

**CALIFORNIA COASTAL COMMISSION**

South Coast Area Office  
301 East Ocean Blvd., Suite 300  
Long Beach, CA 90802  
(562) 590-5071



**W14e**

**5-19-1036 (Blue Lagoon Community Association)  
JULY 8, 2020**

**CORRESPONDENCE**

## Re: Blue Lagoon public access issues

Penny Elia <greenp1@cox.net>

Wed 6/24/2020 9:56 AM

To: Willis, Andrew@Coastal <Andrew.Willis@coastal.ca.gov>

Cc: Vaughn, Meg@Coastal <Meg.Vaughn@coastal.ca.gov>; Schwing, Karl@Coastal <Karl.Schwing@coastal.ca.gov>; Dobson, Amber@Coastal <Amber.Dobson@coastal.ca.gov>; Haage, Lisa@Coastal <Lisa.Haage@coastal.ca.gov>; Modellmog, Robert@Coastal <robert.modellmog@coastal.ca.gov>; Veasart, Pat@Coastal <Pat.Veasart@coastal.ca.gov>; Helperin, Alex@Coastal <Alex.Helperin@coastal.ca.gov>

Thanks for that clarification, Andrew.

As far as your "list to visit and investigate" I think you all have more than enough to do, so I will do my best to get down there and if you are convinced by any of the photos or evidence that I find, then maybe add it to your list. SCE is on your list and they are now telling me it's obviously not a priority. You have the County/City of NB to deal with at Santa Ana River. And the "list" goes on. Please let me see if I can help lighten your load. Goodness knows you don't need another issue.

Thank you all for all you do.

On Jun 24, 2020, at 9:34 AM, Willis, Andrew@Coastal <[Andrew.Willis@coastal.ca.gov](mailto:Andrew.Willis@coastal.ca.gov)> wrote:

Hi Penny, I wanted to get back to you quickly with the easy answer to your first question. The offer was accepted by the City within the 21 year time frame, thus it is now an easement in perpetuity. I am sure we can put the site on our list to visit and investigate, so although you get us great information on these issues, there is no need for you to make an effort to get down there. Thanks, Andrew

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**From:** Penny Elia <[greenp1@cox.net](mailto:greenp1@cox.net)>

**Date:** Wednesday, June 24, 2020 at 8:13 AM

**To:** User <[Andrew.Willis@coastal.ca.gov](mailto:Andrew.Willis@coastal.ca.gov)>

**Cc:** "Vaughn, Meg@Coastal" <[Meg.Vaughn@coastal.ca.gov](mailto:Meg.Vaughn@coastal.ca.gov)>, "Schwing, Karl@Coastal" <[Karl.Schwing@coastal.ca.gov](mailto:Karl.Schwing@coastal.ca.gov)>, "Dobson, Amber@Coastal" <[Amber.Dobson@coastal.ca.gov](mailto:Amber.Dobson@coastal.ca.gov)>, "Lisa@Coastal Haage" <[Lisa.Haage@coastal.ca.gov](mailto:Lisa.Haage@coastal.ca.gov)>, "Modellmog, Robert@Coastal" <[robert.modellmog@coastal.ca.gov](mailto:robert.modellmog@coastal.ca.gov)>, "Veasart, Pat@Coastal" <[Pat.Veasart@coastal.ca.gov](mailto:Pat.Veasart@coastal.ca.gov)>, "Alex@Coastal Helperin" <[Alex.Helperin@coastal.ca.gov](mailto:Alex.Helperin@coastal.ca.gov)>

**Subject:** Re: Blue Lagoon public access issues

OK - let me see if I can make sense of this... I have a lot of questions and this is not exhaustive (see below), but here are a few with the biggest question being why is Blue Lagoon allowed to continue to create problems at this beach associated with revetments that are compounded by SLR. I will try to get down there today to take photos. I will try.

Based on this paragraph, I'm not sure how SLR plays into this since the continued erosion of the seawall and other slope areas is decreasing the beach area, and this paragraph states, in part, that the level of use by the public shall not have any interference. Well, there's interference. When does SLR come into play given all of the other cases the CCC has dealt with and is dealing with? This beach is being squeezed out based on all the seawalls and impacts of SLR in this little cove. The case made successfully at 11 Lagunita doesn't apply here? Yes, I know it's a slope behind the seawall, but when does it stop? These are all cumulative impacts.

<PastedGraphic-1.tif>

And what happens after 21 years?

<PastedGraphic-2.tif>

It appears to me that three decades later, this public access is no longer truly available to the public given the impacts from SLR and the approval of the last seawall for erosion -- again, please see Sean's submitted link. The beach is continuing to shrink, but CCC continues to allow this to happen through continued permitting.

<PastedGraphic-3.tif>

On Jun 23, 2020, at 4:14 PM, Willis, Andrew@Coastal <[Andrew.Willis@coastal.ca.gov](mailto:Andrew.Willis@coastal.ca.gov)> wrote:

Hi Penny, it's my understanding that an easement over the sandy beach at Blue Lagoon was offered and accepted, see attached docs. If you're aware of any signs that restrict use here, we'd love to hear about it, or we can send someone around soon to find out. Thanks, Andrew

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**From:** Penny Elia <[greenp1@cox.net](mailto:greenp1@cox.net)>

**Date:** Tuesday, June 23, 2020 at 3:24 PM

**To:** "Vaughn, Meg@Coastal" <[Meg.Vaughn@coastal.ca.gov](mailto:Meg.Vaughn@coastal.ca.gov)>

**Cc:** "Schwing, Karl@Coastal" <[Karl.Schwing@coastal.ca.gov](mailto:Karl.Schwing@coastal.ca.gov)>, "Dobson, Amber@Coastal" <[Amber.Dobson@coastal.ca.gov](mailto:Amber.Dobson@coastal.ca.gov)>, "Lisa@Coastal Haage" <[Lisa.Haage@coastal.ca.gov](mailto:Lisa.Haage@coastal.ca.gov)>, User <[Andrew.Willis@coastal.ca.gov](mailto:Andrew.Willis@coastal.ca.gov)>, "Moddelmog, Robert@Coastal" <[robert.moddelmog@coastal.ca.gov](mailto:robert.moddelmog@coastal.ca.gov)>, "Veesart, Pat@Coastal" <[Pat.Veesart@coastal.ca.gov](mailto:Pat.Veesart@coastal.ca.gov)>, "Alex@Coastal Helperin" <[Alex.Helperin@coastal.ca.gov](mailto:Alex.Helperin@coastal.ca.gov)>

**Subject:** Re: Blue Lagoon public access issues

Yes, I understand that this is inland of the beach, but it's still constant as a revetment. It is still stopping transport of sediment, and Walt Crampton knows this since I have had many a conversation with him about this type of project. Furthermore, my links apply since once again Blue Lagoon is asking for yet another revetment but have never fulfilled their obligation for public access. I have copied Enforcement on this reply since they worked very hard on 11 Lagunita, especially Rob Moddelmog - this was his first case as a new CCC staffer. I would like to see a little more cooperation between permitting and enforcement please. We all worked very hard on 11 Lagunita, only to have it occupied by the architect and Steve Kaufmann continues to ignore. Simply put, this will be a lost beach if we don't stop some of this revetment activity.

I guess my question to permitting is why is Lagunita once again being rewarded given that they have never fulfilled their public access obligations for a lateral easement and have done nothing over the years but decrease public access on the beach? This is why I sent you the links. I gathered you didn't have any history on this site and I think history is important. I think the Commissioners will feel that history is important.

Hope that helps explain my stance, and I would welcome any comments from Enforcement if I am off base here.

Thanks again, Meg. I know you and everyone else wants to save this lovely beach, and another revetment is not the solution.

On Jun 23, 2020, at 2:37 PM, Vaughn, Meg@Coastal <[Meg.Vaughn@coastal.ca.gov](mailto:Meg.Vaughn@coastal.ca.gov)> wrote:

Hi Penny -

Just need to clarify -

Do you see that this particular project is inland of the beach level condos? This project is not a part of the beach level revetment. So I am not sure how to apply the links you sent.

Best,

Meg

<image.png>

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**From:** Penny Elia <[greenp1@cox.net](mailto:greenp1@cox.net)>

**Sent:** Tuesday, June 23, 2020 2:22 PM

**To:** Vaughn, Meg@Coastal <[Meg.Vaughn@coastal.ca.gov](mailto:Meg.Vaughn@coastal.ca.gov)>

**Cc:** Schwing, Karl@Coastal <[Karl.Schwing@coastal.ca.gov](mailto:Karl.Schwing@coastal.ca.gov)>; Dobson, Amber@Coastal <[Amber.Dobson@coastal.ca.gov](mailto:Amber.Dobson@coastal.ca.gov)>; Haage, Lisa@Coastal <[Lisa.Haage@coastal.ca.gov](mailto:Lisa.Haage@coastal.ca.gov)>; Willis, Andrew@Coastal <[Andrew.Willis@coastal.ca.gov](mailto:Andrew.Willis@coastal.ca.gov)>; Moddelmog, Robert@Coastal <[robert.moddelmog@coastal.ca.gov](mailto:robert.moddelmog@coastal.ca.gov)>; Veesart, Pat@Coastal <[Pat.Veesart@coastal.ca.gov](mailto:Pat.Veesart@coastal.ca.gov)>; Helperin, Alex@Coastal <[Alex.Helperin@coastal.ca.gov](mailto:Alex.Helperin@coastal.ca.gov)>

**Subject:** Re: Blue Lagoon public access issues

My comments are related to all of the revetments that have been allowed to continue at Blue Lagoon for many years without satisfying their public access responsibilities. That beach will be gone given all of the seawalls that line that beach as well as the seawall that runs laterally along the south end out to Goff Island. Did you look at the links I sent?

Thanks.

On Jun 23, 2020, at 1:41 PM, Vaughn, Meg@Coastal <[Meg.Vaughn@coastal.ca.gov](mailto:Meg.Vaughn@coastal.ca.gov)> wrote:

Hi Penny,

Are your comments directed to the rock revetment at the seaward-most portion of Blue Lagoon?

Thanks,

Meg

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**From:** Penny Elia <[greenp1@cox.net](mailto:greenp1@cox.net)>

**Sent:** Tuesday, June 23, 2020 1:22 PM

**To:** Vaughn, Meg@Coastal <[Meg.Vaughn@coastal.ca.gov](mailto:Meg.Vaughn@coastal.ca.gov)>

**Cc:** Schwing, Karl@Coastal <[Karl.Schwing@coastal.ca.gov](mailto:Karl.Schwing@coastal.ca.gov)>; Dobson, Amber@Coastal <[Amber.Dobson@coastal.ca.gov](mailto:Amber.Dobson@coastal.ca.gov)>; Haage, Lisa@Coastal <[Lisa.Haage@coastal.ca.gov](mailto:Lisa.Haage@coastal.ca.gov)>; Willis, Andrew@Coastal <[Andrew.Willis@coastal.ca.gov](mailto:Andrew.Willis@coastal.ca.gov)>; Moddelmog, Robert@Coastal <[robert.moddelmog@coastal.ca.gov](mailto:robert.moddelmog@coastal.ca.gov)>; Veesart, Pat@Coastal <[Pat.Veesart@coastal.ca.gov](mailto:Pat.Veesart@coastal.ca.gov)>; Helperin, Alex@Coastal <[Alex.Helperin@coastal.ca.gov](mailto:Alex.Helperin@coastal.ca.gov)>

**Subject:** Blue Lagoon public access issues

Good afternoon, Meg -

Hope all is well.

I have reviewed your staff report on the proposed Blue Lagoon project. I find it very curious that this would be recommended for approval given the unanimous support of the 11 Lagunita enforcement item that is still being fought in court. The Montage (Goff Island) seawall is to the south of this area and Lagunita, which is almost entirely seawalled is to the north, making this beach soon to be completely cut off to the public.

Blue Lagoon should not be allowed to continue to protect their development, especially considering the public access issues involved.

Here are comments from the 2013 hearing on this same area <https://documents.coastal.ca.gov/reports/2013/6/Th15a-6-2013.pdf>. As you can clearly see, this area of the beach is impassable. I totally agree with Sean and can add a lot more comments to his concerns.

Additionally, the CCC was supposed to provide for public access through Blue Lagoon many, many years ago. Here is one article, I have others <https://www.latimes.com/archives/la-xpm-1985-02-23-me-1104-story.html>. Given this article, would you please provide me with the documentation that might explain why this lateral public access was never opened to the public.

I am preparing for ex partes and would very much appreciate better understanding the basis for this approval, which I'm afraid I will have to oppose.

Thanks very much for your help.

Best -

Penny

<Blue Lagoon OTD (1 of 119).pdf><Blue Lagoon COA.pdf>

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July 1, 2020

California Coastal Commission  
45 Fremont St. #2000  
San Francisco, CA 94105

**Re: W14c Application 5-19-1036  
Blue Lagoon Community Association, Laguna Beach**

Dear Chair Padilla and Commissioners:

I am reaching out to you on this issue and asking that you please look a bit deeper into the impacts the Blue Lagoon condos have had on this stretch of public beach in Laguna Beach for nearly six decades.

To provide some reference and refresh your memories, this is the same beach where 11 Lagunita is located – the enforcement action focused on removal of a huge seawall that you all supported in 2018, now the subject of multiple lawsuits against the Commission. This is the same beach where enforcement staff made the case that the beach and public access are being impacted by the construction of a seawall.

While this CDP application is for bluff armoring landward of the beach, I am hoping you can find an opportunity to condition this CDP with a goal of returning the public beach access that has been severely diminished over the years by Blue Lagoon's armoring of their property. I believe the first step in achieving a balance between ongoing armoring and return of public access would be applying a condition of approval that would allow for a boundary determination of the mean high tide line in front of this property. Following that determination, the second condition of approval would involve developing a plan for a public walkway in front of this property, or at least return of the public access easement that was associated with previous conditioning of CDPs.

Attached is an exhibit that better illustrates my ask for conditioning, and includes a brief history of the Blue Lagoon seawall and challenges associated with public access. As a 35-year resident of Laguna Beach that has frequented this beach for over three decades, I continue to be disappointed in the loss of public access all along this stretch of beach. In the "old days" my husband and I were able to walk from cove to cove during low tide, but those days are long gone throughout Laguna Beach due to heavy armoring of this coastline.

In addition to these two conditions, I would also ask that there be another condition that requires a plant palette from the applicant before the permit is issued. The rain event that is cited by Terra Costa Consulting isn't the single event that created this unstable condition, but rather the ongoing irrigation of a lawn. We see this occur up and down the coast of California all the time, but here the problem was exacerbated by the rains – not caused by the rains. The staff report states that the applicant is proposing "low water use and native plants" but there often seems to be a bit of disconnect in what is actually selected for the plantings – they are neither low water use nor native. Providing a plant palette and landscape design would help everyone feel a bit more confident that this slide area is somewhat "naturally" mitigated since shotcrete is no friend of the environment or natural sediment transport to the beach.

Thank you for considering this request. I understand it's not the usual way of looking at a project, but with the Commission's focus on sea level rise and the impacts to public access, I hope you can find a nexus to condition this project to benefit the beach and public access.

Sincerely,

A handwritten signature in cursive script that reads "Penny Elia".

Penny Elia  
Laguna Beach, CA

Attached: Blue Lagoon Exhibits



1972



1979





2002



2006





2010 – note algae on rocks and see comment re: boundary determination of mean high tide line below.



2013





2019



Excerpts from 2013 presentation re: opposition to CDP that was approved for intensification of seawall that would result in blocking of public access.

[Application No. 5-12-198](#)





# Laguna Beach : Blue Lagoon May Have to Offer Beach Access

By LIZ MULLEN \F

FEB. 23, 1985 | 12 AM

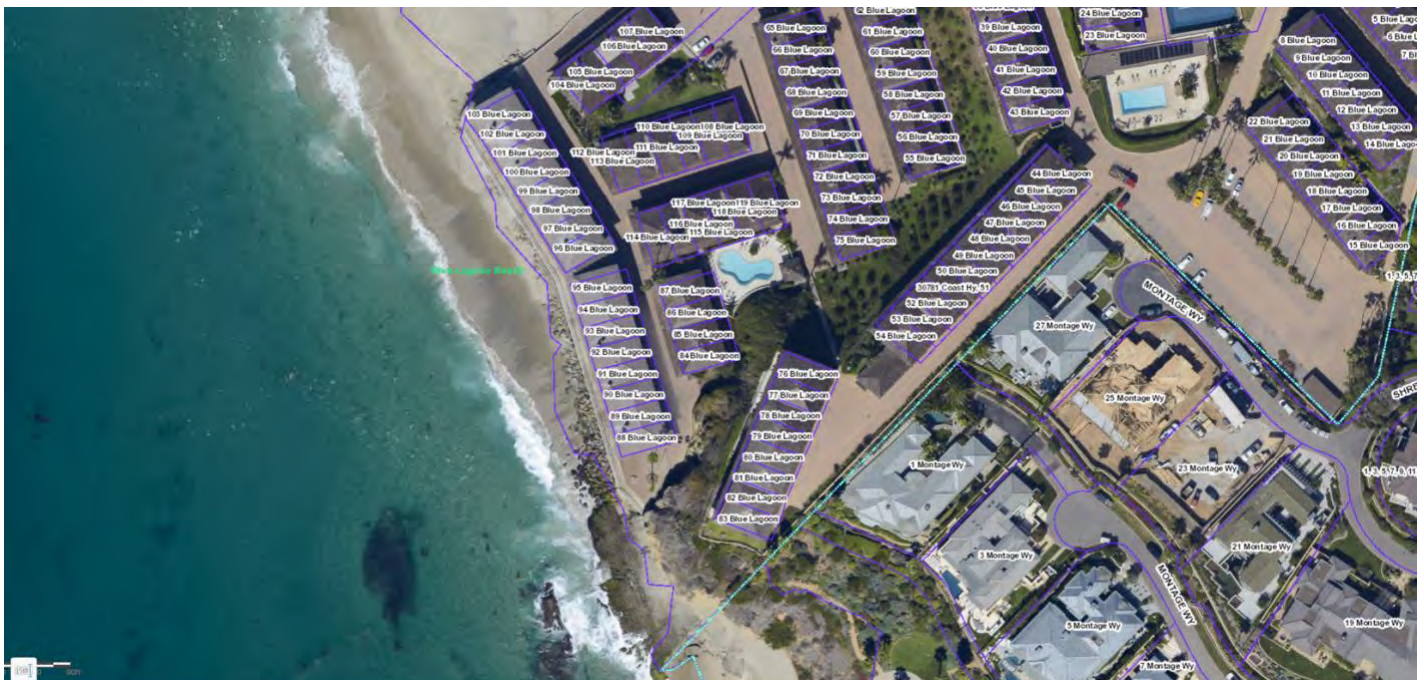
The California Coastal Commission on Wednesday is expected to require that the Blue Lagoon Community Assn. allow public access to the beach at the site of Blue Lagoon's seawall.

The association is asking the commission for a permanent permit for the 2,500-ton rock seawall the homeowners' group fortified in November, 1983. Blue Lagoon previously was granted a emergency permit for work on the wall, which protects 190 condominium units from the ocean, according to Cynthia Long, staff counsel for the commission.

But as a condition of approval for the new permit, Long said, Blue Lagoon must offer an easement to a public agency, which probably would be the county or state Department of Parks and Recreation.

Long said that a line has never been drawn where Blue Lagoon's property ends and the state's property begins. "They may own part of the beach. The public may own part of it. We want them to offer the public the right to use it," she added.

City of Laguna Beach GIS Mapping



Lagoon Community Association subject to the following condition:

Prior to transmittal of the permit, the Executive Director shall certify in writing that the following condition has been satisfied. The applicant shall execute and record a document, in a form and content approved in writing by the Executive Director of the Commission irrevocably offering to dedicate to a public agency or a private association approved by the Executive Director, an easement for public access and passive recreational use along the shoreline. The document shall also restrict the applicant from interfering with the present level of use by the public of the area subject to the offer. The easement shall run parallel to and along the entire length of the approved seawall including the area seaward from the toe of the vertical wall (including the area of rip-rap placed in front of the wall) to the mean high tideline; and the easement shall encompass the area northwest of the new seawall extension, running parallel to and along the entire

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length of the approved new seawall from the mean high tideline to the inland property line and from the new seawall to the northwest property line. Such easement shall be recorded free of prior liens except for tax liens and free of prior encumbrances which the Executive Director determines may affect the interest being conveyed.



## Site History

Prior to the Coastal Act, in 1963, a seawall approximately 500 feet long and 20 feet high was constructed on the site, and 2,000 tons of riprap were placed seaward of the seawall. Soon thereafter, the existing condominium structures, which protrude much farther seaward than adjacent structures, were constructed. If not for the construction of the seawall, the most seaward condominium units would likely be located below the mean high tide line.

In 1980, on appeal from the regional commission, the Commission approved an application to add 700 tons of riprap to the seawall with conditions, including conditions requiring a deed restriction for lateral access seaward of the revetment, and conditions requiring stairways and signs to direct the public to lateral access landward of the revetment via the driveway behind the first row of condominium units when the seaward lateral access was impassable. The proposed development was completed without complying with the imposed permit conditions.

In 1983, the Association received emergency coastal development permit 5-83-874-G in response to storm damage that occurred during the storms of 1982-1983. The emergency permit authorized: 1) construction of a new concrete 78 foot long seawall extension located immediately adjacent to the residences at Lagunita Drive, 2) conduct repairs to the existing seawall including reconstruction of portions of the cement coping and extension of the coping 8-10 inches seaward along the length of the wall, and 3) addition of 2,537 additional tons of riprap in front of the seawall. In 1984 the Commission approved with conditions Coastal Development Permit 5-84-777 authorizing the work performed under the emergency permit. The conditions for the permit included the conditions for lateral access seaward and landward of the seawall that were imposed in the 1980 permit. Additionally, the permit required the Association to assume the risk of the development, to provide required maintenance and sand replenishment, to undertake an engineering review of the long term impacts of the development, and to obtain a State Lands Commission review of the development. The proposed development was again completed without complying with the imposed permit conditions.

In 1985, the Association filed a petition for writ of mandate seeking judicial review of the Commission's 1984 permit decision and the Commission filed a cross-complaint against the 119 condominium owners (who collectively owned the beach seaward of the revetment) in response to this petition, seeking declaratory relief, permanent injunction, civil penalties and fines and exemplary damages for unpermitted work performed since 1984 on ocean protective devices on the Association's property. After negotiations, the Association and Commission entered into a settlement agreement which required each owner to agree to the previously imposed public access conditions to offer to dedicate an easement for lateral access in front of the seawall and to the sandy beach located on the northern side of the project, provided the Commission eliminate the conditions requiring access behind the revetment. The agreement stated that if the Commission grants a permit amendment to delete the through-project access requirement and the Association complies with the conditions of the 1984 permit, "such actions shall resolve the public access requirements under the Coastal Act applicable to the parties performing future work on the ocean protective device at Blue Lagoon, providing the work performed is located the minimum distance necessary from the existing protective device to permit any construction, reconstruction, repair or maintenance required." In 1987, after a majority of the unit owners had agreed to the settlement, the Commission approved permit amendment 5-84-777-A1, amending the conditions of the permit consistent with the settlement agreement.

In 1989, the Commission approved Coastal Development Permit 5-89-986 to conduct structural reinforcement of concrete sheetpile seawall. Also proposed was the addition of 2,160 tons of riprap to the then existing volume of 4,240 tons, resulting in a revetment with a total volume of 6,400 tons of riprap material. This action took place prior to all 119 property owners agreeing to the settlement agreement, and the same conditions from 5-84-777-A1 were assigned.

After each of the unit owners had agreed to the settlement agreement, the City of Laguna Beach accepted the easement on December 13, 1991 for public access to the beach located upcoast of the development, and the beach located seaward of the seawall from the toe of the vertical wall (including the area of rip-rap placed in front of the wall) to the mean high tideline.

Current online Blue Lagoon real estate ads feature exclusive beach with private access, security gate and security guards. These photos pulled from the ads are only for reference of the mostly impassable public beach within OTD easement. <http://www.bcre.com/blue-lagoon-laguna-beach.php>



Please note algae growing on rocks indicating that this area is frequently inundated and impassable. Request property boundary determination of mean high tide line in light of sea level rise and public access impacts to OTD easement.





Two community rooms on the seawall?



### Laguna Beach 115 Blue Lagoon

GREAT LOCATION! 2 BEDROOM 2 BATH BLUE LAGOON VILLA LOCATED CLOSE TO BEACH AND LOWER COMMUNITY POOL. OWNER WILL LEASE FURNISHED OR UNFURNISHED. THE VILLAS AT BLUE LAGOON IS A 119 UNIT PLANNED UNIT DEVELOPMENT (PUD). AMENITIES INCLUDE TWO COMMUNITY POOLS HEATED YEAR ROUND, TENNIS COURT, THREE COMMUNITY ROOMS INCLUDING TWO ON SEAWALL. SPECTACULAR BEACH...

[View Details](#)

[Slideshow](#)

\$4,750	2 Beds	3 Baths	1,462 SqFt	121 Days On Market
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11 Lagunita is just one of many mansions along Victoria Beach that have extensive, unpermitted armoring of the bluff (including shotcrete on bluffs – note home to the right of 11 Lagunita in article below). While the 11 Lagunita issue continues its life in an unending legal battle, the beach slowly but surely disappears, removing any chance of public access in the not-too-distant future.

# Judge Upholds Order to Remove Seawall

By **LB Indy Staff** - July 25, 2019

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Share this:



Jeffrey and Tracy Katz, owners of 11 Lagunita Drive, were ordered by the Coastal Commission to remove their seawall along Victoria Beach last August. An Orange County Superior Court judge recently upheld that cease and desist order. File photo.



Please, require a public access walkway at Blue Lagoon as a condition of approval of this proposed shotcrete project in an effort to restore public access at this location. This is similar to what was recommended by staff for Tivoli Cove in Malibu in February 2020, and is a very minor concession for a luxury property that enjoys the benefits of a nearly private beach and CDPs for the ongoing maintenance and protection of this property against natural bluff erosion (reference prior CDPs for armoring and site history). Or, perhaps there is another solution given that one of the real estate ads promotes two community rooms that presently exist on the seawall. Perhaps there's a walkway there that would not impact a private residence? Let's be creative. Let's determine a way to return public access to this beach.



Thank you for considering these comments.