CALIFORNIA COASTAL COMMISSION
South Coast Area Office
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August 26, 2010

Mark Mariscal
City of Los Angeles, Department of Recreation and Parks
Superintendent, Pacific Region
1670 Palos Verdes Drive North
Harbor City, CA 90710

Subject: Imposition of an ordinance establishing a beach curfew

Dear Mr. Mariscal,

Public access to and along the California coast and coastal waters is a right guaranteed by California's Constitution and the Coastal Act. When public agencies initiate and institute actions designed and intended to place a limitation on public access to the coast, such as, but not limited to imposition of a beach curfew, such limitations must be reviewed before taking effect under the policies of the Coastal Act through the coastal development permit process.

Our staff has confirmed that the City of Los Angeles established a beach curfew, found in City of Los Angeles Municipal Code Section 63.44(B)(14)(b), for city beaches via Ordinance No. 164209, adopted on November 22, 1988. Section 63.44(B)(14)(b) states:

> ***No person shall enter, remain, stay or loiter in any park which consists of an ocean area, beach or pier between the hours of 12:00 midnight and 5:00 o'clock a.m. of the following day or such other hours as the Council may establish for each such park by ordinance. On any park which consists of an ocean area, beach or pier subject to this Section, the supervising employee at such site may extend the closing time to accommodate special events such as grunion runs and other events approved by the Department of Recreation and Parks or the Los Angeles County Department of Beaches, as applicable. Provided, however, that no person shall enter, remain, stay or loiter on Royal Palms Beach between the hours of 8:00 o'clock p.m. and 5:00 o'clock a.m. of the following day.***

The imposition of this beach curfew, as is its clearly stated intent, restricts public access to the sea. The Coastal Act defines "development" (Public Resources Code Section 30106) requiring a coastal development permit from either the Commission or local government, where a Local Coastal Program has been certified, or where the local government issues coastal development permits pursuant to the Coastal Act, to include a "...change in the ... intensity of use of land...change in the intensity of use of water, or of access thereto." In addition, the Commission and local governments are mandated under the Coastal Act (Section 30210) to ensure that "...maximum access ... and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse."

Commission staff have researched our permit files and concluded that no coastal development permits have been issued for this particular public access restriction. In this particular case, the

closure of beaches within the City's coastal development permit jurisdiction would require a local coastal development permit from the City, as well as the Commission, since City beaches are located in the "dual permit jurisdiction." Implementation of an ordinance affecting access to the Commission's area of original jurisdiction, i.e. State tidelands or public trust lands, would also require a coastal development permit from the Commission. In the absence of such Coastal Act review, such restrictions on public access constitute a violation of law exposing the responsible agency to possible enforcement actions.

While the Commission understands and appreciates the many pressures on public agencies, especially local government to ensure public safety, preserve resident convenience and neighborhood amenities, and carry out land management responsibilities within constrained budgets, we are concerned because many of these restrictions on lawful public rights of use have been instituted without benefit of coastal development permits required by the Coastal Act. The Commission has a long history of reviewing these types of public coastal access restrictions and has approved those that are narrowly drawn to effectively address proven public safety issues and concerns. Unfortunately, many access restrictions that infringe on protected legal public rights are drawn and applied in an overly broad manner, often because of political expediency or ease of administration by implementing or enforcing agencies.

Beach curfews or closures have been problematic on occasion in the past. However, working with local agencies in the context of the coastal development permit process, we have usually been able to achieve a mutually acceptable resolution that protects both public safety and public access to beaches and State waters. We want to work in cooperation with you to achieve this dual mission in the most efficient and effective manner and to avoid potential conflict and controversy over law enforcement requirements.

In conclusion, it is the position of Commission staff that implementation of the beach curfew ordinance identified above qualifies as development under the Coastal Act and therefore requires a coastal development permit. If the City wishes to implement a beach curfew, it would first need to obtain authorization for such restriction through issuance of both a local coastal development permit and a coastal development permit from the Commission. Staff feels that by working together within the coastal development permit context, we can achieve a positive resolution to this matter that is consistent with the Coastal Act. Please contact me or South Coast District Manager Teresa Henry at (563) 590-5071 within two weeks of the mailing date of this letter in order to discuss any questions raised by this letter and how we can work together to reach a mutually acceptable solution to this important matter affecting coastal access.

Sincerely,

Andrew Willis
District Enforcement Analyst

cc: Councilman Rosendahl's office
Jack Ainsworth, Deputy Director, CCC