

# Trial begins in suit that's roiling waters over Martins Beach access

As trial starts, owner says Coastal Act doesn't apply  
*San Francisco Chronicle*  
05.08.2014

Lawyers for a billionaire landowner who closed a popular surfing beach told a San Mateo County judge on Thursday that the Silicon Valley titan did not violate public access laws and in fact had every right to block beachgoers from trespassing on his property.

The argument came on the first day of a civil trial over the public's right to access a public beach. The Surfrider Foundation has accused venture capitalist Vinod Khosla of flouting the California Coastal Act when he blocked the only road into Martins Beach, a sandy, 53-acre haven along the coastal cliffs about 6 miles south of Half Moon Bay.

"This lawsuit represents a clash between the constitutional right of a property owner to exclude (the public) from his private property and the cause of a political and activist organization to gain access," argued Jeffrey Essner, the attorney representing Martins Beach LLC, the company Khosla evidently established to purchase the beachfront land in 2008. "Surfrider, in this lawsuit, is asking to protect an access right that simply doesn't exist."

The case, which is being heard by Superior Court Judge Barbara Mallach, addresses perhaps the biggest challenge yet to the 1972 California Coastal Zone Conservation Initiative, which made the entire coast public property, including beaches below the mean high tide.

The lawsuit, filed in March 2013, accused the then-unidentified owner of the limited liability company of painting over a billboard welcoming people to the beach, putting up a locked gate in front of Martins Beach Road and hiring armed guards to keep people out - all technically property development that changed coastal usage and required permits from the California Coastal Commission.

## Attorneys

Paul N. "Pete" McCloskey, Jr.  
Joseph W. Cotchett

## Practice Areas

Environmental Law  
Land Use and Coastal Public Access

TRIAL BEGINS IN SUIT THAT'S ROILING WATERS OVER MARTINS BEACH ACCESS

---

## Owner revealed

The moneyman behind the deal was later revealed to be Khosla, the 58-year-old co-founder of Sun Microsystems. Khosla is famous for his backing of bold, eco-friendly projects and is a darling of Democratic politicians. His limited liability company paid \$37.5 million for the property, which includes 45 leased cabins along the coastal cliffs.

The public is still technically allowed to use Martins Beach, but the closed gate means the only way people can get there is from the ocean, which the surfing group claims is a violation of public access provisions in the coastal act.

"This case is about compliance with the coastal act," said Eric Buescher, who is co-counsel for Surfrider. "It's about ensuring that violations are punished" and that "multigenerational uses will continue into the future."

The amphibious war is as complicated as it is turbulent. Prior to the sale, the beach had been owned for more than 100 years by the Deeney family, which set up the first cabin in 1918 and continued building through the 1950s. The Deeneys also built a store and began charging visitors for access and parking.

## Family destination

Martins Beach was popular among clammers and fishermen and a favorite destination for family outings. Many of the cabins are under long-term leases that expire in 2021, according to the lawsuit.

The fee to visit the beach was \$5 at the time of the sale. These uses, Buescher argued, established a pattern of public access that the new owner did away with when he closed the gate and put up a sign saying, "Beach closed, keep out."

Locals were outraged, and officials, including Rep. Anna Eshoo, D-Palo Alto, ordered the gate reopened on grounds that the owner had not obtained a permit to block access. Lawsuits have been flying back and forth ever since... *(To read the entire article, please click [HERE](#))*