

**CEASE AND DESIST ORDER CCC-16-CD-03 AND
ADMINISTRATIVE CIVIL PENALTY CCC-16-AP-01
(Lent)**

1.0 CEASE AND DESIST ORDER CCC-16-CD-03

Pursuant to its authority under California Public Resource Code (“PRC”) Section 30810, the California Coastal Commission (“the Commission”) hereby orders and authorizes Dr. Warren M. and Henny Lent, in their individual capacities and as Trustees of any Trust in which title to the property at 20802 Pacific Coast Highway in Malibu is vested, and all their successors in interest, assigns, future owners of the Property, employees, agents, contractors, and anyone acting in concert with any of the foregoing (hereinafter referred to as “Respondents”) to take all actions required by this Cease and Desist Order including by complying with the following:

- 1.1 Cease and desist from engaging in any further development, as that term is defined in the Coastal Act (PRC Section 30106), on the property identified in Section 4.2 below (the “Property”), unless authorized pursuant to the Coastal Act (PRC Sections 30000 to 30900), which includes pursuant to this Cease and Desist Order, or confirmed by Commission staff to be exempt.
- 1.2 Remove, pursuant to and consistent with the terms of an approved Removal Plan as set forth in Section 6.0, below and to the terms and conditions set forth herein, all of the physical items of development that were placed or have come to rest as a result of Unpermitted Development, as that phrase is defined in Section 4.4 below.
- 1.3 Refrain from any attempt to limit or interfere (a) with the public’s use of the public access easements on the Property that were offered by the prior owners as required by the special conditions of Coastal Development Permit A-421-78, as amended, and accepted by the State Coastal Conservancy in acceptance documents recorded with the Office of the County Recorder for Los Angeles County as Instruments No.s 82-1303557 and 82-1303558; or (b) with the use of those easements by any holder(s) thereof to develop access improvements or to maintain the easements as available for public use; including refraining from any attempt or activity to physically or indirectly discourage or prevent use of the public easements on the Property.
- 1.4 Comply with all terms and conditions of CDP A-421-78, approved by the Commission on January 17, 1979, as amended by the Commission on February 20, 1980 and on June 16, 1981.

2.0 ADMINISTRATIVE CIVIL PENALTY CCC-16-AP-01

Pursuant to its authority under PRC Section 30821, the Commission hereby imposes on Respondents an administrative civil penalty of \$4,185,000. Within sixty (60) days of the

effective date of this Cease and Desist Order and Administrative Penalty, Respondents shall submit a plan for the review and approval of the Commission's Chief of Enforcement or the Deputy Chief of Enforcement for the payment of this penalty that shall result in the full payment of this penalty within one year of the effective date of this Cease and Desist Order and Administrative Penalty. Extensions for payments under this plan may be requested under Section 14.0 below. The funds for this penalty shall be made out to the California Coastal Conservancy for deposit into its Violation Remediation Account (see PRC Section 30821(j) and 30823). The Commission also authorizes the Executive Director to record a lien on the Property if the penalty is unpaid within this specified timeframe.

3.0 PERSONS SUBJECT TO THIS CEASE AND DESIST ORDER AND ADMINISTRATIVE PENALTY

The persons subject to this Cease and Desist Order and Administrative Penalty are Dr. Warren M. and Henny S. Lent, in their individual capacities and as Trustees of any Trust in which title to the Property is vested, all of their successors, assigns, employees, agents, and contractors, and anyone acting in concert with the foregoing.

4.0 DEFINITIONS

4.1 This Cease and Desist Order and Administrative Penalty

Cease and Desist Order No. CCC-16-CD-03 and Administrative Penalty No. CCC-16-AP-01 are referred to collectively herein as this Cease and Desist Order and Administrative Penalty. This Cease and Desist Order refers specifically to the requirements of Cease and Desist Order No. CCC-16-CD-03.

4.2 The Property

The property that is the subject of this Cease and Desist Order and Administrative Penalty is as follows: 20802 Pacific Coast Highway in Malibu, Los Angeles County, which is identified by the Los Angeles County Assessor's Office as APN 4450-007-027. This Cease and Desist Order and Administrative Penalty refer to that property as the "Property."

4.3 Vertical Public Access Easement

Vertical Public Access Easement refers to the easement or the easement interest on the Property that was offered by the prior owners as required by the special conditions of Coastal Development Permit A-421-78, as amended, and accepted by the State Coastal Conservancy in an acceptance document recorded with the Office of the County Recorder for Los Angeles County as Instrument No. 82-1303557, and which provided an easement "in perpetuity for the purposes of ... public access from Pacific Coast Highway to the mean high tide line, including the privilege and right to pass

and repass over a five (5) ft. wide strip of land located on the subject property ... along the eastern edge of the parcel, extending from the edge of the public right-of-way of Pacific Coast Highway to the mean high tide line of the Pacific Ocean. . . .”

4.4 Unpermitted Development

Unpermitted Development refers to development as that term is defined by the Coastal Act (PRC Section 30106) that occurred on the Property without the authorization required under the Coastal Act and/or that did not comply with the terms and conditions of Coastal Development Permit No. A-421-78, including its amendments, as well as any materials or structures existing on the Property as a result of such development, specifically including a staircase, stair landings or decks, a fence, a gate, supporting structures, and any other structures placed in the area covered by the Vertical Public Access Easement.

4.5 Vertical Easement Holder

Vertical Easement Holder refers to the State Coastal Conservancy or any successor in interest as the holder of the Vertical Public Access Easement.

5.0 SUBMITTAL OF DOCUMENTS

All documents and funds submitted to the Commission pursuant to this Cease and Desist Order and Administrative Penalty shall be sent to:

California Coastal Commission
Attn: Peter Allen
45 Fremont St, Suite 2000
San Francisco, CA 94105

With a copy sent to:

California Coastal Commission
Attn: Molly Troup
89 S. California Street, Suite 200
Ventura, CA 93001

6.0 REMOVAL PLAN

6.1 Within 30 days of issuance of this Cease and Desist Order, Respondents shall submit a Removal Plan for the review and approval of the Commission’s Chief of Enforcement or the Deputy Chief of Enforcement. The Removal Plan shall describe, in detail, all measures to be used for the removal and off-site disposal of all physical items that were placed or have come to rest on the Property as a result of Unpermitted Development, including but not necessarily limited to all items of Unpermitted Development specifically identified in Section 4.4 above, and shall be consistent with the conditions set forth in this Section 6.0, below.

- 6.2 The Removal Plan shall be prepared by a licensed, certified civil engineer or other qualified professional licensed by the State of California (“Specialist”) approved by the Commission’s Chief of Enforcement or the Deputy Chief of Enforcement and shall include the following components:
- A. A timetable for removal activities that will provide for removal of all items of Unpermitted Development, including, but not necessarily limited to, the fence, gate, stairs, decks, and other supporting structures in the Vertical Public Access Easement, within 30 days from approval of the Removal Plan;
 - B. A site plan, prepared by a licensed surveyor, depicting the boundary lines of the Property, the area of the Vertical Public Access Easement, and the area of the lateral public access easement on the Property, all physical items of Unpermitted Development to be removed and the location where photographs will be taken pursuant to Section 6.4, below;
 - C. A detailed description of the proposed removal activities, which shall indicate the use of removal techniques that will minimize impacts to the natural habitat of the beach and public use of that beach and Pacific Coast Highway;
 - D. An identification of the disposal or recycling site to which removed development materials will be transported, which must be a licensed disposal facility. If the proposed destination for the removed materials is located in the Coastal Zone and is not an existing, legal sanitary landfill or recycling center, a CDP is required for such disposal. All hazardous materials must be transported to and properly disposed of at a licensed hazardous waste disposal facility;
 - E. The Removal Plan shall describe all equipment to be used. All tools utilized shall be hand tools unless the Specialist demonstrates to the satisfaction of the Chief of Enforcement or the Deputy Chief of Enforcement that mechanized equipment is needed and will not impact resources protected under the Coastal Act. If mechanized equipment is proposed, the Removal Plan shall provide, for the review and approval of the Chief of Enforcement or the Deputy Chief of Enforcement, a description of:
 - 1) Type of mechanized equipment that will be used for removal activities;
 - 2) Length of time equipment will be used;
 - 3) Routes that will be utilized to bring equipment to and from the Property, including to and from the sandy beach area if such activity is approved in the Removal Plan;
 - 4) Storage locations for equipment when not in use during removal process. Mechanized equipment cannot be stored on the sandy beach;
 - 5) Hours of operation of mechanized equipment;

- 6) Contingency plan that addresses clean-up and disposal of released materials and water quality concerns in case of a spill of fuel or other release of hazardous materials from use of mechanized equipment;
 - 7) Designated areas for staging of any construction equipment and materials, including receptacles and temporary stockpiles of materials. All stock piles and construction materials shall be covered, enclosed on all sides, located as far away as possible from drain inlets and the beach and ocean, and shall not be stored in contact with the soil. No demolition or construction materials, debris, or waste shall be placed or stored where it may enter receiving waters or a storm drain, or be subject to wind or runoff erosion and dispersion.
 - 8) Designated and confined areas for maintaining and washing machinery and equipment, specifically designed to control runoff. Thinners or solvents shall not be discharged anywhere on the Property or adjacent areas, including into sanitary or storm sewer systems. The discharge of hazardous materials into any receiving waters is prohibited.
- 6.3 Within 10 days of completion of removal activities pursuant to this Section, Respondents shall submit evidence of the completion to the Commission's Chief of Enforcement or the Deputy Chief of Enforcement for his or her review and approval, including photographic documentation from the locations depicted on the site plan required by Section 6.2.B, evidencing the removal of all physical items and structures required to be removed pursuant to this Cease and Desist Order and Administrative Penalty. After review of the evidence, if the Commission's Chief of Enforcement or the Deputy Chief of Enforcement determines that the removal activities have in part, or in whole, been unsuccessful, based on the requirements of the approved Removal Plan and this Cease and Desist Order, Respondents shall submit a Revised Removal Plan for the review and approval of the Commission's Chief of Enforcement or the Deputy Chief of Enforcement. The Revised Removal Plan shall specify any measures necessary to ensure that the removal activities comply with the approved Removal Plan, this Cease and Desist Order and Administrative Penalty, and the Coastal Act. Respondents shall implement any specified measures, within the timeframe specified by the Commission's Chief of Enforcement or the Deputy Chief of Enforcement.

7.0 REVISION OF DELIVERABLES

The Commission's Chief of Enforcement or the Deputy Chief of Enforcement may require revisions to deliverables under this Cease and Desist Order and Administrative Penalty, whenever necessary to satisfy the criteria established in this Cease and Desist Order and Administrative Penalty, and Respondents shall revise any such deliverable consistent with the requested specifications and resubmit it for review and approval by the Commission's

Chief of Enforcement or the Deputy Chief of Enforcement, by the deadline established by the modification request.

8.0 COMMISSION JURISDICTION

The Commission has jurisdiction over resolution of these Coastal Act violations pursuant to PRC Section 30810 and jurisdiction to issue administrative civil penalties under PRC Section 30821.

9.0 EFFECTIVE DATE AND TERMS OF THIS CEASE AND DESIST ORDER AND ADMINISTRATIVE PENALTY

The effective date of this Cease and Desist Order and Administrative Penalty is the date the Commission votes to issue this Cease and Desist Order and Administrative Penalty. This Cease and Desist Order and Administrative Penalty shall remain in effect permanently unless and until either is modified by the Commission.

10.0 FINDINGS

This Cease and Desist Order and Administrative Penalty are issued on the basis of the findings adopted by the Commission, as set forth in the document entitled "STAFF REPORT: RECOMMENDATIONS AND FINDINGS FOR CEASE AND DESIST ORDER AND ADMINISTRATIVE CIVIL PENALTY." The Commission has authorized the activities required in this Cease and Desist Order and Administrative Penalty and has determined them to be consistent with the resource protection policies set forth in Chapter 3 of the Coastal Act, if carried out in compliance with the terms of this Cease and Desist Order and Administrative Penalty.

11.0 COMPLIANCE OBLIGATION

Strict compliance with this Cease and Desist Order and Administrative Penalty by all parties subject hereto is required.

11.1 Failure to comply with the requirement to pay the Administrative Penalty required by this Cease and Desist Order and Administrative Penalty may result in the Commission recording a lien on the Property in the amount of the Administrative Penalty, which shall have the force, effect, and priority of a judgment lien.

11.2 Failure to comply with any term or condition of this Cease and Desist Order and Administrative Penalty, including any deadline contained herein, will constitute a violation of this Cease and Desist Order and Administrative Penalty and may result in the imposition of civil penalties under PRC Section 30821.6 of up to SIX THOUSAND DOLLARS (\$6,000) per day for each day in which each violation persists. In addition, failure to comply with any terms or conditions of this Cease and

Desist Order and Administrative Penalty may result in the Commission seeking judicial relief and additional penalties as authorized under Chapter 9 of the Coastal Act, including PRC Sections 30820, 30821, and 30822.

12.0 SITE ACCESS

Respondents shall provide Commission staff and staff of any agency having jurisdiction over the work being performed under this Cease and Desist Order with access to the areas of the Property described below. Nothing in this Cease and Desist Order is intended to limit in any way the right of entry or inspection that any agency may otherwise have by operation of any law. The Commission and other relevant agency staff may enter and move freely about the following areas: (1) the portions of the Property on which the violations are located, (2) any areas where work is to be performed pursuant to this Cease and Desist Order or pursuant to any plans adopted pursuant to this Cease and Desist Order, (3) adjacent areas of the Property and any other area in order to view the areas where work is being performed pursuant to the requirements of this Cease and Desist Order, (4) any other area where evidence of compliance with this Cease and Desist Order may lie for purposes including, but not limited to, inspecting records, logs and contracts relating to the Property; and overseeing, inspecting, documenting, and reviewing the progress of Respondents in carrying out the terms of this Cease and Desist Order.

13.0 GOVERNMENT LIABILITY

Neither the State of California, nor the Commission, nor its employees shall be liable for injuries or damages to persons or property resulting from acts or omissions by Respondents in carrying out activities required and authorized under this Cease and Desist Order and Administrative Penalty; nor shall the State of California, the Commission, or its employees be held as a party to any contract entered into by Respondents or their agents in carrying out activities pursuant to this Cease and Desist Order and Administrative Penalty.

14.0 DEADLINES

The Commission's Chief of Enforcement or the Deputy Chief of Enforcement may extend any deadlines specified herein. Any extension request must be made in writing and received by Commission staff ten (10) days prior to expiration of the subject deadline. Any such request shall be sent to the address listed in Section 5.0, above.

15.0 SEVERABILITY

Should any provision of this Cease and Desist Order and Administrative Penalty be found invalid, void, or unenforceable, such illegality or unenforceability shall not invalidate the

whole, but this Cease and Desist Order and Administrative Penalty shall be construed as if the provision(s) containing the illegal or unenforceable part were not a part hereof.

16.0 SUCCESSORS AND ASSIGNS

This Cease and Desist Order shall run with the land, binding Respondents and all successors in interest, heirs and assigns of Respondents, and future owners of the Property. Respondents shall provide notice to all successors, heirs, assigns, and potential purchasers of the Property of any remaining obligations under this Cease and Desist Order.

17.0 MODIFICATIONS AND AMENDMENTS TO THIS CEASE AND DESIST ORDER AND ADMINISTRATIVE PENALTY

Except as provided in Section 14.0 of this Cease and Desist Order and Administrative Penalty, or for ministerial corrections, this Cease and Desist Order and Administrative Penalty may be amended or modified only in accordance with the standards and procedures set forth in Section 13188(b) of Title 14 of the California Code of Regulations.

18.0 APPEAL

Pursuant to PRC Section 30803(b), any person or entity against whom this Cease and Desist Order under Section 1.0 is issued may file a petition with the Superior Court for a stay of this Cease and Desist Order.

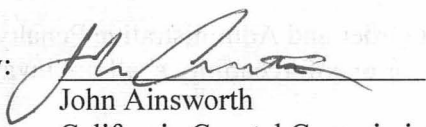
19.0 GOVERNMENT JURISDICTION

This Cease and Desist Order and Administrative Penalty shall be interpreted, construed, governed, and enforced under and pursuant to the laws of the State of California.

20.0 NO LIMITATION ON AUTHORITY

Except as expressly provided herein, nothing herein shall limit or restrict the exercise of the Commission's enforcement authority pursuant to Chapter 9 of the Coastal Act (PRC Sections 30800 to 30824), including the authority to require and enforce compliance with this Cease and Desist Order and Administrative Penalty.

Executed in VENTURA, CA on behalf of the California Coastal Commission.

By: 
John Ainsworth
California Coastal Commission
Acting Executive Director

12/8/2016
Date