

# **W12a**

**A-5-LGB-22-0061 South Coast Water District**

December 14, 2022

Correspondence

## A-5-LGB-22-0061 Corwin - Public Access comments/outstanding violation

Fudge <fudge1@cox.net>

Fri 12/9/2022 12:35 PM

To: Vaughn, Meg@Coastal <Meg.Vaughn@coastal.ca.gov>

Cc: Haage, Lisa@Coastal <Lisa.Haage@coastal.ca.gov>; Helperin, Alex@Coastal <Alex.Helperin@coastal.ca.gov>; Willis, Andrew@Coastal <Andrew.Willis@coastal.ca.gov>; Mark Fudge <markfudge@icloud.com>; Seifert, Chloe@Coastal <chloe.seifert@coastal.ca.gov>; Dobson, Amber CD <adobson@lagunabeachcity.net>

Good afternoon Meg,

In regards to the staff report's analysis of Public Access (pages 15-17), please review the staff report for an appeal we filed for a project at 31361 Coast Highway (**A-5-LGB-20-0002**). I've attached a copy below. In that appeal, we brought up the unpermitted sale of the "Park" parcel to Mr. Schiffman, the owner of the property at 31361 Coast Highway. The parcel was also unsuccessfully bid on by Mr. Corwin - owner of the subject parcel of this appeal (A-5-LGB-22-0061).

The box below contains a link that will get you to the City's files for the 31351 property. About seventh (7th) on the list is the file related to the abandonment of the parcel by the County of Orange, the quitclaim of the property to the City and the City's subsequent sale of the parcel to the property owner ... all done without benefit of, or even consideration of, a CDP. I do have a copy of the file as a pdf, but it is too large to email. If there's a way for me to upload it to you, and you'd prefer that, I'd be happy to do so.

PublicAccess - CustomQuery Template  
lagunabeachgis.net



As shown below (in an excerpt from the previous appeal staff report), the sale of the "Park" property constitutes a violation of the Coastal Act. I've included Enforcement staff on this email to get an update on where this violation stands as we haven't heard anything about the issue since 2020, and to give them time to prepare in case of any Commissioner inquiries.

A-5-LGB-20-0002 (Schiffman Trust) Appeal – Substantial Issue excerpt:

### **VI. COASTAL ACT AND LOCAL COASTAL PROGRAM VIOLATIONS**

Violations of the Coastal Act have occurred on property that is located at 31361 Coast Highway and on a vacant parcel owned by the applicant that abuts the property at 31361 Coast Highway. These violations include, but are not necessarily limited to, an unpermitted change in the intensity of use of the vacant parcel noted above. Also, City building permits indicate that unpermitted improvements to the residence 31361 Coast Highway, have been undertaken, including but not necessarily limited to a re-roof, demolition of a kitchen to convert an unpermitted triplex into a duplex, and various other minor improvements.

With regard to the change in intensity of use of the vacant parcel, in 2012 the City vacated the parcel, which had been dedicated to the County of Orange, and accepted, for public park purposes through Tract Map No. 831. The park parcel was subsequently transferred to the City, and after the vacation in 2012, the City transferred the property to the applicant, thus changing its use from public park to private use. City Zoning Code Section 25.07.004 states that any activity defined as "development" within the coastal zone requires a coastal development permit. Under the City Local Coastal Program, an action that results in a "change in the density or intensity of use..." constitutes "development" as defined by City Zoning Code Section 25.07.006 and, therefore, requires a coastal development permit. Commission staff has not located a coastal development permit for the City's vacation of the park parcel. Any unpermitted development that occurs within the Coastal Zone in the City, which is not exempt, constitutes a violation of the Local Coastal Program and the Coastal Act. Furthermore, while liability for Coastal Act violations attaches to the person or persons

originally responsible for said violations (and continues to do so even if they no longer own the property), liability additionally attaches to whomsoever owns the property upon which a Coastal Act violation persists (see *Leslie Salt Co. v. San Francisco Bay Conservation and Development Com.* [1984], 153 Cal. App.3d 605, 622). Therefore, the applicant has assumed liability for, and the duty to correct, the violation on the park parcel.

Commission review and action on this appeal does not constitute a waiver of any legal action with regard to the alleged violations (or any other violations), nor does it constitute an implied statement of the Commission's position regarding the legality of development undertaken on the site without a coastal permit, or of any other development, other than the development addressed herein. The Commission's enforcement division will consider how to address said violations as a separate matter.

The posting of the exhibits for the Schiffman staff report included our appeal, but not our attachments. In our appeal, we included (as Exhibit 5) the paperwork related to the sale of the park. Perhaps you can obtain the attachment from Chloe Siefert (the author of the staff report). I've also attached some paperwork from the city files in a pdf attached below.

Please include our comments in the correspondence portion of the final staff report. Thank you,

Mark and Sharon Fudge  
949-481-1100



December 9, 2022

To: Meg Vaughn, Coastal Program Analyst, California Coastal Commission

**Re: Item W12a, Appeal No A-5-LGB-22-0061 Laguna Beach Fence on Coast Highway**

Dear Meg Vaughn,

The Surfrider Foundation South Orange County Chapter strongly supports the Coastal Commission staff recommendation for Appeal No. A-5-LGB-22-0061 to deny the private perimeter fencing on Coast Highway in Laguna Beach. Denial will protect the coastal bluff and help preserve the public's right to access and view ocean vistas along one of California's most iconic shorelines.



*Photo by Mark Fudge December 2, 2022*

The applicant seeks a permit for an already constructed 4 to 6 foot high steel fence, pictured above. As the staff report states, the proposed fence is inconsistent with the local coastal program policies for bluff development and may block a public right of way. Surfrider strongly urges the Commission to deny the fence and order its removal. We also urge staff and the Commission to request additional information from the City and the applicant regarding the lot sales and whether prescriptive access rights may exist at this location.



Access to and along the coast should not be a privilege reserved only for those who can afford to live adjacent to the bluffs and beaches. A major function of the Coastal Act is to prohibit the walling and fencing off of our beloved coast. The coast belongs to all Californians and those who wish to visit and recreate on the coast are entitled to maximum shoreline access. Private complaints about supposed criminal activity should be dealt with by law enforcement – not by restricting the access or degrading coastal bluffs with unpermitted development. Please deny the proposed fence along the Coast Highway property.

Sincerely,

Denise Erkeneff  
Chapter Coordinator  
South Orange County Chapter  
Surfrider Foundation

Mandy Sackett  
California Policy Coordinator  
Surfrider Foundation