

# Appeals Court Affirms Landmark Ruling Won by CPM Ordering Martins Beach to Open to the Public

2017

The California Court of Appeal today ordered Martins Beach to be open to the public as it has been for the past several decades and affirmed the decision of the San Mateo Superior Court. The Surfrider Foundation sued Martins Beach to open the beach after VINOD KHOLSA, one of the owners of the beach, bought it and shortly thereafter closed the beach to the public. The beach had been available to the public for decades. After a Superior Court trial, Judge Barbara Mallach ordered the beach open and KHOSLA appealed. The Court of Appeal affirmed Judge Mallach across the board and Justice Mark Simon, writing the opinion, quoted the judge as correct:

***“This 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.”***

The case has been watched across the country as the attorneys for Martins Beach are alleging that the California Coastal Act gives rise to an unconstitutional taking of private property.

It has caused many groups to file briefs supporting both sides on the issues including the California Association of Realtors. Joseph Cotchett, one of the attorneys for the Surfrider Foundation, said “the case represents one of the most important issues of our day – can wealthy private individuals buy up our beautiful coastal beaches for their own use and close them to the public – it is as simple as that.”

The California Coastal Commission was put in place in 1972 by voter initiative and it has been the leading state to protect its coast for the use of the public. The California Coastal Act was established by the state legislature in 1976 to protect all shoreline public access. Eric Buescher, one of the Surfrider attorneys, said the Court’s decision “is critical in

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## Practice Areas

Environmental Law

Land Use and Coastal Public Access

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protecting access to the beaches along the entire California coast, from Half Moon Bay to Los Angeles, where Malibu residents have attempted to close off access to the coast.”

Cotchett added that it has been a long struggle but the public access has been preserved thanks to our judicial system. Justices Terence Bruiniers and Henry Needham, Jr. of the Court of Appeal joined in the unanimous decision. It is expected that KHOSLA will take the case all the way to the U.S. Supreme Court on the constitutional issues of taking of property.