

**CALIFORNIA COASTAL COMMISSION**

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July 13, 2015

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Subject: Alleged Coastal Act and San Mateo County LCP Violations at La Costanera restaurant site, including, but not limited to, unpermitted patio construction and addition of patio seating; non-compliance with CDP No. P-77-579, including unpermitted use of the site prior to 5 p.m.

Violation File No.: **V-2-11-008** (La Costanera)

Property Location: 8150 Cabrillo Hwy., Montara, San Mateo County (APNs 036-046-050, 036-046-400, 036-046-380, 036-046-390, and 036-046-310)

Dear Gentlemen:

I am writing concerning the above-referenced violation file. As you know, in the last few years we have written a number of enforcement letters concerning outstanding Coastal Act/San Mateo County LCP violations at the site (letters to you dated April 25, 2011; November 30, 2011; March 23, 2012; December 5, 2012; June 24, 2013; April 25, 2014; January 28, 2015; March 12, 2015) and received numerous assurances, both in writing and in person, that these violations would be addressed immediately and would cease. Some of the violations were eventually resolved, such as the removal from the roof and the face of the building all unpermitted west- and north-facing exterior lights, which took place approximately four years after we first

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requested their removal. Other violations, such as the periodic placement of unpermitted No Trespassing signs and other signs restricting public parking and/or access at the site, were resolved, only to reappear again sometime later. We have had to request removal of such unpermitted signs on at least five different occasions, as noted in five different letters we sent to you. We are pleased to note that currently there are no unpermitted signs restricting public access or use at the site.

However, we continue to receive complaints that some violations are still occurring at the site. Specifically, we have been notified that special events continue to take place at the site prior to 5 p.m., and that the patios continue to be used by restaurant patrons on various occasions. Most recently, we received complaints (from more than one source), along with corroborating photographs, that a large wedding took place at the site on Sunday, May 24, 2015, which was a holiday weekend when public beach use would have been high. We were informed that, beginning around 10 a.m. on that Sunday, a booth was set up in the parking lot in preparation for the wedding and valet parking at the site began sometime after that. We were informed that all three parking lots were mostly full by 10:30 a.m. and that by 2:00 p.m. all parking lots were packed. Members of the public who sought to enter the site to park so they could use the public beach were told the lots were closed for a wedding and were turned away. The reports and photographs clearly demonstrate continued non-compliance with the terms and conditions of La Costanera's coastal development permit (CDP No. P-77-579) and the County's Use Permit - both of which restrict use of the site to that period of time between 5 p.m. and closing time.

At our on-site meeting on March 5, 2015, it was made crystal clear by Coastal Commission and County staff that, pursuant to the requirements of Commission and County permits, the restaurant is not allowed to be open prior to 5 p.m. Representatives of La Costanera understood and agreed. Thus we were surprised and disappointed that only a mere two months after that meeting a wedding took place beginning in the morning and lasting all day, in "knowing and intentional" violation of the terms and conditions of the Commission and County permits, resulting in the parking lots being completely closed to the public on a busy holiday weekend.

We have been patient over the years and have tried to work with you and the County to resolve the outstanding Coastal Act/LCP violations. However, this latest incident makes it apparent that our efforts to resolve these violations amicably are not working. It appears that we have run out of options to resolve this matter short of formal enforcement action.

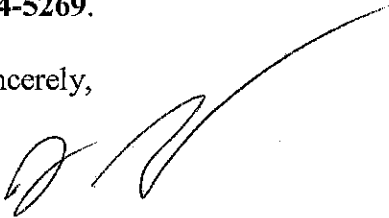
We remind you that Chapter 9 of the Coastal Act has a number of potential remedies to address violations of the Coastal Act including the following: Sections 30809(a) and 30810(a) of the Coastal Act provide that the Executive Director of the Coastal Commission and the Commission may issue an order to enforce the requirements of the Coastal Act or a certified LCP. Section 30811 authorizes the Commission to require restoration of a site if unpermitted development inconsistent with the Coastal Act has occurred and is causing ongoing damage to coastal resources. Additionally, Sections 30803 and 30805 authorize the Commission to initiate

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litigation to seek injunctive relief and an award of civil fines in response to any violation of the Coastal Act. Section 30820(a)(1) provides that any entity who undertakes development in violation of the Coastal Act may be subject to a penalty amount that shall not exceed \$30,000 and shall not be less than \$500 per violation. Section 30820(b) provides that, in addition to any other penalties, any entity that "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 per violation for each day in which the violation persists. Section 30812 provides for the Executive Director to record a Notice of Violation on the property where an unresolved violation exists. Finally, as you have been previously informed, Section 30821 authorizes the Commission to impose administrative civil penalties in an amount of up to \$11,250 per day for each violation in cases involving violations of the public access provisions of the Coastal Act, which is the case here.

If you have questions regarding this letter or any enforcement issues, please contact me at **415-904-5269**.

Sincerely,



JO GINSBERG  
Enforcement Analyst

cc: Shu Dai  
Hamid Rafiei  
Lisa Haage, CCC, Chief of Enforcement  
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Chris Spohrer, California State Parks, Santa Cruz District Services Manager  
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