

COUNTY OF SAN MATEO

INTERDEPARTMENTAL CORRESPONDENCE

To: Joe Caruso, Legislative Aide to Supervisor Gordon
From: County Counsel
Subject: Authority of Midcoast Community Council to Appeal Decisions of the Board of Supervisors
Date: August 9, 2000

You have requested our advice on the question of the authority of the Midcoast Community Council ("Council") to appeal land use decisions made by the Board of Supervisors to the California Coastal Commission. We have concluded that they do not have that authority.


The Council was formed in 1991 by Board Resolution No. 55042, under the authority granted by Government Code section 31010. The resolution provides that the Council "is established to advise the San Mateo County Board of Supervisors on matters including, but not limited to, public health, safety, welfare, public works and planning which affect the Midcoast." The Council is not a separate legal entity, but instead operates as a subsidiary advisory body to the Board of Supervisors, to provide advice on issues of concern to the Midcoast. It is not empowered to make any final decisions on planning matters.

A coastal development permit decision by the Board of Supervisors may be appealed to the Coastal Commission (assuming it is an appealable decision) by any aggrieved person. (Zoning Regulations, section 6328.16(d).) "Person", for purposes of the Coastal Act, means "any individual, organization, partnership, limited liability company, or other business association or corporation, including any utility, and any state, local government, or special district or an agency thereof." (Public Resources Code section 30111.) In our view, the Council is not an organization separate and apart from the Board of Supervisors for matters relating to permits under the California Coastal Act. The Council serves as an advisory body only, and thus is part of the County decision making process. Ultimately, there can be only one County decision. Any final decision made by the Board of Supervisors is the final decision of the County, and no subsidiary advisory body or staff member may appeal and take a position contrary to that final decision. In other words, when the Council speaks, it is speaking as a part of the County, just as a staff member is speaking on behalf of the County when he or she appears before another organization. To take a contrary position on a project finally approved by the Board of Supervisors would be untenable.

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Please feel free to contact me if you have any questions.

THOMAS F. CASEY, III
COUNTY COUNSEL

By 
Michael P. Murphy, Chief Deputy

cc: John Maltbie, County Manager

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