

MINUTE ITEM
This Calendar Item No. C74
was approved as Minute Item
No. 74 by the State Lands
Commission by a vote of 3
to 0 at its 02/12/97
meeting.

CALENDAR ITEM
C74

A 44
S 22

02/12/97
AD 300, 301 W 24665
302, 303, 304 C. Fossum
305, 306, 307 F. Sledd
F. Carey

**CONSIDER ACCEPTANCE OF OFFERS OF DEDICATION
OF LATERAL ACCESS EASEMENTS**

PARTIES WHICH HAVE DEDICATED EASEMENTS:

Harold E. Gaba
Larry and Maj Hagman
Bernard J. and Rena J. Shapiro
Mike Silverman & Associates
Alan L. Specht
Pamela Azar and Lisa Taylor Crouse
Robert L. Miller
Irwin and Shirley Lachman, Inter Vivos Trust

PARTY TO ACCEPT EASEMENTS:

California State Lands Commission
100 Howe Avenue, Suite 100-South
Sacramento, California 95825-8202

INTERESTED PARTIES:

California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, California 94105-2219

California Coastal Conservancy
1330 Broadway, Suite 1100
Oakland, California 94612-2530

Since the adoption of the Constitution of California of 1879, access to California's public trust waterways has been a mandated responsibility of state government. The vast majority of the hundreds of title settlement agreements the State Lands Commission has been involved in since its inception of 1938 have included provision of public access to the waterways involved.

CALENDAR ITEM NO. C74 (CONT'D)

In the 1960's, an organization with the acronym COAAST (Citizens Organized to Acquire Access to State Tidelands) began a "Save the Coast" campaign that eventually resulted in the adoption of Proposition 20 by the State's voters in 1972. Since the Legislature's passage of the Coastal Act in 1976, over 1200 offers to dedicate (OTDs) public access easements, both vertical or lateral (to or along) the coast, have been made involving California's 1100-mile coastline.

These OTDs were formally made and recorded by property owners as a condition of approval of permits to develop within the Coastal Zone. Over 1000 of these OTDs remain unaccepted. Most of these offers have a 21 year life, so that they will expire if not formally accepted by a public agency within that time period.

The OTDs were required to ensure protection of existing public rights of use as well as to mitigate and compensate for the impacts to public access caused by development. In many cases, the location of the boundary between the privately owned uplands and the publicly owned tidelands is unsettled. Furthermore, the public may have acquired rights of use through the doctrine of implied dedication and have rights of recreational use in any area subject to the public easement in navigable waters. Therefore, these OTDs may describe and include areas already having public rights of use or public ownership. Acceptance by the Commission of the dedications does not change the nature of the existing rights, but removes any question of the public's right of use of the area described.

The State Lands Commission has been requested by the Coastal Commission to review and, where appropriate, accept offers of dedication of lateral access easements involving sandy beach areas lying adjacent to tidelands managed by the State Lands Commission. Staff of the Commission is involved in an ongoing process with the Coastal Conservancy and the Coastal Commission to analyze the OTDs to determine which offers the State Lands Commission should accept. The State Lands Commission has already authorized the acceptance of 74 OTDs in the Malibu area of Los Angeles County where over 40% of the OTDs exist. These approvals involved acceptance of eight OTDs by Minute Item 27 on April 2, 1991; 15 by Minute item 2 on July 31, 1992; 11 by Minute Item 22 on September 9, 1993; 13 by Minute Item 63 on May 9, 1996; 15 by Minute Item 72 on August 21, 1996; and 12 by Minute Item 48 on October 28, 1996. The Commission's liability for holding these lateral parcels is limited by Section 831.2 of the Government Code which provides that a public entity is not liable for injury caused

CALENDAR PAGE	318
MINUTE PAGE	000342

CALENDAR ITEM NO. C74 (CONT'D)

by a natural condition of any unimproved public property. There should be no maintenance and little management required for these easements because of the lack of improvements on the parcels and because the easements simply provide the public with the right to access and use the beach.

The OTDs involve sandy beach areas lying between the private structure built on the upper beach and the tidelands which are already state owned and under the Commission's jurisdiction. Therefore, these areas are not only appurtenant to the Commission's existing area of ownership and jurisdiction, but are for all practical public use purposes integral to it. Staff has reviewed each of the offers and the properties as described on the attached Exhibit "B" and recommends them as appropriate for Commission acceptance.

EXHIBITS:

- A. Location Map
- B. List of Dedications

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO 14 CALIFORNIA CODE OF REGULATIONS, SECTION 15061 BECAUSE THE ACTIVITY IS NOT A PROJECT AS DEFINED BY PUBLIC RESOURCES CODE SECTION 21065 AND TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15378.
2. ACCEPT THE OFFER(S) TO DEDICATE PUBLIC ACCESS AND RECREATIONAL USE EASEMENT(S) LISTED ON THE ATTACHED EXHIBIT "B".

EXHIBIT "B"

<u>ADDRESS</u>	<u>OWNER AT TIME OF OFFER</u>	<u>CURRENT OWNER</u>	<u>ASSESSOR PARCEL #</u>
23720 West Malibu Colony Drive	Harold E. Gaba	Lauralee K. Bell Trust 240 Quail Ridge Drive Westmont, IL 60559-6143	4458-006-036
23730 Malibu Colony Road	Larry and Maj Hagman	Larry and Maj I. Hagman 23730 Malibu Colony Road Malibu, CA 90265-4636	4458-006-035
23822 Malibu Road	Bernard J. & Rena J. Shapiro	Bernard J. Shapiro B. J. & R. Shapiro Trust 23822 Malibu Road Malibu, CA 90265-4604	4458-007-026
23832 Malibu Road	Mike Silverman & Associates	Graybell Enterprises Inc. 250 N. Canon Drive Beverly Hills, CA 90210-5322	4458-007-024
23834 Malibu Road	Alan L. Specht	Alan L. Specht 23834 Malibu Road #1240 Malibu, CA 90265-4604	4458-007-023
23872 Malibu Road	Pamela Azar and Lisa Taylor Crouse	Edward J. Hanenburgh S. S. Hanenburgh T. Hanenburgh 7489 Leonard Street Coopersville, MI 49404-9729	4458-007-019

CALENDAR PAGE	321
MINUTE PAGE	000345

<u>ADDRESS</u>	<u>OWNER AT TIME OF OFFER</u>	<u>CURRENT OWNER</u>	<u>ASSESSOR PARCEL #</u>
23940 Malibu Road	Robert L. Miller	David M. and Linda Shaheen 23940 Malibu Road Malibu, CA 90265-4606	4458-008-012
24836 Malibu Road	Irwin and Shirley Lachman, Inter Vivos Trust	Peter Hamilton 201 Ocean Avenue #1406-P Santa Monica, CA 90402	4458-013-014

CALENDAR PAGE	322
MINUTE PAGE	000346