

New California Law Forces Public Access Road to Martin's Beach

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A movement to reopen a popular surfing beach in San Mateo County was given a boost on Tuesday when Gov. Jerry Brown signed a law requiring the State Lands Commission to negotiate with Martin's Beach owner Vinod Khosla to acquire a public access route.

The measure, authored by state Sen. Jerry Hill, D-San Mateo, instructs the commission to negotiate with the owner for one year for a public right-of-way or easement.

If no agreement is reached after one year, the law says, the commission "may," but is not required to, use its existing powers of eminent domain to take over and pay for land for a right-of-way.

Hill said, "I urge Vinod Khosla to sit down with the State Lands Commission and negotiate a solution as soon as possible so the public can once again enjoy Martin's Beach."

County Supervisor Don Horsley said, "This iconic San Mateo County landmark has been enjoyed by residents and visitors alike for over 100 years and this legislation affords us the opportunity to regain public access."

The beach, about 5 miles south of Half Moon Bay, has been popular with both surfers and the general public. It was closed to the public in 2010 by Khosla, a venture capitalist and a co-founder of Sun Microsystems, who bought the property in 2008 for \$37.5 million.

Khosla allowed public access for about two years, but in September 2010 permanently closed a gate on the only road that leads from state Highway 1 to the beach and hired security guards to keep people off the property.

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Practice Areas

Environmental Law

Land Use and Coastal Public Access

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The previous owners had permitted daytime access for much of the year for several decades in exchange for a parking fee ranging from 25 cents to \$10.

The law is one of several strategies by access supporters to reopen the beach. Two other initiatives are a pair of lawsuits filed in San Mateo County Superior Court by citizens' groups.

In a lawsuit filed by the nonprofit Surfrider Foundation, Superior Court Judge Barbara Mallach ruled last week that two companies created by Khosla to manage the property must obtain a development permit from the California Coastal Commission before altering public access. She also said Khosla must reopen the beach for the time being.

But an earlier lawsuit filed by a group called Friends of Martin's Beach, Superior Court Judge Gerald Buchwald ruled last year Khosla had a private property right established by a Mexican land grant dating back to 1838.

Buchwald said the land-grant right predates and therefore pre-empts a state constitutional provision that requires public access to the frontage shoreline of navigable waters. Friends of Martins Beach is appealing that ruling.

Buchwald said, however, that his decision did not restrict the state's constitutional right to buy coastal property through eminent domain, or the California Coastal Commission's right to make real estate development permits subject to a public access requirement.

Lawyers for Khosla's two Martins Beach management companies were not available for comment on the new law... *(To read the entire article, please click [HERE](#))*