions of this Code, the Building Official may order such use discontinued or portion thereof, vacated by notice, and any such use shall continue the use within 10 days after the date of such order.

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Maintenance
and Removal of
Protective Devices

Sec. 4408. (a) Maintenance. Such protection shall be maintained in place and kept in good order for the entire length of time pedestrians may be endangered.

(b) Removal. Every protection fence or canopy shall be removed within 30 days after such protection is no longer required by this Chapter for protection of pedestrians.

(c) Signs. Signs painted or installed on a fence or canopy on public property shall conform to the zoning regulations applicable to the contiguous property. Such signs shall relate to the ownership, occupancy or construction of the building and shall not extend more than fifteen feet (15') above grade. The area of such signs shall not exceed the area permitted by the zoning regulations nor an aggregate area of two hundred square feet (200 sq. ft.) for each one hundred lineal feet (100 lin. ft.) of fence or canopy.

Demolition

Sec. 4409. The work of demolishing any building shall not be commenced until the required pedestrian protection structures are in place. Demolition work shall conform to the following additional regulations:

1. Dust. Dust shall be controlled in accordance with the requirements of the Air Pollution Control District and applicable County and State laws.

2. Handling of materials. All materials shall be handled within the building area or within an area bounded by a barricade approved by the Building Official.

3. Structural members. No structural member in any story shall be demolished or removed until the story immediately above is completely removed.

4. Storage of materials. No material shall be stored on any floor in excess of the allowable live load for that floor.

5. Hazardous conditions. Whenever there is evidence of probable danger to life, limb, or adjacent property, the Building Official may require the permittee to submit a plan or schedule of operation and no further work shall be done until such plan or schedule is approved by the Building Official.]

CHAPTER 45—PERMANENT OCCUPANCY OF PUBLIC PROPERTY

Sec. 4501. No part of any structure or any appendage thereto, except signs, shall project beyond the property line of the building site, except as specified in this Chapter. General

Structures or appendages regulated by this Code shall be constructed of materials as specified in Section 1710 and Chapter 35.

The projection of any structure or appendage shall be the distance measured horizontally from the property line to the outermost point of the projection.

No provisions of this Chapter shall be construed to permit the violation of other laws or ordinances regulating the use and occupancy of public property.

[For the purpose of this Chapter in cases where a Building Line Ordinance applies, the building line established in such ordinance shall be deemed to be the street property line, and a line on the street side twelve feet (12') from said building line shall be deemed to be the curb line. The area included within the boundaries established by a Building Line Ordinance shall, for the purposes of this Chapter, be deemed to be public property.]

Sec. 4502. No part of any structure or any appendage thereto shall project into any alley. Projection
Into Alleys

A curb or buffer block may project not more than nine inches (9") and not exceed a height of nine inches (9") above grade.

Footings located at least eight feet (8') below grade may project not more than twelve inches (12").

Sec. 4503. The space adjoining a building below a sidewalk on public property may be used and occupied in connection with the building for any purpose not inconsistent with this Code or other laws or ordinances regulating the use and occupancy of such spaces on condition that the right so to use and occupy may be revoked by the city at any time and that the owner of the building will construct the necessary walls and footings to separate such space from the building and pay all costs and expenses attendant therewith. Space
Below
Sidewalk

Footings located at least eight feet (8') below grade may project not more than twelve inches (12").

Sec. 4504. Oriel windows, balconies, unroofed porches, cornices, belt courses, and appendages such as watertables, sills, capitals, bases, and architectural projections, may project over the public property of the building site a distance as Balconies
and
Appendages

Balconies
and
Appendages
(Continued)

determined by the clearance of the lowest point of the projection above the grade immediately below, as follows:

Clearance above grade less than eight feet (8')—no projection is permitted.

Clearance above grade over eight feet (8')—one inch (1") of projection is permitted for each additional inch of clearance, provided that no such projection shall exceed a distance of four feet (4').

Marquees

Sec. 4505. (a) **General.** For the purpose of this Section a marquee shall include any object or decoration attached to or a part of said marquee.

(b) **Projection and Clearance.** The horizontal clearance between a marquee and the curb line shall be not less than two feet (2').

A marquee projecting more than two-thirds of the distance from the property line to the curb line shall be not less than twelve feet (12') above the ground or pavement below.

A marquee projecting less than two-thirds of the distance from the property line to the curb line shall be not less than eight feet (8') above the ground or pavement below.

(c) **Length.** A marquee projecting more than two-thirds of the distance from the property line to the curb line shall not exceed twenty-five feet (25') in length along the direction of the street.

(d) **Thickness.** The maximum height or thickness of a marquee measured vertically from its lowest to its highest point shall not exceed three feet (3') when the marquee projects more than two-thirds of the distance from the property line to the curb line and shall not exceed nine feet (9') when the marquee is less than two-thirds of the distance from the property line to the curb line.

(e) **Construction.** A marquee shall be supported entirely from the building and constructed as specified under Types of Construction and shall be of incombustible material or, when of Type V construction, of not less than one-hour fire-resistive construction.

(f) **Roof Construction.** The roof or any part thereof may be a skylight, provided wire glass is used not less than one-fourth inch ($\frac{1}{4}$ ") thick with no single pane more than eighteen inches (18") wide.

Every roof and skylight of a marquee shall be sloped to downspouts which shall conduct any drainage from the marquee under the sidewalk to the curb.

(g) **Location Prohibited.** Every marquee shall be so located as not to interfere with the operation of any exterior standpipe or to obstruct the clear passage of stairways or exits from the building or the installation or maintenance of electroliers.

Sec. 4506. (a) **Definition.** AWNING is a movable shelter supported entirely from the exterior wall of a building and of a type which can be retracted, folded or collapsed against the face of a supporting building.

Such awning or hood may extend over public property not more than seven feet (7') from the face of a supporting building nor within two feet (2') of the curb line measured horizontally.

Collapsible awnings shall be so designed that they shall not block a required exit when collapsed.

Collapsible awnings, unless cloth covered, shall be designed for a vertical live load of not less than five pounds per square foot; except that snow load shall be used, if greater.

(b) **Movable Awnings or Hoods.** Movable awnings or hoods may have combustible coverings supported on incombustible frames attached to the building.

Such awning or hood may extend over the public property not more than two-thirds the distance from the property line to the nearest curb in front of the building site.

All portions of any awning shall be at least eight feet (8') above any public walkway.

EXCEPTION: Any valance attached to an awning shall be of cloth unless it is fabricated of the same material used for the roof of the awning. A metal valance may have a reinforcing member at or near the lower edge. The valance shall not project above the roof of the awning at the point of attachment and shall not extend more than twelve inches (12") below the roof of the awning at the point of attachment; nor shall any portion of a valance be less than seven feet (7') in height above a public way.

Sec. 4507. **Doors,** either fully opened or when opening, shall not project more than one foot (1') beyond the property line, except that in alleys no projection beyond the property line is permitted.

[Sec. 4508. **Overhead structures** as defined in Section 141 of Ordinance No. 3597 entitled "Highway Permit Ordinance," adopted May 28, 1940, may project beyond a street property line or building line as provided in a permit issued by the Road Commissioner pursuant to Section 147 of said Ordinance No. 3597.

Sec. 4509. **Fences** not exceeding forty-two inches (42") in height may extend beyond a building line to the actual street property line.

Sec. 4510. **Lighting standards** not exceeding ten inches (10") in horizontal dimension, where such standards are not less than fifty feet (50') apart, may be established beyond the building line to within one foot (1') of the actual street property line.

Movable
Awnings or
Hoods

Doors

Overhead
Structures

Fences

Lighting Standards

Signs

Sec. 4511. (a) **Sign Projection.** Signs may project beyond a street property line or building line as set forth in Chapter 62.

(b) **Location.** Signs may occupy the area between the actual street property line and a building line provided they advertise a business conducted on the property and are at least twelve feet (12') above the ground and are supported on posts not exceeding ten inches (10") in horizontal dimension, and do not exceed fifty square feet (50 sq. ft.) in area and are placed not less than fifty feet (50') apart.]

PART X

PLASTER AND WALLBOARD

CHAPTER 47—LATHING, PLASTERING AND INSTALLATION OF WALLBOARD

Sec. 4701. Lathing and plastering and installation of wallboard shall be done in the manner and with the materials specified in this Chapter, and when required for fire protection shall also comply with the provisions of Chapter 43. General

No plaster shall be applied until the lathing has been inspected and approved by the Building Official.

The Building Official may require that test holes be made in the wall for the purpose of determining the thickness and proportioning of the plaster, provided the permit holder has been notified 24 hours in advance of the time of making such test.

Sec. 4702. (a) **General.** Materials shall conform to the following standards: Materials

MATERIALS	U.B.C. DESIGNATION
AGGREGATE	
Sand.....	47- 1-64
Perlite.....	47- 1-64
Vermiculite.....	47- 1-64
GYPSUM PLASTER	47- 2-64
LIME	
Special Finishing Hydrated Lime (autoclaved) ..	47- 3-64
Quicklime for Structural Purposes	24-16-64
KEENE'S CEMENT	47- 4-64
PORTLAND CEMENT	
Type I, II, or III	26- 1-64
Type I-A, II-A, or III-A Air-entraining Portland Cement	24-14-64
WOOD LATH	47- 5-64
FIBER INSULATION LATH	22- 1-64
GYPSUM LATH	47- 6-64
METAL AND WIRE LATH, METAL ACCESSORIES AND CHANNELS	47- 7-64
GYPSUM WALLBOARD	47- 8-64

(b) **Aggregate.** Sand shall conform to U.B.C. Standard No. 47-1-64 and shall be washed when used with portland cement for scratch coat plastering. The amount of sand retained on a No. 8 sieve shall be not less than 10 per cent or more than 30 per cent.

Containers for perlite and vermiculite aggregate shall be marked indicating that the material therein conforms to U.B.C. Standard No. 47-1-64.

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ing with the requirements for new
y be made to such building or struc-
a period without making the entire
ply. The new construction shall con-
of this Code for a new building of
cupancy. Such building or structure,
hall not exceed the areas and heights

us, and Repairs: 25 Per Cent or Less.
rations, and repairs to any portion
structure, within any 12-month period,
of the value of the building or struc-
l of the requirements for new build-
that minor structural additions, altera-
proved by the Building Official, may
material of which the building or
Such building or structure, including
ceed the areas and heights specified

itions and Repairs: 25 Per Cent or
rs, not exceeding 25 per cent of the
ng or structure, which are nonstruc-
y member or part of the building or
fire resistance, may be made with
ich the building or structure is con-

ing. Not more than 25 per cent of
uilding or structure shall be replaced
less the new roof covering is made
nents of this Code for new buildings

Buildings in existence at the time
ode may have their existing use or
uch use or occupancy was legal at
f this Code, provided such continued
fe.

or occupancy of any existing build-
ply with the provisions of Sections

uildings or structures moved into or
ly with the provisions of this Code.
quirements in Fire Zones.

ildings or structures both existing
ereof, shall be maintained in a safe
ll devices or safeguards which are
building or structure when erected,
e maintained in good working order.
ated agent shall be responsible for
igs and structures.

ages. Whenever the Building Official
at an existing parapet or appendage
by an exterior wall of a building is
e to life or property in the event
as a result of inadequate construc-
horizontal forces, and such parapet
immediate menace as contemplated
the owner of the building or other
of the building where such parapet
upon receipt of formal notice in
Official evidencing and specifying
quacies of construction or bracing,
on the date of such written notice
rein set forth.

The parapet or appendage shall be removed and the remainder
of the wall anchored at the roof line, or it shall be reconstructed
so that it will conform structurally as near as it is practicable
to do so with requirements of Section 2312 of this Code, or it
shall be otherwise braced and strengthened in a manner satis-
factory to the Building Official, so that it will resist a rea-
sonable degree of horizontal forces without becoming dislodged
with danger of falling. Any person receiving notice as set out
in this Subsection may appeal, from the notice of the Building
Official, in the manner provided by Section 204 of this Code,
to the Board of Appeals.

Where, in the opinion of the Building Official, it is necessary
to open a portion of roof, wall, or ceiling of a building, in order
to establish the structural condition of any parapet or appen-
dage, he may order the owner to make such opening without
expense to the County.

SEC. 105 — ALTERNATE MATERIALS AND METHODS OF CONSTRUCTION

The provisions of this Code are not intended to prevent the
use of any material or method of construction not specifically
prescribed by this Code, provided any such alternate has been
approved.

The Building Official may approve any such alternate pro-
vided he finds that the proposed design is satisfactory and
complies with the provisions of Chapter 23, and that the ma-
terial, method, or work offered is, for the purpose intended,
at least the equivalent of that prescribed in this Code in
quality, strength, effectiveness, fire resistance, durability, and
safety.

The Building Official shall require that sufficient evidence
or proof be submitted to substantiate any claims that may be
made regarding its use.

For the requirements as an approved fabricator see Sections
305 and 402.

SEC. 106 — TESTS

Whenever there is insufficient evidence of compliance with
the provisions of this Code or evidence that any material or any
construction does not conform to the requirements of this
Code, or in order to substantiate claims for alternate materials
or methods of construction, the Building Official may require
tests as proof of compliance to be made at the expense of the
owner or his agent by an approved agency.

Test methods shall be as specified by this Code for the ma-
terial in question. If there are no appropriate test methods
specified in this Code, the Building Official shall determine the
test procedure.

Copies of the results of all such tests shall be retained for
a period of not less than two years after the acceptance of
the structure.

SEC. 107 — AMENDMENTS TO ORDINANCES

Whenever any reference is made to any other ordinance such
reference shall be deemed to include all future amendments
thereto.

SEC. 108 — WORK EXEMPTED

The following structures are exempted from all the provi-
sions of this Code except those contained in Chapter 45.

1. Wire fences not over 12 feet in height and other fences
not over six feet in height.

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vided a two-inch by four-inch stiffener is placed horizontally at the mid-height when the stud spacing exceeds two feet on center.

4. Plywood five-eighths inch or thicker shall not span over eight feet.

(d) Canopies. The protective canopy shall have a clear height of eight feet above the walkway. The roof shall be tightly sheathed. The sheathing shall be two-inch nominal wood planking or equal. Every canopy shall have a solid fence built along its entire length on the construction side.

If materials are stored or work is done on the roof of the canopy, the street sides and ends of the canopy roof shall be protected by a tight curb board not less than one foot high and a railing not less than three feet six inches high.

The entire structure shall be designed to carry the loads to be imposed on it, provided the live load shall be not less than 150 pounds per square foot. In lieu of such design a protection canopy supporting not more than 150 pounds per square foot may be constructed as follows:

1. Footings shall be continuous two-inch by six-inch members with scabbed joints.

2. Posts, not less than four inches by six inches in size, shall be provided on both sides of the canopy and spaced not more than 12 feet, center-to-center.

3. Stringers, not less than four inches by 12 inches in size, shall be placed on edge upon the posts.

4. Joists resting upon the stringers shall be at least two inches by eight inches in size and shall be spaced not more than two feet, center-to-center.

5. The deck shall be of planks at least two inches thick nailed to the joists.

6. Each post shall be knee-braced to joists and stringers by members four feet long, not less than two inches by four inches in size.

7. A curb, not less than two inches by 12 inches in size, shall be set on edge along the outside edge of the deck.

EXCEPTION: Protection canopies for new, light frame construction not exceeding two stories in height may be designed for a live load of 75 pounds per square foot or the loads to be imposed on it, whichever is the greater.

SEC. 4408 — MAINTENANCE AND REMOVAL OF PROTECTIVE DEVICES

(a) Maintenance. Such protection shall be maintained in place and kept in good order for the entire length of time pedestrians may be endangered.

(b) Removal. Every protection fence or canopy shall be removed within 30 days after such protection is no longer required by this Chapter for protection of pedestrians.

(c) Signs. Signs painted or installed on a fence or canopy on public property shall conform to the zoning regulations applicable to the contiguous property. Such signs shall relate to the ownership, occupancy or construction of the building and shall not extend more than 15 feet above grade. The area of such signs shall not exceed the area permitted by the zoning regulations nor an aggregate area of 200 square feet for each 100 lineal feet of fence or canopy.

SEC. 4409 — DEMOLITION

The work of demolishing any building shall not be commenced until the required pedestrian protection structures are in place. Demolition work shall conform to the following additional regulations:

1. Dust shall be controlled in accordance with the requirements of the Air Pollution Control District and applicable County and State laws.

2. Handling of Materials. All materials shall be handled within the building area or within an area bounded by a barricade approved by the Building Official.

3. Structural Members. No structural member in any story shall be demolished or removed until the story immediately above is completely removed.

4. Storage of Materials. No material shall be stored on any floor in excess of the allowable live load for that floor.

5. Hazardous Conditions. Whenever there is evidence of probable danger to life, limb, or adjacent property, the Building Official may require the permittee to submit a plan or schedule of operation and no further work shall be done until such plan or schedule is approved by the Building Official.

CHAPTER 45—PERMANENT OCCUPANCY OF PUBLIC PROPERTY

SEC. 4501 — GENERAL

No part of any structure or any appendage thereto, except signs, shall project beyond the property line of the building site, except as specified in this Chapter.

Structures or Appendages regulated by this Code shall be constructed of materials as specified in Section 1710 and Chapter 35.

The projection of any structure or appendage shall be the distance measured horizontally from the property line to the outermost point of the projection.

No provisions of this Chapter shall be construed to permit the violation of other laws or ordinances regulating the use and occupancy of public property.

For the purpose of this Chapter in cases where a Building Line Ordinance applies, the building line established in such ordinance shall be deemed to be the street property line, and a line of the street side 12 feet from said building line shall be deemed to be the curb line. The area included within the boundaries established by a Building Line Ordinance shall, for the purposes of this Chapter, be deemed to be public property.

SEC. 4502 — PROJECTION INTO ALLEYS

No part of any structure or any appendage thereto shall project into any alley.

A curb or buffer block may project not more than nine inches and not exceed a height of nine inches above grade.

Footings located at least eight feet below grade may project not more than 12 inches.

SEC. 4503 — SPACE BELOW SIDEWALK

The space adjoining a building below a sidewalk on public property may be used and occupied in connection with the

building for any purpose not inconsistent with this Code or other laws or ordinances regulating the use and occupancy of such spaces on condition that the right so to use and occupy may be revoked by the city at any time and that the owner of the building will construct the necessary walls and footings to separate such space from the building and pay all costs and expenses attendant therewith.

Footings located at least eight feet below grade may project not more than 12 inches.

SEC. 4504 — BALCONIES AND APPENDAGES

Oriel windows, balconies, unroofed porches, cornices, belt courses, and appendages such as watertables, sills, capitals, bases, and architectural projections, may project over the public property of the building site a distance as determined by the clearance of the lowest point of the projection above the grade immediately below, as follows:

Clearance above grade less than eight feet — no projection is permitted.

Clearance above grade over eight feet—one inch of projection is permitted for each additional inch of clearance, provided that no such projection shall exceed a distance of four feet.

SEC. 4505 — MARQUEES

(a) **General.** For the purpose of this Section a marquee shall include any object or decoration attached to or a part of said marquee.

(b) **Projection and Clearance.** The horizontal clearance between a marquee and the curb line shall be not less than two feet.

A marquee projecting more than two-thirds of the distance from the property line to the curb line shall be not less than 12 feet above the ground or pavement below.

A marquee projecting less than two-thirds of the distance from the property line to the curb line shall be not less than eight feet above the ground or pavement below.

(c) **Length.** A marquee projecting more than two-thirds of the distance from the property line to the curb line shall not exceed 25 feet in length along the direction of the street.

(d) **Thickness.** The maximum height or thickness of a marquee measured vertically from its lowest to its highest point shall not exceed three feet when the marquee projects more than two-thirds of the distance from the property line to the curb line and shall not exceed nine feet when the marquee is less than two-thirds of the distance from the property line to the curb line.

(e) **Construction.** A marquee shall be supported entirely from the building and constructed as specified under Types of Construction and shall be of incombustible material or, when of Type V construction, of not less than one-hour fire-resistive construction.

(f) **Roof Construction.** The roof or any part thereof may be a skylight, provided wire glass is used not less than one-fourth inch thick with no single pane more than 18 inches wide.

Every roof and skylight of a marquee shall be sloped to downspouts which shall conduct any drainage from the marquee under the sidewalk to the curb.

(g) **Location Prohibited.** Every marquee shall be so located as not to interfere with the operation of any exterior standpipe or to obstruct the clear passage of stairways or exits from the building or the installation or maintenance of electrolifers.

SEC. 4506 — MOVABLE AWNINGS OR HOODS

(a) **Definition.** AWNING is a movable shelter supported entirely from the exterior wall of a building and of a type which can be retracted, folded or collapsed against the face of a supporting building.

Such awning or hood may extend over public property not more than seven feet from the face of a supporting building nor within two feet of the curb line measured horizontally.

Collapsible awnings shall be so designed that they shall not block a required exit when collapsed.

Collapsible awnings, unless cloth covered, shall be designed for a vertical live load of not less than five pounds per square foot; except that snow load shall be used, if greater.

(b) **Movable Awnings or Hoods.** Movable awnings or hoods may have combustible coverings supported on incombustible frames attached to the building.

Such awning or hood may extend over the public property not more than two-thirds the distance from the property line to the nearest curb in front of the building site.

All portions of any awning shall be at least eight feet above any public walkway.

EXCEPTION: Any valance attached to an awning shall be of cloth unless it is fabricated of the same material used for the roof of the awning. A metal valance may have a reinforcing member at or near the lower edge. The valance shall not project above the roof of the awning at the point of attachment and shall not extend more than 12 inches below the roof of the awning at the point of attachment; nor shall any portion of a valance be less than seven feet in height above a public way.

SEC. 4507 — DOORS

Doors, either fully opened or when opening, shall not project more than one foot beyond the property line, except that in alleys no projection beyond the property line is permitted.

SEC. 4508 — OVERHEAD STRUCTURES

Overhead structures as defined in Section 141 of Ordinance No. 3597 entitled "Highway Permit Ordinance," adopted May 28, 1940, may project beyond a street property line or building line as provided in a permit issued by the Road Commissioner pursuant to Section 147 of said Ordinance No. 3597.

SEC. 4509 — FENCES

Fences not exceeding 42 inches in height may extend beyond a building line to the actual street property line.

SEC. 4510 — LIGHTING STANDARDS

Lighting standards not exceeding ten inches in horizontal dimension, where such standards are not less than 50 feet apart, may be established beyond the building line to within one foot of the actual street property line.

SEC. 4511 — SIGNS

(a) **Sign Projection.** Signs may project beyond a street property line or building line as set forth in Chapter 62.

(b) **Location.** Signs may occupy the area between the actual street property line and a building line provided they advertise a business conducted on the property and are at least 12 feet above the ground and are supported on posts not exceeding ten inches in horizontal dimension, and do not exceed 50 square feet in area and are placed not less than 50 feet apart.

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SECTION 106 — PERMITS

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It bears the Department of Motor Vehicles, State of California, insignia of approval for movement on any highway;

106.1 Permits Required. No person, shall erect, construct, enlarge, alter, repair, move, improve, remove, connect, convert, demolish, or equip any building, structure, or portion thereof, or automatic fire-extinguishing system regulated by Chapter 9, perform any grading, or perform landscaping as regulated by Chapter 71, or cause the same to be done, without first obtaining a separate permit for each such building, structure, automatic fire-extinguishing system, grading or landscaping from the building official.

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It incorporates as an integral part of its basic construction a hitch or coupling device for towing;

106.2 Unpermitted Structures. No person shall own, use, occupy or maintain any "unpermitted structure."

For the purposes of this code, "unpermitted structure" shall be defined as any structure, or portion thereof, that was erected, constructed, enlarged, altered, repaired, moved, improved, removed, connected, converted, demolished or equipped, at any point in time, without the required permit(s) having first been obtained from the building official, pursuant to Section 106.1, *supra*.

13.5 It can accommodate, without further structural change, wheel and axle assemblies to provide a safe means of portability;

13.6 It is equipped with permanent ventilation to prevent the accumulation of combustible gases; and

13.7 It is not provided with water or sanitary facilities.

106.3 Work Exempted. A building permit shall not be required for the following:

14. Oil derricks.

15. Platforms, walks and driveways not more than 30 inches (762 mm) above grade and not over any basement or story below.

16. Prefabricated swimming pools accessory to a Group R, Division 3 Occupancy in which the pool walls are entirely above the adjacent grade and the capacity does not exceed 5,000 gallons (18 927 L).

17. Playground equipment.

1. One-story detached accessory buildings used as tool and storage sheds, playhouses and similar uses, provided the floor area does not exceed 120 square feet (11.15 m²).

2. Fences not over 6 feet (1829 mm) in height.

3. Steel tanks supported on a foundation not more than 2 feet (610 mm) above grade when the height does not exceed 1 1/2 times the diameter.

4. Gantry cranes and similar equipment.

5. Retaining walls that retain not over 4 feet (1219 mm) in height measured from the bottom of the footing to the top of the wall, unless supporting a surcharge or impounding a Class I, II or III-A liquids.

Unless otherwise exempted, separate plumbing, electrical and mechanical permits will be required for the above-exempted items.

Exemption from the permit requirements of this code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of other laws or ordinances.

106.4 Application for Permit.

106.4.1 Application. To obtain a permit, the applicant shall first file an application therefor in writing on a form furnished for that purpose. Every such application shall:

6. Motion picture, television and theater stage sets and scenery, except when used as a building.

7. Radio and television antennae towers which do not exceed 45 feet (13 716 mm) in height and ground support dish antennas not exceeding 15 feet (4572 mm) in height above finished grade in any position.

8. Light standards which do not exceed 30 feet (9144 mm) in height.

9. Flagpoles not erected upon a building and not more than 15 feet (4572 mm) high.

10. A tree house provided that:

10.1 It does not exceed 64 square feet (5.94 m²) in area or 8 feet (2438 mm) in height from floor to roof.

10.2 The ceiling height as established by door height or plate line does not exceed 6 feet (1829 mm).

11. Canopies or awnings attached to a Group R, Division 3 or U Occupancy and extending not more than 54 inches (1372 mm) from the exterior wall of the building.

12. Sheds, office or storage buildings, and other structures incidental to and work authorized by a valid grading or building permit. Such structures must be removed upon expiration of the permit or completion of the work covered by the permit.

13. A portable metal hanger located on County-owned airports, provided that:

13.1 It is less than 2,000 square feet (18.58 m²) in area;

13.2 It is used exclusively for the parking of aircraft;

1. Identify and describe the work to be covered by the permit for which application is made.

2. Describe the land on which the proposed work is to be done by lot, block, tract and house and street address, or similar description that will readily identify and definitely locate the proposed building or work.

3. Show the use or occupancy of all parts of the building.

4. Be accompanied by plans and specifications as required in Section 106.4.2.

5. State the valuation of the proposed work or, for grading, the volume of earth to be handled.

6. State the area in square feet (m²), to be landscaped and the source of water for irrigation.

7. Be signed by the permittee, or an authorized agent, who may be required to submit evidence to indicate such authority.

8. Give such other information as reasonably may be required by the building official.

106.4.1.1 Expiration of Application. Applications for building, grading, landscape and relocation building permits for which no permit is issued within one year following the date of application shall expire by limitation. Plans and specifications previously submitted may thereafter be returned to the applicant or destroyed by the building official. The building official may extend the time for action by the applicant for a period not exceeding 180 days beyond the initial one year limit upon written request by the applicant showing that circumstances beyond the control of the applicant have prevented action from being taken and upon the payment of an extension fee equal to 25 percent of the plan check fee. No permit application shall be extended more than once.

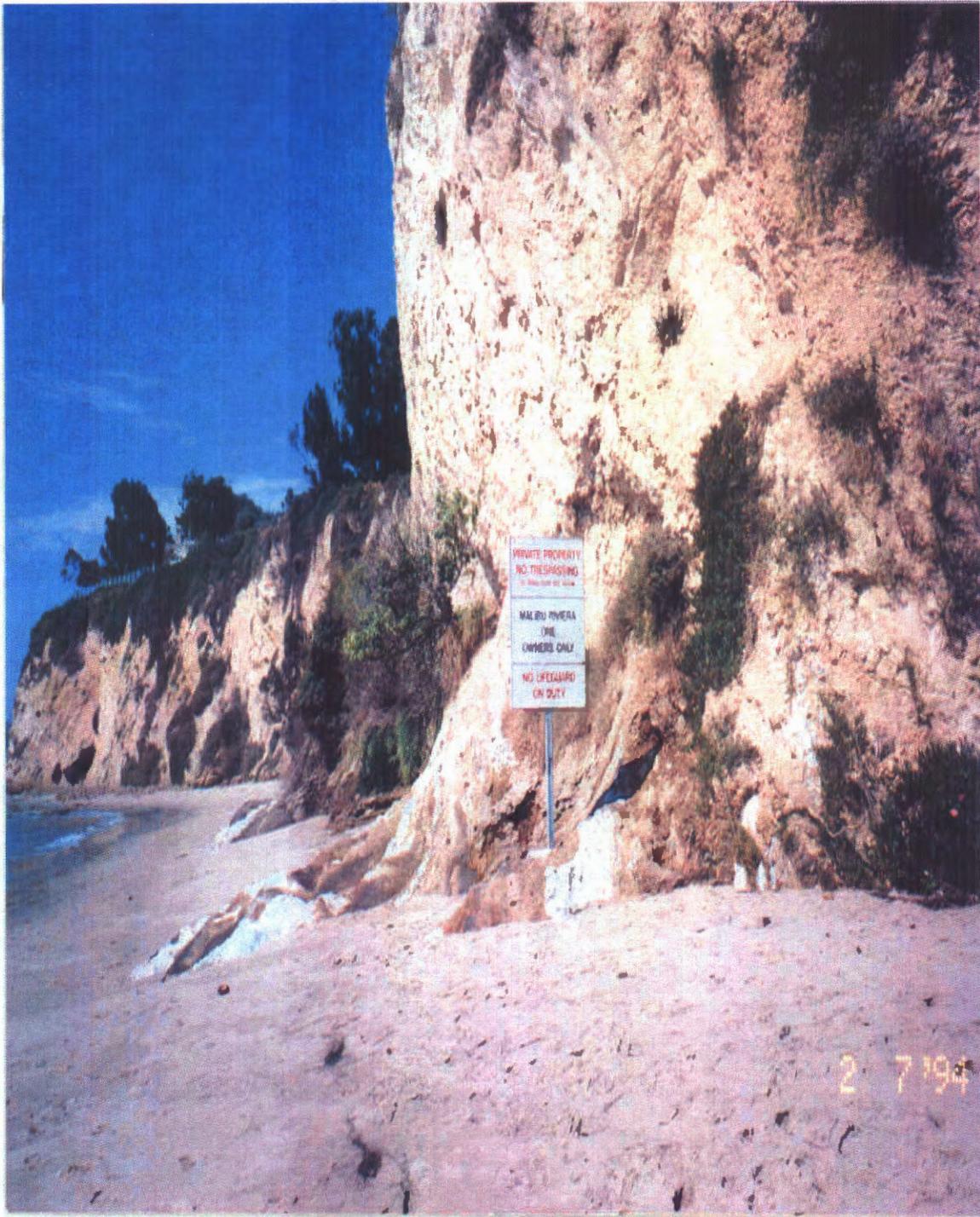


EXHIBIT 4
4-03-098-VRC
(1994 Photo)



EXHIBIT 5
4-03-098-VRC
(2002 Photo)



EXHIBIT 6
4-03-098-VRC
2003 Photo

Forde News Service

28128 Pacific Coast Highway, #185
Malibu, California 90265-8001
U.S.A.

Tel.: 310 457-1427
Fax: 310 457-0911
e-mail: FordeFiles@aol.com

Tina Fisher Forde - News Director



- ✓ TO: The California Coastal Commission
Gary Timm and Jack Aynsworth, Ventura office
- ✓ Members of the Malibu City Council
- ✓ Editor, The Malibu Times
- ✓ Editor, The Surfside News
- ✓ Editor, The Los Angeles Times West Side edition
- Surfrider Foundation

FROM: Tina Forde (*as a private party, local resident*)
DATE: 30 July, 1998
SUBJECT: New sign on beach; I have photos.

Homeowners on Riviera One (Zumirez Drive on Point Dume) have constructed a large sign on the beach. It was finished yesterday. The purpose of this sign is to intimidate the public into believing they have no right to use the beach.

The sign is already doing its job. This morning a beach visitor told me, "My girlfriend was afraid to go past the sign. I told her the beach is public. It is.. Isn't it?"

The sign is located at the foot of the bluff between Paradise Cove and what is popularly called "Hut Beach," below and a bit east of the Strelsand property. It stands 7-feet 4-inches high on a 3"X3" square steel post buried perhaps three or four feet deep in the rock outcropping. Because it sits on an outcropping, it towers 12 or 15 feet over the adjacent beach. The 4'1" high X 3'1" wide sign itself is white, secured on a heavy steel frame, with a protective cover of lucite bolted on. The three-inch high square lettering in red and black reads:

more

Sign/page 2

**PRIVATE PROPERTY
NO TRESPASSING
CA. PENAL CODE SEC. 602 (N)**

**MALIBU RIVIERA
ONE
OWNERS ONLY**

**NO LIFEGUARD
ON DUTY**

The present location of the sign was apparently a second choice. A few feet away, under a fresh 10-foot high, four-foot-deep destabilizing cavity at the bottom of the bluff is an abandoned hole in the rock filled with standing water and bleeding cement over the side. The foot-deep, two-foot-wide hole is a perfect place for a toddler to drown.

This structure stands out, away from the base of the cliff. It changes the entire aspect of the beach, like so much garbage strewn at the bottom of the cliff. It is a raw scar on the landscape -- unsettling, intrusive and arrogant.

What has happened to our environmentally sensitive City Council? Are they all asleep?

Did the city grant a building permit for this monstrosity? If so, they have little regard for the public.

Did the Coastal Commission OK this thing? If so, they have abandoned their mandate.

This abominable sign has a profound impact on a once-graceful stretch of beach. It is as alien as a spaceship. It displays all the courtesy of a punch in the face. How can people willfully damage the environment like this?

It confirms everyone's image of Malibu: elitist, rich, uncaring and exclusive. If we acquiesce in the creation of such aggressively hostile structures, we are that image, and we deserve to be held in contempt by those who will be deterred from respite on these beautiful beaches.

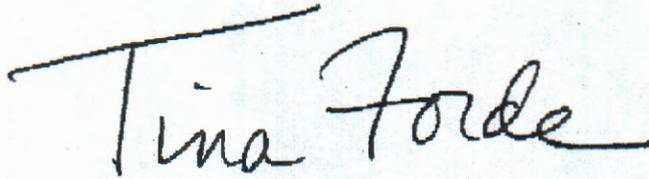
Do the Riviera 1 homeowners actually think they are going to keep the public off that beach? Their fear of liability and their right to post a (smaller) sign does not grant them the right to blight the beach and to bully people. If their concern is about environmental damage, they should stop treating the public like morons and post educational signs in three or four languages, explaining littoral habitats and granting visitors the

dignity of concluding that they have a part to play in protecting nature.

I urge the appropriate governmental body to order this sign torn down immediately. The homeowners can put up their "posted" sign in a less intrusive manner -- something that takes into account that there are other human beings on the planet. I am the first to champion private property rights, but this sign is overkill. It is a slide into despotism.

The beaches belong to the public! It is the law.

Best regards,

A handwritten signature in cursive script that reads "Tina Forde". The signature is written in dark ink on a light-colored background.

Tina Fisher Forde

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
 89 SOUTH CALIFORNIA ST., SUITE 200
 VENTURA, CA 93001
 (805) 641-0142



CERTIFIED MAIL

RECEIVED
 MAR 12 1999

February 3, 1999

John Mazza
 Malibu Riviera One
 6811 Zumirez Drive
 Malibu, CA 90265

SOUTH CENTRAL COAST DISTRICT
 COMM

Violation File Number: V-4-MAL-99-001

Property Address: APN 4466-003-015

Unpermitted Development: Installation of a "Private Property, No Trespassing" sign

Dear Mr. Mazza:

Our office has confirmed reports that a "Private Property, No Trespassing" sign was installed at APN 4466-006-015, which is located in the coastal zone, without first obtaining a coastal development permit. Section 30600(a) of the Coastal Act states that in addition to obtaining any other permit required by law, any person wishing to perform or undertake any development in the coastal zone must obtain a coastal development permit. "Development" is broadly defined by section 30106 of the Coastal Act to include:

"Development" means, on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of the use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvest of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations....

The installation of a sign undertaken on the property constitutes "development" and therefore requires a coastal development permit.

Any development activity performed without a coastal development permit constitutes a violation of the California Coastal Act's permitting requirements. Coastal Act sections

EXHIBIT 8

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30803 and 30805 authorize the Coastal Commission to initiate litigation to seek injunctive relief and an award of civil fines in response to any violation of the Coastal Act. Coastal Act section 30820(a) provides that any person who violates any provision of the Coastal Act may be subject to a penalty not to exceed \$30,000. Further, section 30820(b) states that, in addition to any other penalties, any person who "intentionally and knowingly" performs any development in violation of the Coastal Act can be subject to a civil penalty of not less than \$1000 nor more than \$15,000 for each day in which the violation persists.

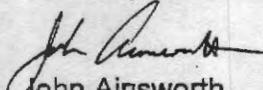
As one step toward resolving the violation, please stop all unpermitted work on the property. Any additional work could be considered a knowing and intentional violation of the Coastal Act.

Although you are entitled to submit a permit application for this project, this development or activity does not appear to be consistent with the Chapter Three policies of the Coastal Act of 1976. Therefore, our staff is likely to recommend denial of this project. If the Commission denies the project our enforcement staff would work to resolve this violation through the restoration of the site and possible monetary payments. In order to avoid a delay in resolution of this violation we are requesting that you please submit a completed Coastal Permit Application for the restoration of the site of the unpermitted development or an application to authorize this development to this office by February 24, 1999. If we do not receive a coastal development permit application by February 24, 1999, we will be forced to proceed with enforcement action which could include a referral of this matter to our Statewide Enforcement Unit in San Francisco for further legal action.

Please contact Sue Brooker at our office if you have any questions regarding this matter. Please refer to your file number when communicating with this office.

Thank you for your anticipated cooperation.

Sincerely,



John Ainsworth

Enforcement Supervisor



Sue Brooker
Enforcement Officer

encl.: CDP Application, Waiver of Legal Argument

WAIVER OF LEGAL ARGUMENT

On February 3, 1999, Coastal Commission staff determined that unpermitted development had been undertaken at APN: 4466-003-015. The unpermitted development is described as installation of a "Private Property, No Trespassing" sign. Commission staff notified me of the unpermitted status of this activity by letter, dated February 3, 1999.

Commission staff has informed me that they would prefer to resolve this matter administratively, but may have to pursue resolution through a court of law should I fail to agree on an administrative resolution to the violation.

I have stated that I wish to file a Coastal Development Permit application with the Commission and that I do not want the Commission to institute enforcement litigation to resolve this Coastal Act Violation pending Commission consideration of my application. Accordingly, I hereby waive my right to rely upon the time required for the administrative processing of my application (i.e., through the date of Commission action on my permit application, or withdrawal of that application, if I so choose) as a basis for any argument or defense in a court of law, including, but not limited to: (1) any applicable statute of limitation; (2) laches; and/or (3) estoppel. By agreeing to such a waiver, I understand that the Commission staff will not submit this Coastal Act violation file to the Office of the Attorney General for appropriate legal action, pending Commission consideration of my permit application.

Property Owner or Authorized Representative

Signature

Date

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
89 SOUTH CALIFORNIA ST., SUITE 200
VENTURA, CA 93001
(805) 585-1800



NOTICE OF VIOLATION OF THE CALIFORNIA COASTAL ACT
REGULAR AND CERTIFIED MAIL

June 27, 2003

John Mazza
Malibu Riviera One
6811 Zumirez Drive
Malibu, CA 90265

Violation File Number: V-4-MAL-99-001

Property location: Sandy Beach seaward of the terminus of Zumirez Drive, Malibu; Los Angeles County (APN: 4466-003-015)

Unpermitted Development: Installation of a "Private Property, No Trespassing" sign on the beach.

Dear: Mr. Mazza,

In our letters to you dated February 3, 1999 and March 12, 1999, we informed you that the above referenced unpermitted development has occurred on your property and that you must remove the unpermitted development. Commission staff has researched our permit files and concluded that no coastal development permits have been issued for any of the above development. Pursuant to Section 30600 (a) of the Coastal Act, any person wishing to perform or undertake development in the Coastal Zone must obtain a coastal development permit, in addition to any other permit required by law. "Development" is defined by Section 30106 of the Coastal Act as:

"Development" means, on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of the use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvest of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations....

The installation of a "no trespassing" sign undertaken on the above referenced property constitutes development under the Coastal Act and, therefore, requires a coastal development permit. Any development activity conducted in the Coastal Zone without a valid coastal development permit constitutes a violation of the Coastal Act.

In order to resolve this matter, please immediately remove the sign in its entirety by no later than 5:00 p.m. on Monday, July 14, 2003 we are notifying you that you will be

EXHIBIT 9

No. 4-03-098 - VRC

subject to further enforcement action that may include issuance of a cease and desist order by the Executive Director or the Commission.

Coastal Act Section 30809 states that if the Executive Director of the Commission determines that any person has undertaken, or is threatening to undertake, any activity that may require a permit from the Coastal Commission without first securing a permit, the Executive Director may issue an order directing that person to cease and desist. Coastal Act section 30810 states that the Coastal Commission may also issue a cease and desist order. A cease and desist order may be subject to terms and conditions that are necessary to avoid irreparable injury to the area or to ensure compliance with the Coastal Act. A violation of a cease and desist order can result in civil fines of up to \$6,000 for each day in which the violation persists.

In addition, please be aware that Sections 30803 and 30805 of the Coastal Act authorize the Commission to initiate litigation to seek injunctive relief and an award of civil fines in response to any violation of the Coastal Act. Section 30820(a)(1) of the Coastal Act provides that any person who violates any provision of the Coastal Act may be subject to a penalty amount that shall not exceed \$30,000 and shall not be less than \$500. Coastal Act section 30820(b) states that, in addition to any other penalties, any person who "knowingly and intentionally" performs or undertakes any development in violation of the Coastal Act can be subject to a civil penalty of not less than \$1,000 nor more than \$15,000 for each day in which the violation persists.

Finally, the Executive Director is authorized, after providing notice and the opportunity for a hearing as provided for in Section 30812 of the Coastal Act, to record a Notice of Violation against your property.

In order to resolve this matter without further enforcement action and stop the potential accrual of daily monetary penalties, you must remove the unpermitted "no trespassing" sign by 5:00 pm on Monday, July 14, 2003. Please contact me immediately regarding how you intend to resolve this violation.

Thank you for your attention to this matter. If you have any questions regarding this letter or the pending enforcement case, please feel free to contact me.

Sincerely,

Richard A. Rojas
Assistant Enforcement Officer

cc: Steve Hudson, Enforcement Supervisor
Tom Sinclair, Enforcement Officer
Gary Timm, District Manager
John Ainsworth, Planning Supervisor

Alvarado, Smith & Sanchez

A PROFESSIONAL CORPORATION

LIBRARY TOWER

633 W. FIFTH STREET, SUITE 1150
LOS ANGELES, CALIFORNIA 90071

(213) 229-2400

FAX (213) 229-2499

www.asands.com

RECEIVED

JUL 23 2003

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

IRVINE OFFICE:
4 PARK PLAZA
SUITE 1200
IRVINE, CALIFORNIA 92614
(949) 955-6800
FAX (949) 955-6899

July 21, 2003

MARTIN N. BURTON

MBURTON@ASANDS.COM
(213) 229-2405

VIA FACSIMILE AND MAIL

Mr. Steve Hudson
Code Enforcement
California Coastal Commission
89 South California Street, Suite 200
Ventura, CA 93001

Re: Malibu Riviera I Sign on Private Property
Your File No. V-4-MAL-99-001; Our File No. L224.1

Dear Mr. Hudson:

This office represents Malibu Riviera I Homeowner's Association with respect to the above-referenced enforcement action.

Your enforcement action concerns a sign which was originally lawfully established in the same location and has remained since at least the mid-1960's. The California Coastal Act, legislatively first enacted in 1976, does not apply retroactively to structures lawfully established prior to its enactment. (See, e.g., Public Resources Code Sections 30212, 30610.) The installation of the sign took place prior to the enactment of the Coastal Act and therefore does not constitute "development" under the Coastal Act. Accordingly, please withdraw your enforcement action.

Moreover, the sign is located on private property and not, as the Notice of Violation implies, on the public beach.

Nevertheless, please be advised that last week, in accordance with the Association's periodic maintenance activities, the sign was removed.

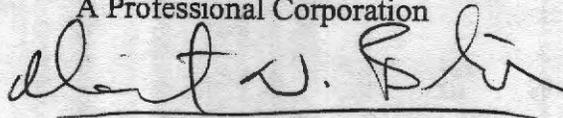
No action on the part of the Malibu Riviera I Homeowner's Association, and no statement made by any Association's representatives or contained in this letter, shall be construed as a waiver of any rights or defenses the Association may have or constitute an admission of any kind.

Mr. Steve Hudson
Code Enforcement
July 21, 2003
Page Two

Please feel free to call me with any questions or concerns.

Sincerely,

ALVARADO, SMITH & SANCHEZ
A Professional Corporation

A handwritten signature in black ink, appearing to read "Martin N. Burton", written over a horizontal line.

Martin N. Burton

MNB:isg

cc: Mr. Robert Adler
Malibu Riviera I

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
89 SOUTH CALIFORNIA ST., SUITE 200
VENTURA, CA 93001
(805) 585-1800



NOTICE OF VIOLATION OF THE CALIFORNIA COASTAL ACT
REGULAR AND CERTIFIED MAIL

August 1, 2003

John Mazza
Malibu Riviera One
6811 Zumirez Drive
Malibu, CA 90265

Violation File Number: V-4-MAL-99-001

Property location: Sandy Beach seaward of the terminus of Zumirez Drive,
Malibu; Los Angeles County (APN: 4466-003-015)

Unpermitted Development: Installation of a "Private Property, No Trespassing" sign
on the beach.

Dear Mr. Mazza,

In our most recent letter to you dated June 27, 2003 we informed you that the above referenced unpermitted development has occurred on your property and that in order to avoid further enforcement action, you were required to remove the unpermitted development in its entirety by 5:00 p.m. on Monday, July 14, 2003. In response to this notice, on Tuesday, July 15, 2003, your representative, Mr. Bob Adler, left a voice mail for Enforcement Supervisor, Steve Hudson, stating that you were in the process of removing the above referenced sign. In addition, we are in receipt of the letter dated July 21, 2003 to Mr. Hudson from Martin N. Burton of Alvarado, Smith & Sanchez. In this letter, Mr. Burton states, "in accordance with the Association's periodic maintenance activities, the sign was removed." This information was accepted by our staff in good faith and no further enforcement action was taken at that time. However, after inspecting the site on July 30, 2003, our staff has verified that the unpermitted development has not been removed in its entirety. Although the face of the sign was removed, the sign frame and supporting post remain. We are unable to resolve the outstanding violation on your property until all of the above referenced unpermitted development is removed in its entirety. Removal of the face of the sign while retaining the signpost and frame itself on the sandy beach is not adequate to resolve this matter.

In order to resolve this matter, please immediately remove the sign *in its entirety* by no later than 5:00 p.m. on Monday, August 11, 2003. We are notifying you that you will be subject to further enforcement action that may include issuance of a cease and desist order by the Executive Director or the Commission.

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Coastal Act Section 30809 states that if the Executive Director of the Commission determines that any person has undertaken, or is threatening to undertake, any activity that may require a permit from the Coastal Commission without first securing a permit, the Executive Director may issue an order directing that person to cease and desist. Coastal Act section 30810 states that the Coastal Commission may also issue a cease and desist order. A cease and desist order may be subject to terms and conditions that are necessary to avoid irreparable injury to the area or to ensure compliance with the Coastal Act. A violation of a cease and desist order can result in civil fines of up to \$6,000 for each day in which the violation persists.

In addition, we remind you that Sections 30803 and 30805 of the Coastal Act authorize the Commission to initiate litigation to seek injunctive relief and an award of civil fines in response to any violation of the Coastal Act. Section 30820(a)(1) of the Coastal Act provides that any person who violates any provision of the Coastal Act may be subject to a penalty amount that shall not exceed \$30,000 and shall not be less than \$500. Coastal Act section 30820(b) states that, in addition to any other penalties, any person who "knowingly and intentionally" performs or undertakes any development in violation of the Coastal Act can be subject to a civil penalty of not less than \$1,000 nor more than \$15,000 for each day in which the violation persists.

Finally, the Executive Director is authorized, after providing notice and the opportunity for a hearing as provided for in Section 30812 of the Coastal Act, to record a Notice of Violation against your property.

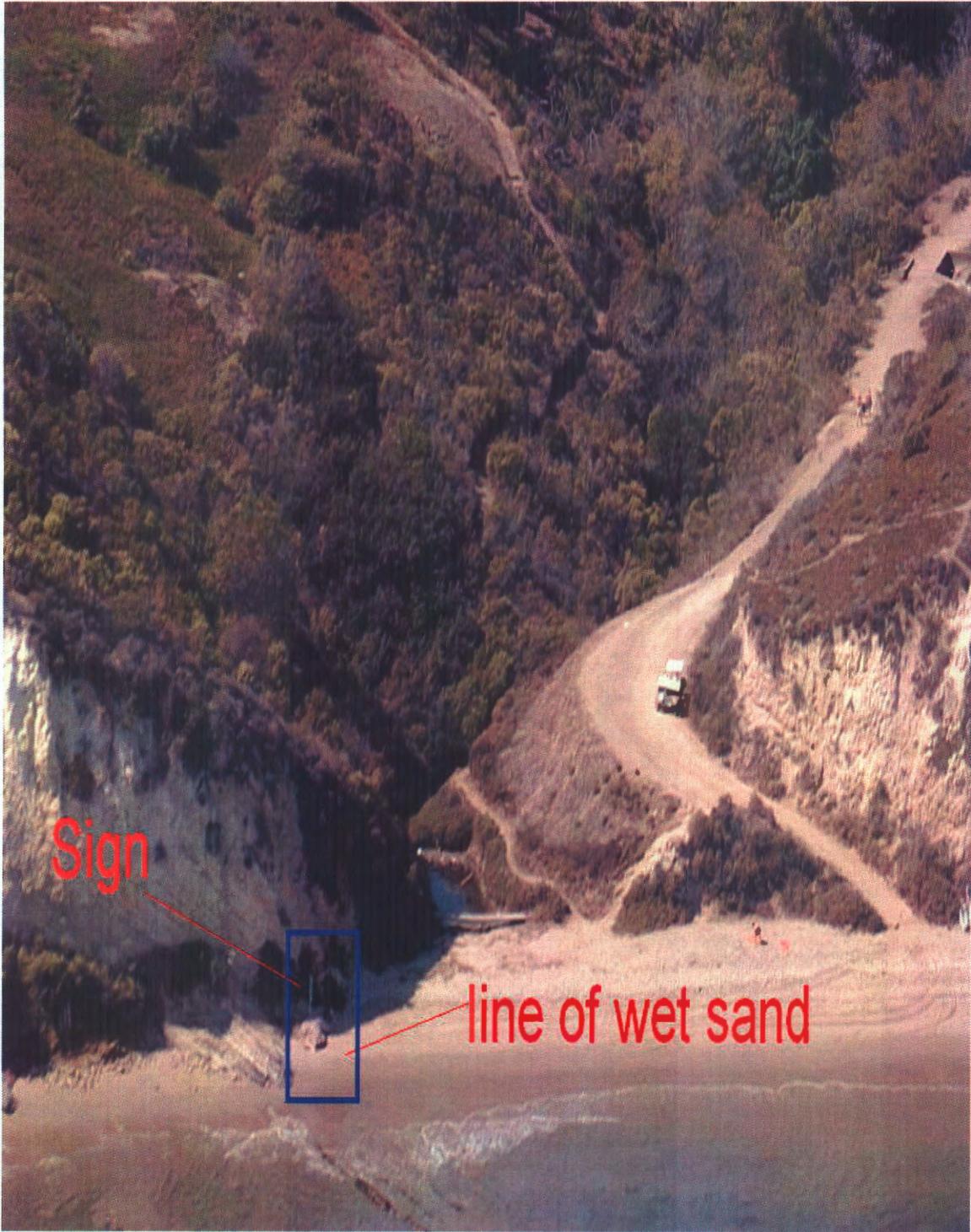
In order to resolve this matter without further enforcement action and stop the potential accrual of daily monetary penalties, you must remove the unpermitted sign (including the post and frame) by no later than 5:00 pm on Monday, August 11, 2003. Please contact me immediately regarding how you intend to resolve this violation.

Thank you for your attention to this matter. If you have any questions regarding this letter or the pending enforcement case, please feel free to contact me.

Sincerely,

Richard A. Rojas
Assistant Enforcement Officer

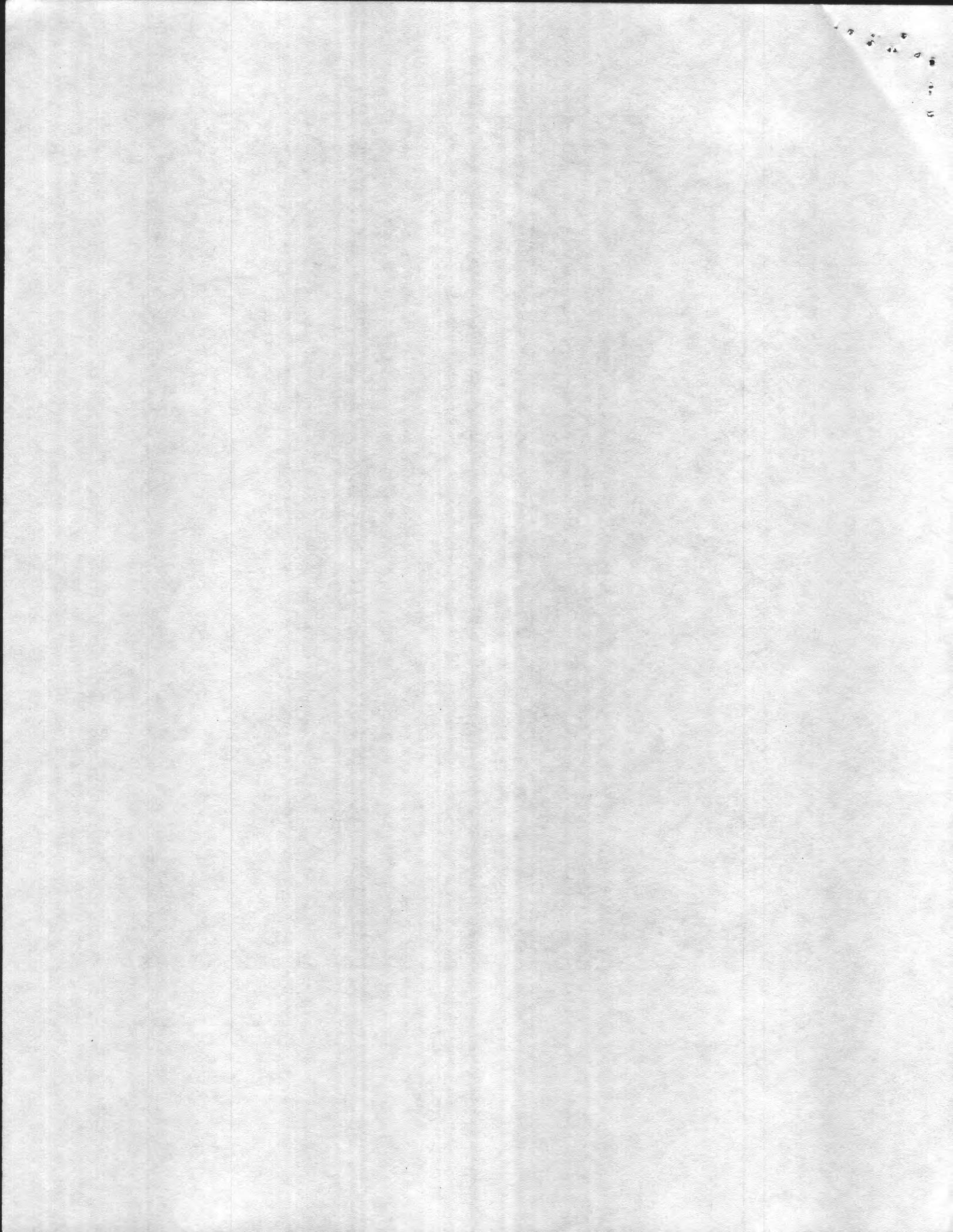
cc: Martin N. Burton
Bob Adler
Steve Hudson, Enforcement Supervisor
Tom Sinclair, Enforcement Officer
Gary Timm, District Manager
John Ainsworth, Planning Supervisor



Sign

line of wet sand

EXHIBIT 12
4-03-098-VRC
(2002 Aerial)



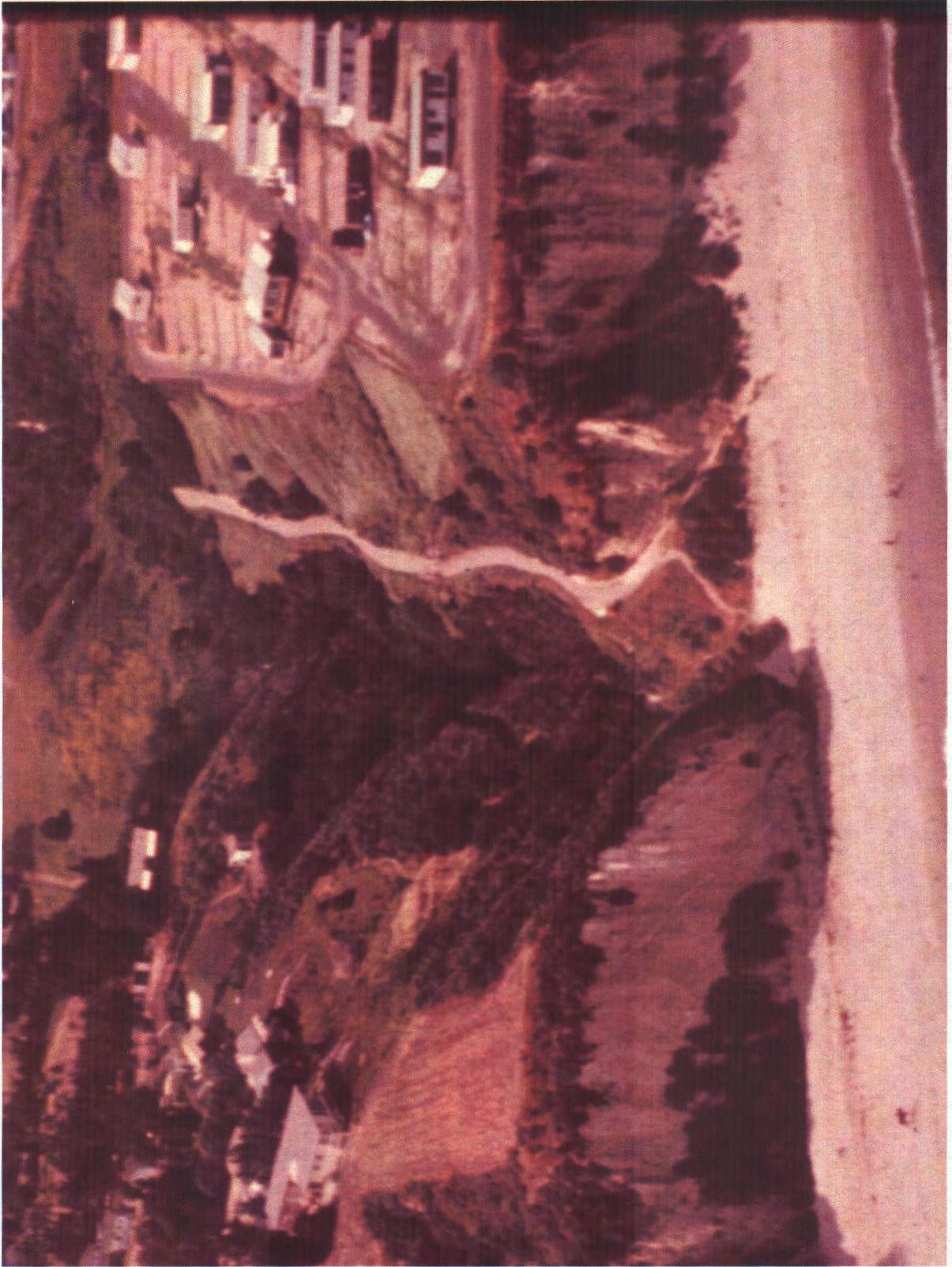
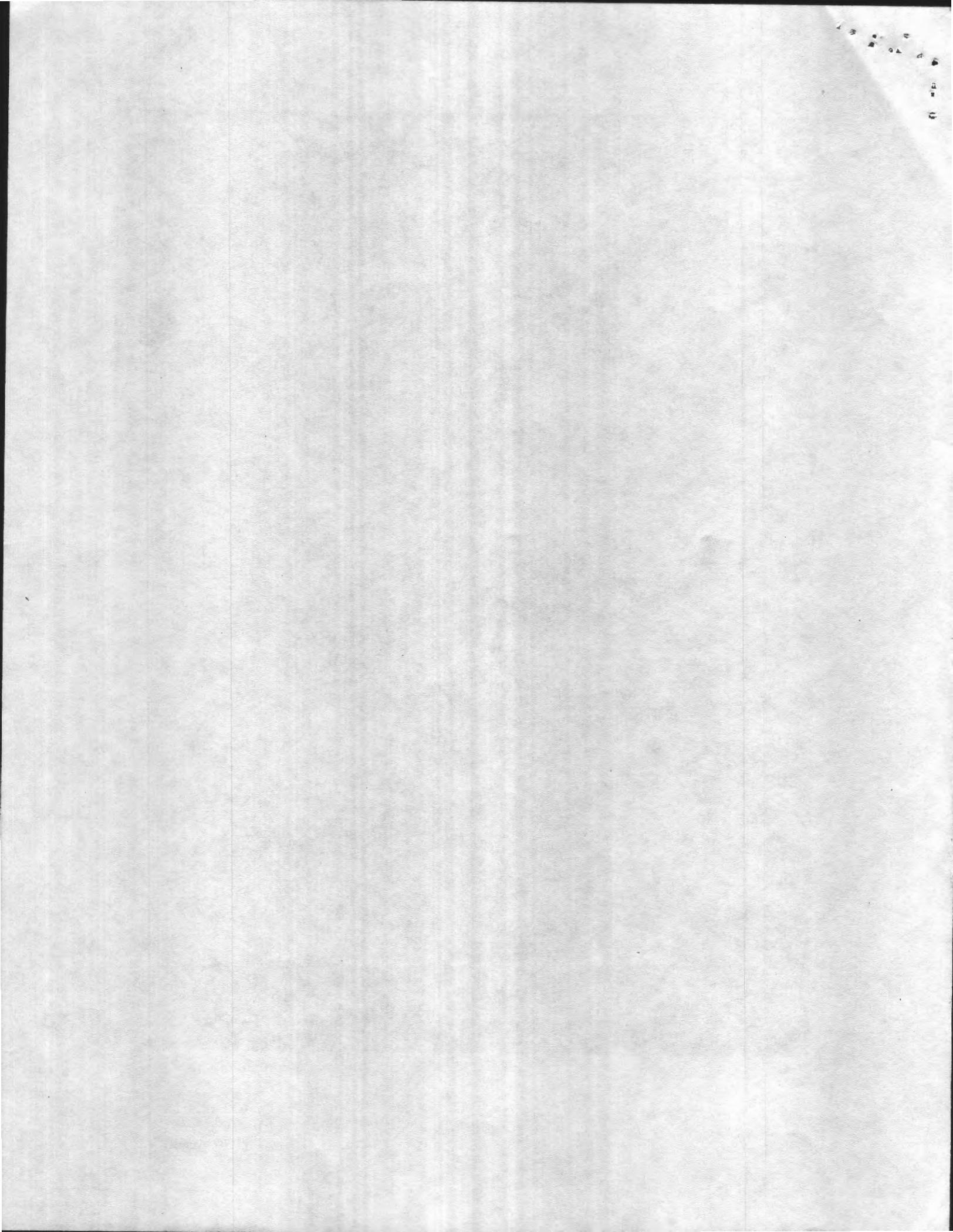


EXHIBIT 13
4-03-098-VRC
(1972 Aerial)



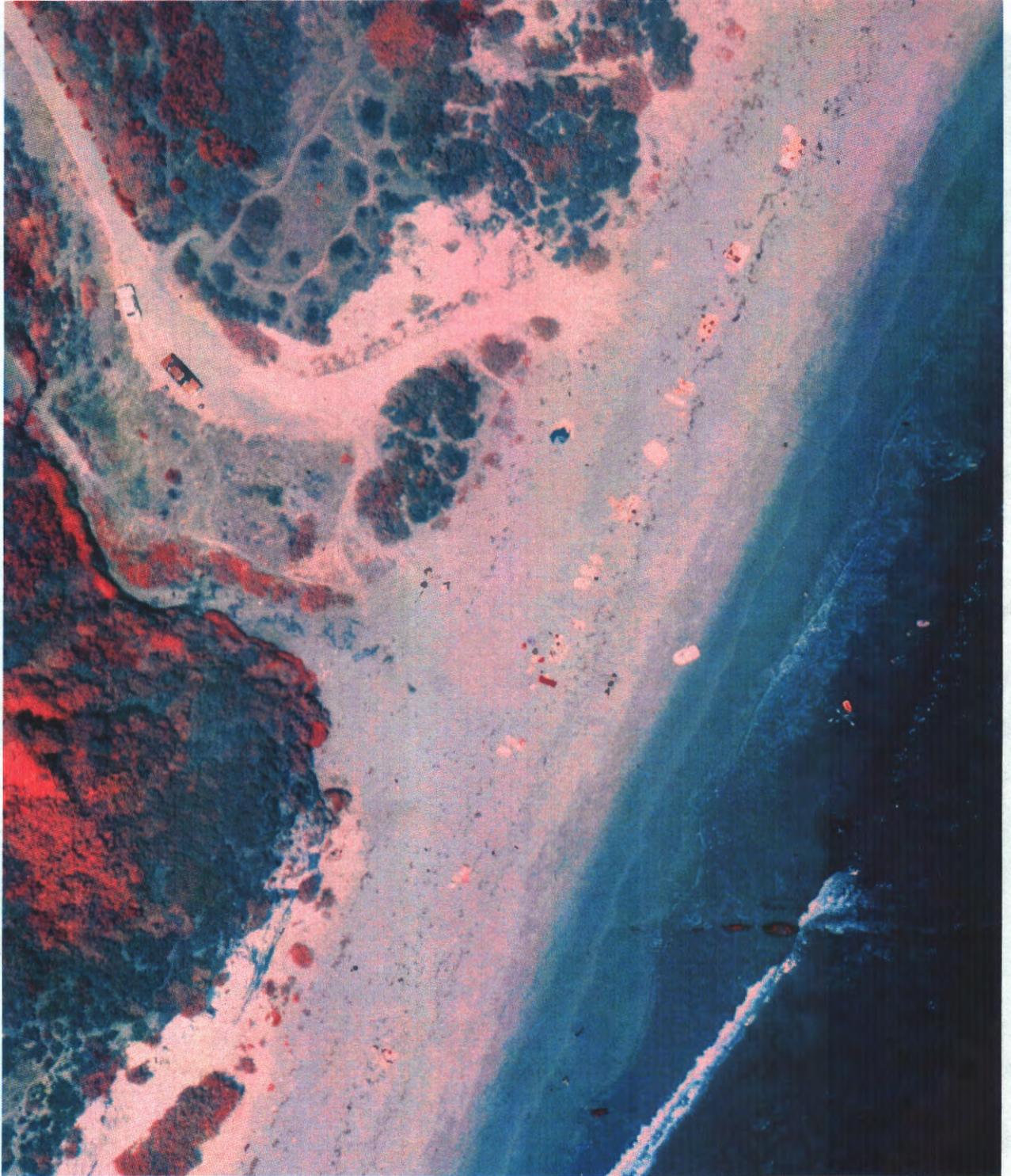


EXHIBIT 14
4-03-098 VRC
(1975 AERIAL)

