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12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
13 **COUNTY OF LOS ANGELES, CENTRAL DISTRICT**

14 CORY SPENCER, DIANA MILENA
15 SMOLUCHOWSKA-MIERNIK, COASTAL
PROTECTION RANGERS, INC., a California
16 non-profit public benefit corporation,

17 Plaintiffs,

18 v.

19 LUNADA BAY BOYS; THE INDIVIDUAL
MEMBERS OF THE LUNADA BAY BOYS,
20 including but not limited to DAVID MELO,
CHARLIE MOWAT, SANG LEE, BRANT
21 BLAKEMAN, ALAN JOHNSTON,
MICHAEL RAE PAPAYANS, ANGELO
22 FERRARA, FRANK FERRARA, CHARLIE
FERRARA, TOM SULLIVAN, BRENDAN
23 LAMERS, MICHAEL THIEL; PAUL
HUGOBOOM; CASSIDY BEUKEMA; CITY
24 OF PALOS VERDES ESTATES; and DOES
8-100,

25 Defendants.
26
27
28

Case No. BC629596

Assigned to Honorable Lawrence P. Riff
Department 7

**PLAINTIFFS' [PROPOSED] EQUITABLE
RELIEF SOUGHT AGAINST CITY OF
PALOS VERDES ESTATES AND
DEFENDANT ALAN JOHNSTON**

Action Filed: August 4, 2016
Trial Date: August 5, 2024

1 **I. INTRODUCTION**

2 The Court asked the Plaintiffs to identify the specific equitable relief they were seeking.
3 Consistent with Article VI, section 10 of the California Constitution, Code of Civil Procedure
4 section 410.10, Article X, sections 4 and 3 of the California Constitution, Article I, section 26 of
5 the California Constitution, and the California Coastal Act, including but not limited to Public
6 Resources Code sections 30001.5, 30803, 30804 and 30820,¹ Plaintiffs seek the following
7 equitable relief:

8 **II. PLAINTIFFS' REQUEST FOR EQUITABLE RELIEF AS TO CITY**

9 **A. Permit All Development in Coastal Zone.** As required by the Coastal Act, City shall
10 permit or abate all physical and nonphysical development on City-owned property at Lunada Bay,
11 as well as other City-owned property within the coastal zone.²

12 **B. Report All Complaints Regarding Nonphysical Development in Coastal Zone.** City
13 must report any complaints of coastal zone “localism,” “harassment” whether made to its code
14 enforcement office, the planning department, public works department, the city manager’s office,
15 city council persons, planning commissioners, the police department (or, Los Angeles County
16 Sheriffs or similar contracted police services) to the California Coastal Commission and Plaintiffs’
17 counsel. Reports shall include contact information for further investigation and follow up by (i)
18 the Coastal Commission, and (ii) Plaintiffs' counsel.

19 **C. Survey Shoreline Preserve.** City must survey the approximately 4.5 miles of City-
20 owned Shoreline Preserve – as well as any other City-owned land in the coastal zone -- for any
21

22 ¹ While Plaintiffs have not yet shared this equitable relief with the California Coastal Commission
23 staff, it is consistent with Plaintiffs' communication with staff regarding improvements.

24 ² By walking the area, Plaintiffs’ counsel conducted an informal survey of the bluff top and
25 shoreline of Lunada on Friday, August 9, 2024, and Saturday, August 10, 2024. In doing so,
26 Plaintiffs’ counsel observed: (1) kayak storage (Exhibit A); (2) area identified by witness I.
27 Nawfal as “Bamboo Palace” or “Garden of Eden” (Exhibit B); (3) stacked flat rocks, large shade
28 umbrella, cooler, and coals at location of dismantled Rock Fort (Exhibit C); and (4) the seawall
and stairs located on the City’s Shoreline Preserve adjacent to 225 Rocky Point Road (Exhibit D).
Given the totality of the circumstances and past conduct in the area, Plaintiffs ask that these now-
existing developments on City property be either permitted under the Coastal Act, or abated.

1 “physical developments” on its property, and must either permit the physical developments under
2 the Coastal Act, or, abate the physical developments. When abating a development rather than
3 permitting it, the City shall obtain a Coastal Act permit, but may use the many tools it has
4 available to it to abate development including (i) contracting to remove the development, or using
5 City employees or volunteers to remove the development, (ii) use of code enforcement to cite
6 encroaching property owners to remove unpermitted developments, (iii) using the City’s public
7 nuisance abatement powers, (iv) using the City’s police force, or (v) any other combination of
8 City-available tools. After the initial survey, the City shall schedule quarterly low tide walks by
9 designated personnel for the 4.5 miles of the Shoreline Preserve to ensure no unpermitted
10 structures are maintained on City property. After the survey, the City shall schedule quarterly
11 drone flights – using the military grade drone already available to the City – to video the City’s
12 Shoreline Preserve parkland adjacent to the Pacific Ocean to ensure no new unpermitted structures
13 are erected.

14 **D. Stop Quasi Private Shoreline Through Improvements Designed to Encourage Use.**

15 Consistent with the requests of the California Coastal Commission staff, and with collaboration
16 with Coastal Commission staff, *within a five year period* the City shall make improvements to
17 ensure Lunada Bay is inviting to the public and welcome to all persons. Further, the City must
18 maintain the new improvements. The required improvements are as follows;

- 19 • Directional street signage on Palos Verdes Drive West to beach parking, and
20 Lunada Bay, using Coastal-Commission-approved style signs.
- 21 • Lunada Bay blufftop welcome signs, directional signs, and natural, historical, and
22 cultural resource interpretation signs and displays.
- 23 • Lunada Bay blufftop trail markers and signs that clearly identify shoreline trail
24 access for both the south trail, and middle trail.
- 25 • Lunada Bay blufftop landscaping and maintenances, designed to remove invasive
26 species such as mustard and fennel, and include native plant species such as California sagebrush,
27 purple sage, California poppy, California fuchsia, lanceleaf liveforever, dune buckwheat, Indian
28

1 paintbrush, Santa Catalina mariposa lily, saw-toothed goldenbush, deerweed, and coast prickly
2 pear.³

3 • Lunada Bay blufftop trail improvement of decomposed granite or similar substance
4 for hikers, runners, dog walkers, anglers, surfers, etc.

5 • Lunada Bay blufftop sea telescope on south end.

6 • Lunada Bay bluff seating dispersed, but shall include seating near trails. Seating
7 may be rock seating, or park benches.

8 • Lunada Bay blufftop drinking fountain with bowl for fresh water for dogs.

9 • Lunada Bay blufftop bike racks.

10 • Lunada Bay blufftop edge safety railing/fencing.

11 • Lunada Bay shoreline signs between the mean high tide and the bluff that describe
12 rules and regulations. The public's rights and responsibilities should be clearly described –
13 including rights under the Coastal Act -- to encourage stewardship of coastal resources, to promote
14 safety, and to reduce conflict among various users, including surfing, fishing, snorkeling, scuba,
15 hiking, dog walking, boating, and others recreational uses.

16 **E. Prevent De Facto Privatization Through Improvements South Trail.** Improve
17 Lunada Bay's south trail for safety and easier access for recreational users, e.g., 36" to 60" trail of
18 crushed granite and railroad ties where necessary, redwood/pressure treated post with stainless
19 cable railing, or as may otherwise be approved by the Coastal Commission.⁴

20 **F. Prevent De Facto Privatization of City Beach By Educating City Staff on**
21 **Coastal Act.** City shall train public works department, planning department, public works
22 department, code enforcement, and police department on the Coastal Act, the City's Local Coastal
23

24 ³ <https://pvplc.org/native-plants-nursery/>

25 ⁴ See, Exhibit E, which depicts existing condition of south trail. While the City would be required
26 to put the project out to bid, upon information and belief, after design and assuming
27 improvements of an existing trail of approximately 500 linear feet at 5' wide, that south trail
28 improvements would likely cost the City approximately \$500,000 to \$750,000, and that a do not
exceed ("DNE") of \$1,200,000 may be accepted to a contractor familiar with public works
projects.

1 Program, and the City’s municipal ordinances that relate to surfing, and surfing etiquette.
2 Similarly, the City shall train personnel on taking complaints from beachgoers, and take steps to
3 make it easier for beachgoers to lodge complaints, e.g., receiving complaints at Lunada Bay in
4 person or by the phone, rather than requiring persons to travel to City Hall or the police station.
5 Further, training shall cover the many tools the City has available to it to stop aggressive behavior
6 by local surfers including (i) the City contracting to remove the development, (ii) code
7 enforcement to cite encroaching property owners to remove development, (iii) public nuisance
8 abatement privileges, (iv) citations under the Coastal Act or the City's local Coastal Program
9 ("LCP"), or (v) use of police force if necessary.

10 **G. Prevent Localism and Harassment – Additional Services.** City shall contract for
11 additional support to curb localism for water and landside patrols during peak swell season
12 (November through March), using code enforcement, public nuisance abatement powers, or
13 traditional policing methods.

14 **H. Update Local Coastal Program Document.** City shall update its Local Coastal
15 Program document to address “environmental justice” and AB 2616, specifically the fair treatment
16 of people of all races, cultures, and incomes with respect to the Coastal Act, environmental laws,
17 regulations, and policies. See, Gov’t Code sections 11135 and 65040.12.

18 **I. Penalties under Public Resource Code §30820.** In addition, the City shall pay a
19 penalty in the amount of \$ _____, which shall be paid the State of California’s
20 Coastal Conservancy Violation Remediation Account (“VRA”).

21 **III. PLAINTIFFS' REQUEST FOR EQUITABLE RELIEF AS TO JOHNSTON**

22 **A. 36 Month Stay Away.**

23 Defendant Johnston is ordered to Stay Away from the Lunada Bay⁵ for a period of 36
24 months after judgment is entered. If Defendant Johnston violates the Stay Away, he is further
25 ordered to pay a penalty of \$ _____, which shall be paid the State of
26 California’s Coastal Conservancy Violation Remediation Account (“VRA”).

27 _____

28 ⁵ See, Stay Away Area attached as Exhibit F.

EXHIBIT A

EXHIBIT A





Stealth-12

CA 281-4309241







es
110-112





EXHIBIT B

EXHIBIT B











EXHIBIT C

EXHIBIT C









K 24

Handwritten signature and scribble

IGLOO





EXHIBIT D

EXHIBIT D











EXHIBIT E

EXHIBIT E



**THIS IS A LIVING MARINE PRESERVE
PLEASE HELP US PRESERVE IT**

- * Taking of most tidal invertebrates forbidden (C.A.C. Title 24, Sec. 31)
- * Always return tide pool animals to their original habitat after viewing them.
- * Please take nothing from the preserve. All animals, algae, shells, etc. should be left in place.
- * Return rocks to their original position after you have finished viewing their undersides.
- * Carry no glass or other containers with you into the marine preserve.
- * Practice conservation. It is a good habit to observe. Carry all of your litter back to a trash can.

Palos Verdes Estates Shoreline Preserve



EXHIBIT F

EXHIBIT F

Rocky Point



Rocky Point Rd

PASEO

Yarmouth Rd

PASEO DEL MAR

Oakley Rd

Via Bandini

Avenue Mirola

Via Pena

Yarmou

Stay-Away Area

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PROOF OF SERVICE

Spencer, et al. v. Lunada Bay Boys, et al.
Los Angeles County Superior Court - Case No. BC629596

At the time of service, I was over 18 years of age and not a party to this action. I am employed in the County of Contra Costa, State of California. My business address is 1850 Mt. Diablo Blvd., Suite 340, Walnut Creek, CA 94596.

On August 12, 2024, I served true copies of the following document(s) described as:

PLAINTIFFS' [PROPOSED] EQUITABLE RELIEF SOUGHT AGAINST CITY OF PALOS VERDES ESTATES AND DEFENDANT ALAN JOHNSTON

BY ELECTRONIC SERVICE: Pursuant to Court Order Authorizing Electronic Service, I provided the document(s) listed above electronically on the CASE ANYWHERE Website to the parties on the Service List maintained on the CASE ANYWHERE Website for this case, or on the attached Service List. Case Anywhere is the on-line e-service provider designated in this case.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: August 12, 2024, 2024



Cynthia Virgen

Case Anywhere Electronic Service List

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Case Info: **BC629596, Los Angeles Superior Court**

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