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Clerk of the Superior Court

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IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
IN AND FOR THE COUNTY OF SAN MATEO

**SURFRIDER FOUNDATION**, a non-profit organization,

Plaintiff,

v.

**MARTINS BEACH 1, LLC**, a California corporation; **MARTINS BEACH 2, LLC**, a California corporation; and **DOES 1 through 20**, inclusive,

Defendants.

Case No. CIV520336

**JUDGMENT**

AND RELATED CROSS-ACTION.

**JUDGMENT**

Plaintiff SURFRIDER FOUNDATION (“Plaintiff”) filed a citizen enforcement lawsuit under the California Coastal Act against Defendants MARTINS BEACH 1, LLC and MARTINS BEACH 2, LLC (“Defendants”) for alleged unpermitted development of their property. The matter came on for a bench trial on May 8, 12-15, 19, and on July 16, 2014 in Department 22, the Honorable Barbara J. Mallach presiding. The appearances of counsel for each trial day are as noted in the record. On June 30, 2014, the parties submitted closing trial briefs. On July 16, 2014 Plaintiff and Defendants presented their closing arguments, and the Court took the matter under submission. The Court issued its Tentative Statement of Decision on September 24, 2014.

1 On October 9, 2014, Defendants filed objections to the Court's Tentative Statement of  
2 Decision titled "Objections to Court's Tentative Statement of Decision" which contained thirty-  
3 three objections. On October 9, 2014, Plaintiff filed a "Request for Modification of Limited  
4 Portions of the Tentative Statement of Decision."

5 The Court, having read and considered the oral and written evidence, having observed the  
6 witnesses testifying in court, having considered the supporting and opposing memoranda and  
7 briefs of all parties, having heard and considered the arguments of counsel and responses to the  
8 Tentative Statement of Decision and good cause appearing therefore, issued a Final Statement of  
9 Decision on November 12, 2014, which is incorporated by reference into this Judgment.

10 By reason of the Final Statement of Decision, Judgment shall be entered in this matter as  
11 follows:

12 **NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED that**

13 **I. PLAINTIFF'S COMPLAINT**

14 **A. First Cause of Action for Declaratory Relief**

15 1. Judgment is entered in favor of Plaintiff.

16 2. Defendants' desire to change the public's access to and use of the water, beach and  
17 coast at Martins Beach constitutes development under the California Coastal Act. *See*  
18 *Pub. Res. Code § 30106*. Consequently, if Defendants wish to change the public's access  
19 to and use of the water, beach and/or coast at Martins Beach, they are required to obtain a  
20 Coastal Development Permit prior to doing so.

21 3. Defendants' conduct in changing the public's access to and use of the water, beach  
22 and coast at Martins Beach, specifically by permanently closing and locking a gate to the  
23 public across Martins Beach Road, adding signs to the gate, changing the messages on the  
24 billboard on the property and hiring security guards to deter the public from crossing or  
25 using the Property to access the water, beach and coast at Martins Beach without a Coastal  
26 Development Permit(s) constitutes a violation of the California Coastal Act.

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**JUDGMENT**

Case No. CIV520336

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**B. Second Cause of Action for Injunctive Relief**

- 1. Judgment is entered in favor of Plaintiff.
- 2. Defendants are hereby ordered to cease preventing the public from accessing and using the water, beach and coast at Martins Beach until resolution of Defendants' Coastal Development Permit application has been reached by San Mateo County and/or the Coastal Commission. The gate across Martins Beach Road must be unlocked and open to the same extent that it was unlocked and open at the time Defendants purchased the property.

**C. Third Cause of Action for Fines and Penalties**

- 1. Judgment is entered in favor of Defendants.
- 2. The Court finds Defendants' conduct was in good faith, and that penalties and fines are not justified.

**II. DEFENDANTS' CROSS-COMPLAINT**

**A. First Cause of Action for Declaratory Relief**

- 1. Judgment is entered in favor of Plaintiff.
- 2. For the reasons stated in issuing Judgment for Plaintiff on claim for Declaratory Relief, and the reasons in the Court's Final Statement of Decision, Defendants' claim for Declaratory Relief is rejected. Defendants engaged in development under the Coastal Act without a permit.

**B. Second Cause of Action for Injunctive Relief**

- 1. Judgment is entered in favor of Plaintiff.
- 2. There is no evidence to support Defendants' contention that Plaintiff itself engaged in any unauthorized entry onto the property. Further, there is no evidence that Plaintiff "directed or authorized" any individual to enter Defendants' property. Finally there is no

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evidence that Plaintiff ratified the conduct of any individual who entered the property without permission. The evidence in the record shows that each individual who testified they entered the property after Defendants ceased allowing the public to do so, did so of their own volition.

**DEC 01 2014**

Dated: \_\_\_\_\_

**BARBARA J. MALLACH**

\_\_\_\_\_  
**Hon. Barbara J. Mallach**  
Judge of the Superior Court

AFFIDAVIT OF MAILING

**ENDORSED FILED**  
SAN MATEO COUNTY

DEC 05 2014

Clerk of the Superior Court  
By S. BUCHANAN  
DEPUTY CLERK

CASE NUMBER: CIV 520336

Surfrider Foundation vs Martins Beach LLC, et.al.

DOCUMENT: Judgment

I declare, under penalty of perjury, that on the following date I deposited in the United State Post Office Mail Box at Redwood City, California a true copy of the foregoing document, enclosed in an envelope, with the proper and necessary postage pre-paid thereon, and addressed to the following:

Cotchett, Pitre & McCarthy, LLP  
Eric Buescher / Josph Cotchett  
840 Malcom Road  
Burlingame, CA 94010

Hopkins & Carley  
Jeffrey Essner / Dori Yob  
P.O. Box 1469  
San Jose, CA 95109-1469

Executed on December 5, 2014 at Redwood City, California

By:



Deputy Clerk of the Superior Court