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5 Attorney for Petitioners and Plaintiffs
CASA MIRA HOMEOWNERS' ASSOCIATION AND ITS MEMBERS,
6 AS SPECIFIED HEREIN

7 SUPERIOR COURT OF CALIFORNIA

8
9 IN AND FOR THE COUNTY OF SAN MATEO

10 CASA MIRA HOMEOWNERS
ASSOCIATION, a California non-profit
11 mutual benefit corporation, on its behalf
and on behalf of the Association members,

12
13 Petitioners and Plaintiffs,

14 ROBERT D. GLYNN, JR., and KATHLEEN
O. GLYNN, as TRUSTEES of the GLYNN
1994 REVOCABLE TRUST AGREEMENT,
15 dated March 15, 1994, and GLYNN 1994
REVOCABLE TRUST AGREEMENT, dated
16 March 15, 1994, each as a member of the
Casa Mira Homeowners' Association and
17 individually,

18 Petitioners and Plaintiffs,

19 PAULA SKINNER, KAREN PEARLMAN,
and CHRISTEN AGNELLO, each as a
20 member of Casa Mira Homeowners'
Association and individually

21 Petitioners and Plaintiffs,

22 WILLIAM V. REGAN III and ANN
WILLIAMS REGAN, as TRUSTEES of the
23 REGAN REVOCABLE TRUST dated
December 29, 1992, and the REGAN
24 REVOCABLE TRUST dated December 29,
1992, each as a member of the Casa Mira
25 Homeowners' Association and
individually,

26 Petitioners and Plaintiffs,
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Electronically
FILED
by Superior Court of California, County of San Mateo
ON 8/12/2019
By /s/ Una Finau
Deputy Clerk

Case No.: 19-CIV-04677

**VERIFIED PETITION FOR A WRIT OF
ADMINISTRATIVE MANDAMUS
(C.C.P. § 1094.5) AND/OR A PETITION
FOR TRADITIONAL MANDAMUS
(C.C.P. § 1085);**

**COMPLAINT FOR INVERSE
CONDEMNATION, DECLARATORY
AND INJUNCTIVE RELIEF; and**

DEMAND FOR JURY TRIAL

1 STUART M. SCHLISSERMAN, as
2 TRUSTEE of the STUART MARK
3 SCHLISSERMAN REVOCABLE TRUST
4 dated April 14, 2004, and the STUART
5 MARK SCHLISSERMAN REVOCABLE
6 TRUST dated April 14, 2004, each as a
member of the Casa Mira Homeowners'
Association and individually,

7 Petitioners and Plaintiffs,

8 TARANEH RAZAVI, as TRUSTEE of the
9 TARANEH RAZAVI LIVING TRUST dated
10 September 29, 2009, and the TARANEH
11 RAZAVI LIVING TRUST dated September
12 29, 2009, each as a member of the Casa Mira
Homeowners' Association and
individually,

13 Petitioners and Plaintiffs,

14 KELLY ANN KRAMER, as TRUSTEE of the
15 KELLY ANN KRAMER 2017 TRUST under
16 Declaration of Trust dated July 18, 2017,
17 and the KELLY ANN KRAMER 2017
18 TRUST under Declaration of Trust dated
19 July 18, 2017, each as a member of the Casa
Mira Homeowners' Association and
individually,

20 Petitioners and Plaintiffs,

21 GREGG E. MILLER, as TRUSTEE of the
22 MILLER SURVIVOR'S TRUST dated April
23 5, 1993, and the MILLER SURVIVOR'S
24 TRUST dated April 5, 1993, each as a
member of the Casa Mira Homeowners'
Association and individually,

25 Petitioners and Plaintiffs,
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1 GIAN D. POLASTRI and ROBIN M.
2 POLASTRI, as TRUSTEES of the TRUST OF
3 GIAN AND ROBIN POLASTRI, dated
4 April 7, 2001, and the TRUST OF GIAN
5 AND ROBIN POLASTRI, dated April 7,
6 2001, each as a member of the Casa Mira
Homeowners' Association and
individually,

7 Petitioners and Plaintiffs,

8 RODERICK A. YOUNG and CHARLOTTE
9 D. JACOBS, as TRUSTEES of the
10 YOUNG/JACOB 1998 TRUST, and the
11 YOUNG/JACOB 1998 TRUST, each as a
member of the Casa Mira Homeowners'
Association and individually,

12 Petitioner and Plaintiff,

13 GUSTAVINO HOLDINGS, LLC, a
14 California limited liability company, solely
15 as a member of the Casa Mira
Homeowners' Association and not
16 individually,

17 Petitioner and Plaintiff,

18 MAVIS R. SULLIVAN, as Trustee of the
19 MAVIS R. SULLIVAN DECLARATION OF
20 TRUST dated October 21, 2015, the MAVIS
21 R. SULLIVAN DECLARATION OF TRUST
dated October 21, 2015, KIM M. THOMAS,
22 MICHAEL PATRICK SULLIVAN, JR.,
23 KERRY SULLIVAN, JAMIE SULLIVAN,
24 ASHLEY SULLIVAN, and MAGGIE SUE
SULLIVAN, each named solely as a
member of the Casa Mira Homeowners'
Association and not individually,

25 Petitioners and Plaintiffs,

26 vs.
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1 CALIFORNIA COASTAL COMMISSION,
2 an agency of the State of California, and
3 DOES 1-50, inclusive,

Respondent and Defendant,

4 JOHN (JACK) AINSWORTH, in his official
5 capacity as Executive Director of the
6 California Coastal Commission, and DOES
7 1-50, inclusive,

Respondent and Defendant,

8
9 CALIFORNIA DEPARTMENT OF PARKS
10 AND RECREATION, a department of the
11 State of California, and DOES 1-50,
12 inclusive,

Real Party-in-Interest,

13 CITY OF HALF MOON BAY, a charter city,
14 and DOES 1-50, inclusive,

Real Party-in-Interest,

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16 GRANADA COMMUNITY SERVICES
17 DISTRICT, a special district formed under
18 California Government Code § 61000, and
19 DOES 1-50, inclusive,

Real Party-in-Interest,

20 TOP OF MIRADA, LLC, a California
21 limited liability company, and JENNIFER
22 THOMAS, an individual, and DOES 1-50,
23 inclusive,

Real Parties-in-Interest,

24 IRINA VLASSOVA PLACE, an individual,
25 and DOES 1-50, inclusive,

Real Party-in-Interest,

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1 WILLIAM S. EASTERLING, and
2 DARLENE INEZ CASTRO-EASTERLING,
3 as TRUSTEES of THE EASTERLING
4 REVOCABLE TRUST UTA dated July 11,
5 2000, and THE EASTERLING
6 REVOCABLE TRUST UTA dated July 11,
7 2000, and DOES 1-50, inclusive,

8 Real Parties-in-Interest, and

9 VALLI ANANDA a/k/a GAIL LAMAR,
10 individually and as Trustee of THE GAIL
11 M. LAMAR LIVING TRUST u/t/a January
12 24, 1999, and THE GAIL M. LAMAR
13 LIVING TRUST u/t/a January 24, 1999, and
14 DOES 1-50, inclusive,

15 Real Parties-in-Interest

16 COMES NOW Petitioners and Plaintiffs, CASA MIRA HOMEOWNERS'
17 ASSOCIATION, on its behalf and on behalf of its members, ROBERT D. GLYNN, JR.,
18 and KATHLEEN O. GLYNN, as TRUSTEES of the GLYNN 1994 REVOCABLE TRUST
19 AGREEMENT, dated March 15, 1994; GLYNN 1994 REVOCABLE TRUST AGREEMENT,
20 dated March 15, 1994; PAULA SKINNER; KAREN PEARLMAN; CHRISTEN AGNELLO;
21 WILLIAM V. REGAN and ANN WILLIAMS REGAN, as TRUSTEES of the REGAN
22 REVOCABLE TRUST dated December 29, 1992; the REGAN REVOCABLE TRUST dated
23 December 29, 1992; STUART M. SCHLISSERMAN, as TRUSTEE of the STUART MARK
24 SCHLISSERMAN REVOCABLE TRUST dated April 14, 2004; the STUART MARK
25 SCHLISSERMAN REVOCABLE TRUST dated April 14, 2004; TARANEH RAZAVI, as
26 TRUSTEE of the TARANEH RAZAVI LIVING TRUST dated September 29, 2009; the
27 TARANEH RAZAVI LIVING TRUST dated September 29, 2009; KELLY ANN KRAMER,
28 as TRUSTEE of the KELLY ANN KRAMER 2017 TRUST under Declaration of Trust
dated July 18, 2017, and the KELLY ANN KRAMER 2017 TRUST under Declaration of
Trust dated July 18, 2017; GREGG E. MILLER, as TRUSTEE of the MILLER SURVIVOR'S
TRUST dated April 5, 1993; the MILLER SURVIVOR'S TRUST dated April 5, 1993; GIAN

1 D. POLASTRI and ROBIN M. POLASTRI, as TRUSTEES of the TRUST OF GIAN AND
2 ROBIN POLASTRI, dated April 7, 2001; the TRUST OF GIAN AND ROBIN POLASTRI,
3 dated April 7, 2001; and RODERICK A. YOUNG and CHARLOTTE D. JACOBS, as
4 TRUSTEES of the YOUNG/JACOB 1998 TRUST, the YOUNG/JACOB 1998 TRUST;
5 GUSTAVINO HOLDINGS, LLC, solely as a member of the Casa Mira Homeowners'
6 Association and not individually; MAVIS R. SULLIVAN, as Trustee of the MAVIS R.
7 SULLIVAN DECLARATION OF TRUST dated October 21, 2015, solely as a member of
8 the Casa Mira Homeowners' Association and not individually; the MAVIS R. SULLIVAN
9 DECLARATION OF TRUST dated October 21, 2015, solely as a member of the Casa Mira
10 Homeowners' Association and not individually; KIM M. THOMAS, solely as a member
11 of the Casa Mira Homeowners' Association and not individually; MICHAEL PATRICK
12 SULLIVAN, JR., solely as a member of the Casa Mira Homeowners' Association and not
13 individually; KERRY SULLIVAN, solely as a member of the Casa Mira Homeowners'
14 Association and not individually; JAMIE SULLIVAN, solely as a member of the Casa
15 Mira Homeowners' Association and not individually; ASHLEY SULLIVAN, solely as a
16 member of the Casa Mira Homeowners' Association and not individually; and MAGGIE
17 SUE SULLIVAN, solely as a member of the Casa Mira Homeowners' Association and not
18 individually (collectively, "Casa Mira"), requesting that this Court issue a writ of
19 administrative mandamus (C.C.P. § 1094.5) and/or a writ of traditional mandamus
20 (C.C.P. § 1085), directed to Respondent and Defendant California Coastal Commission
21 (the "CCC") pursuant to this Verified Petition for Writ and Complaint, ordering it to set
22 aside and vacate the CCC's July 11, 2019 decision mostly denying Casa Mira's
23 application for a coastal development permit to construct a seawall in Half Moon Bay,
24 California, and directed to Respondent and Defendant John (Jack) Ainsworth, in his
25 official capacity as Executive Director of the CCC, ordering him to set aside his August 9,
26 2019 denial of Casa Mira's request to extend the term of existing emergency rip rap
27 during this lawsuit, and for other relief, as set forth herein:

28 / / /

1 **Introduction and Nature of Action**

2 Petitioner Casa Mira challenges the California Coastal Commission’s effective
3 denial of an application for a permit to build a seawall along a coastal bluff in Half Moon
4 Bay. Officially, the California Coastal Commission (sometimes referred to as the “CCC”)
5 describes its action as an “approval, with conditions.” But that is disingenuous. Casa
6 Mira, as a co-applicant, applied for a 257-foot long seawall to more permanently protect
7 structures landward of a coastal bluff that partially collapsed in 2016. The proposed
8 seawall would have protected (1) a segment of the existing California Coastal Trail
9 (purportedly managed by the California Department of Parks and partially on an
10 easement held since 1999 by the City of Half Moon Bay), (2) a sewer line owned and
11 maintained by the Granada Community Services District, (3) 10 townhomes owned by
12 members of the Casa Mira Homeowners’ Association, and, to a lesser extent, (4) three
13 apartments known as 2 Mirada Road, who were co-applicants in the seawall application.
14 **The CCC staff wrote a 55-page report supporting the application and recommending**
15 **that the 12-member Coastal Commission approve the full seawall.**

16 Then, **in a 25-minute public hearing**, the full Commission **rejected its own staff’s**
17 **recommendation** and issued the nonsensical indict to approve *only* that portion of the
18 seawall that protects the 2 Mirada apartments, and to expressly reject any portion of the
19 seawall that protects the Coastal Trail, the 10 townhomes and the sewer line. Of the
20 proposed 257-foot seawall, therefore, the full Commission approved what amounts to
21 about 20 linear feet, or less than ten percent. That can hardly be called an “approval,”
22 especially since a 20 linear foot seawall simply can’t provide any meaningful protection
23 even to the 2 Mirada apartments.

24 The 257-foot seawall was engineered and designed as an integrated unit. The
25 Commission can’t eliminate 93 percent of the wall and expect it to serve any useful
26 purpose. Even more bizarrely, the Commission still imposed all of the mandatory
27 mitigation, including the construction of a \$500,000 stairway, and the donation of land
28 and improvements to the Coastal Trail, even though that mitigation package was

1 designed for a 257-foot wall, and all of that mitigation would be immediately threatened
2 or eliminated by coastal erosion and bluff collapse as soon as it was constructed or
3 implemented. As an example of the full Commission's ill-conceived decision, the
4 Commission approved only a small portion of the seawall estimated to be about 20 feet,
5 yet insisted as partial mitigation the construction of a public access stairway that staff
6 concluded would need "approximately 70 linear bluff feet." In other words, it would be
7 impossible to construct the mandated public access stairs (required mitigation) on the
8 fragment of the seawall that the Commission actually approved. Yet that's the decision
9 that the Commission made.

10 In a 25-minute hearing, where homeowners (who had traveled 4 hours and **waited**
11 **another 10 hours** for their turn to speak) **weren't even allowed to speak**, the full
12 Commission **nullified three years of exhausting, detailed and expensive discussions**
13 **between Casa Mira and the CCC technical staff** who had agreed upon a workable
14 solution to address a collapsing bluff in a way that fully complied with the Coastal Act.
15 It was clear from the discussion at the dais that the Commissioners hadn't bothered to
16 read their own staff's detailed report, or for that matter, the relevant and binding
17 provisions of the Coastal Act.

18 The CCC violated the Coastal Act, and its hasty rejection is contrary to law, lacks
19 substantial evidence, is arbitrary, lacks common sense and is a prejudicial abuse of
20 discretion. While the CCC is the sole Respondent and Defendant, numerous other
21 parties are named as real parties-in-interest because they have or may have legal and/or
22 equitable interests that may be affected by the Court's ruling in this case.

23 Casa Mira intends no ill will by this action and remains open to a reasonable and
24 workable solution to the situation now created by the full Commission's rejection of the
25 proposed seawall. However, without a seawall or other protective device, the Coastal
26 Trail, sewer line and ten townhomes will be quickly and forever destroyed by ocean
27 wave action, erosion and bluff collapse.

28 / / /

1 **The Parties and Venue**

2 1. Petitioner and Plaintiff Casa Mira Homeowners’ Association is, and at all times
3 relevant in this Petition and Complaint, has been, a California not-for-profit corporation
4 in good standing, and the owner in fee simple of the common areas of the Association.
5 Civil Code § 5980 provides the Casa Mira Homeowners’ Association with standing to sue
6 for property damage to common areas and certain separate interests and in a
7 representative capacity to the owners. Casa Mira used herein refers to Casa Mira as the
8 not-for-profit corporation, **and** each member of the Association (i.e., the owners of each
9 of the 10 townhomes), located in the City of Half Moon Bay in San Mateo County. The
10 location of Casa Mira’s 10 townhomes is highlighted in yellow on **Exhibit 1** attached
11 hereto. Unless otherwise specified, each member of the Association is also named
12 individually as a separate Petitioner and Plaintiff in this lawsuit, as detailed below. Casa
13 Mira is a co-applicant for a coastal development permit (for a seawall) from Respondent
14 CCC, which was effectively denied by the CCC on July 11, 2019.

15 2. Petitioners and Plaintiffs Robert D. Glynn, Jr., and Kathleen O. Glynn, as
16 Trustees of the Glynn 1994 Revocable Trust Agreement, dated March 15, 1994, and the
17 Glynn 1994 Revocable Trust Agreement, dated March 15, 1994, own in fee simple the
18 townhome at 12 Mirada Road, Half Moon Bay, California. They are members of the Casa
19 Mira Homeowners’ Association.

20 3. Petitioners and Plaintiffs Paula Skinner, Karen Pearlman and Christen Agnello
21 own as joint tenants in fee simple the townhome at 16 Mirada Road, Half Moon Bay,
22 California. They are members of the Casa Mira Homeowners’ Association.

23 4. Petitioners and Plaintiffs William V. Regan III and Ann Williams Regan, as
24 Trustees of the Regan Revocable Trust dated December 29, 1992, and the Regan
25 Revocable Trust dated December 29, 1992, own in fee simple the townhome at 18 Mirada
26 Road, Half Moon Bay, California. They are members of the Casa Mira Homeowners’
27 Association.

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1 5. Petitioners and Plaintiffs Stuart M. Schlisserman, as Trustee of the Stuart Mark
2 Schlisserman Revocable Trust dated April 14, 2004, the Stuart Mark Schlisserman
3 Revocable Trust dated April 14, 2004, Taraneh Razavi, as Trustee of the Taraneh Razavi
4 Living Trust dated September 29, 2009, and the Taraneh Razavi Living Trust dated
5 September 29, 2009, own in fee simple the townhome at 20 Mirada Road, Half Moon Bay,
6 California. They are members of the Casa Mira Homeowners' Association.

7 6. Petitioners and Plaintiffs Kelly Ann Kramer, as Trustee of the Kelly Ann
8 Kramer 2017 Trust under Declaration of Trust dated July 18, 2017, and the Kelly Ann
9 Kramer 2017 Trust under Declaration of Trust dated July 18, 2017, own in fee simple the
10 townhome at 22 Mirada Road, Half Moon Bay, California. They are members of the Casa
11 Mira Homeowners' Association.

12 7. Petitioners and Plaintiffs Gregg E. Miller, as Trustee of the Miller Survivor's
13 Trust dated April 5, 1993, and the Miller Survivor's Trust dated April 5, 1993, own in fee
14 simple the townhome at 24 Mirada Road, Half Moon Bay, California. They are members
15 of the Casa Mira Homeowners' Association.

16 8. Petitioners and Plaintiffs Gian D. Polastri and Robin M. Polastri, as Trustees of
17 the Trust of Gian and Robin Polastri, dated April 7, 2001, and the Trust of Gian and
18 Robin Polastri, dated April 7, 2001, own in fee simple the townhome at 26 Mirada Road,
19 Half Moon Bay, California. They are members of the Casa Mira Homeowners'
20 Association.

21 9. Petitioners and Plaintiffs Roderick A. Young and Charlotte D. Jacobs, as
22 Trustees of the Young/Jacob 1998 Trust, own in fee simple the townhome at 28 Mirada
23 Road, Half Moon Bay, California. They are members of the Casa Mira Homeowners'
24 Association.

25 10. Petitioner and Plaintiff Gustavino Holdings, LLC owns in fee simple the
26 townhome at 14 Mirada Road, Half Moon Bay, California. It brings this action solely as a
27 member of the Casa Mira Homeowners' Association and not individually.

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1 11. Petitioners and Plaintiffs Mavis R. Sullivan, as Trustee of the Mavis R. Sullivan
2 Declaration of Trust dated October 21, 2015, the Mavis R. Sullivan Declaration of Trust
3 dated October 21, 2015, as to an undivided ½ interest; Kim M. Thomas, subject to a life
4 estate in favor of Mavis R. Sullivan, a 1/4th interest in and to an undivided ½ interest;
5 Michael Patrick Sullivan, Jr., subject to a life estate in favor of Mavis R. Sullivan, a 1/4th
6 interest in and to an undivided ½ interest; Kerry Sullivan, subject to a life estate in favor
7 of Mavis R. Sullivan, a 1/4th interest in and to an undivided ½ interest; Jamie Sullivan,
8 subject to a life estate in favor of Mavis R. Sullivan, a 1/12th interest in and to an
9 undivided ½ interest; Ashley Sullivan, subject to a life estate in favor of Mavis R.
10 Sullivan, a 1/12th interest in and to an undivided ½ interest; and Maggie Sue Sullivan,
11 subject to a life estate in favor of Mavis R. Sullivan, a 1/12th interest in and to an
12 undivided ½ interest, own in fee simple the townhome at 10 Mirada Road, Half Moon
13 Bay, California. They each are bringing this action solely as a member of the Casa Mira
14 Homeowners' Association and not individually.

15 12. Petitioner and Plaintiff Casa Mira is adversely affected by Respondent Coastal
16 Commission's effective denial of the seawall application for several reasons. First, Casa
17 Mira's members have used for years, and plan to use in the future, the public access
18 Coastal Trail, with its iconic and unobstructed views, near their townhomes. The Coastal
19 Trail would have received protection but for the Respondent CCC's denial of a seawall.
20 Casa Mira residents and guests have used, presently use and plan to use in the coming
21 week and months, the Coastal Trail for recreation, biking, hiking, walking, and scenic
22 viewing, as protected by the Coastal Act. The sought-after coastal development permit
23 also would have secured long-term public access along the Coastal Trail and to the beach
24 below the coastal bluff, in accordance with Coastal Act provisions and policies. As the
25 Coastal Commission staff articulated in their staff report on this application, this segment
26 of the Coastal Trail is "in danger of erosion" and without the proposed seawall "would
27 be immediately threatened" by coastal erosion and bluff collapse. Second, since the Casa
28 Mira townhomes are immediately inland of the relevant section of the Coastal Trail,

1 Respondent Coastal Commission’s denial of that portion of the seawall protecting the
2 Coastal Trail necessarily would also threaten the 10 townhomes by exposing them to
3 bluff collapse and erosion, and ultimate collapse into the ocean.

4 13. Respondent and Defendant California Coastal Commission is a commission of
5 the State of California housed in the California Natural Resources Agency, established
6 pursuant to the California Coastal Act (Pub. Res. Code §§ 30000 et seq.). The CCC is
7 responsible, with local governments, for implementing the Coastal Act. A coastal
8 development permit is required for “development” within the coastal zone, and, with
9 respect to this project, which is “development,” the CCC has retained jurisdiction to
10 process applications and issue coastal development permits. The CCC effectively denied
11 Petitioner Casa Mira’s application for a coastal development permit for a seawall.

12 14. Respondent and Defendant John (Jack) Ainsworth is the Executive Director of
13 the California Coastal Commission, and is being named in his official capacity. Mr.
14 Ainsworth had the authority to grant Petitioner Casa Mira’s request to extend existing
15 emergency rip rap while this lawsuit is pending, but Mr. Ainsworth denied the request
16 or otherwise failed to exercise his authority in accordance with law.

17 15. Real Party-in-Interest California Department of Parks and Recreation (“State
18 Parks”) is a department of the State of California. State Parks owns, has a legal interest
19 in, and/or manages that portion of the Coastal Trail at issue in this lawsuit. State Parks’
20 land also extends directly south of the project site, and is preserved as public open space.
21 State Parks filed a letter with Respondent Coastal Commission that supported extending
22 the life of the Coastal Trail “for future generations to enjoy.” As such, State Parks is
23 named as a real party-in-interest because its legal interest with respect to the Coastal
24 Trail and surrounding real property may be affected by this lawsuit.

25 16. Real Party-in-Interest the City of Half Moon Bay (the “City”) is an
26 incorporated city located in San Mateo County, California. The City holds a public
27 easement underlying all or part of that portion of the Coastal Trail at issue in this
28 litigation. The City filed a letter with Respondent Coastal Commission that supported

1 the seawall application in order to protect the Coastal Trail. As such, the City is named
2 as a real party-in-interest because its legal interest with respect to the Coastal Trail and
3 surrounding real property interests may be affected by this lawsuit.

4 17. Real Party-in-Interest the Granada Community Services District (the
5 "District"), formerly known as the Granada Sanitary District, is a special district created
6 pursuant to Gov't Code § 61000. The District maintains the sewage collection system and
7 disposal for approximately 2,500 residences and businesses in the northern portion of the
8 City of Half Moon Bay, including the area at issue in this lawsuit. The District maintains
9 a sewer line under or within a few feet of the segment of the Coastal Trail at issue in this
10 lawsuit. The sewer line serves several residential structures in the neighborhood,
11 including the apartments at 2 Mirada Road as well as the 10 Casa Mira townhomes, and
12 crosses the Arroyo de en Medio Creek on the far side of the end of Mirada Road. As
13 such, the District is named as a real party-in-interest because its legal interest with
14 respect to the sewer line may be affected by this lawsuit.

15 18. In addition to Casa Mira, there were three co-applicants on the application to
16 build a seawall. Those three co-applicants own as tenants in common the residential
17 apartment structure known as 2 Mirada Road. One of the tenants-in-common sold
18 its/her property interest to a new owner immediately prior to the July 11, 2019 Coastal
19 Commission hearing and therefore both parties are named because each of their
20 respective interests may be affected by this lawsuit.

21 19. Real Party-in-Interest Irina Vlassova Place is an individual and resident of the
22 State of Hawaii who owns, as a tenant-in-common, the apartment residential structure at
23 2 Mirada Road, and is a co-applicant with Casa Mira for the coastal development permit
24 for a seawall. As such, Ms. Place is named as a real party-in-interest because her legal
25 interest with respect to the property and this application may be affected by this lawsuit.

26 20. Real Party-in-Interest, Top of Mirada, LLC is a California limited liability
27 company that owns, as a tenant-in-common, the apartment residential structure at 2
28 Mirada Road, and is a co-applicant with Casa Mira for the coastal development permit

1 for a seawall. As such, Top of Mirada, LLC is named as a real party-in-interest because
2 its legal interest with respect to the property and this application may be affected by this
3 lawsuit.

4 21. Real Party-in-Interest, Jennifer Thomas, is an individual and California
5 resident, who owned, as a tenant-in-common, the apartment residential structure at 2
6 Mirada Road, and was a co-applicant with Casa Mira for the coastal development permit
7 for a seawall. Ms. Thomas formed a single owner LLC called Top of Mirada, LLC and
8 transferred her interest in the property to that entity in mid-2018. Because the CCC was
9 unclear whether it considers Ms. Thomas or Top of Mirada, LLC to be the recipient of the
10 partial approval granted on July 11, 2019, Petitioner Casa Mira names Ms. Thomas as a
11 real party-in-interest because her legal rights may be affected by this lawsuit.

12 22. Real Parties-in-Interest William S. Easterling and Darlene Inez Castro-
13 Easterling, as Trustees of the Easterling Revocable Trust UTA, dated July 11, 2000, own,
14 as a tenant-in-common, the apartment residential structure at 2 Mirada Road, and are co-
15 applicants with Casa Mira for the coastal development permit for a seawall. As such, the
16 Easterlings as Trustees are named as a real party-in-interest because their legal interest
17 with respect to the property and this application may be affected by this lawsuit.

18 23. Real Party-in-Interest Valli Ananda a/k/a Gail LaMar is also named
19 individually and as a trustee because Ms. Ananda/ La Mar is named individually in the
20 application for the seawall coastal development permit, and she was the trustee for The
21 Gail M. LaMar Living Trust u/t/a January 24, 1999. She appears to have changed her
22 name from Gail LaMar to Valli Ananda sometime in 2019. The Gail M. LaMar Living
23 Trust u/t/a January 24, 1999 and/or Ms. Ananda/ LaMar, sold its/her tenancy-in-common
24 interest to Real Parties-in-Interest William and Darlene Easterling, as Trustees of the
25 Easterling Revocable Trust UTA, dated July 11, 2000, in June 2019. Ms. Ananda/LaMar,
26 individually and as Trustee for The Gail M. LaMar Living Trust u/t/a January 24, 1999,
27 are named as a real parties-in-interest because their respective legal interests with respect
28 to the property and this application may be affected by this lawsuit.

1 24. The true names and capacities, whether individual, corporate, associate, or
2 otherwise, of DOES 1 through 50 are unknown to the Petitioners, who therefore sues
3 these defendants/respondents/real-parties-in-interest by fictitious names. The Petitioners
4 will amend this Petition/Complaint to show the DOE defendants/respondents/real-
5 parties-in-interests' true names and capacities when ascertained. Petitioners are further
6 informed and believe that each of the respondents/defendants named herein, including
7 DOES 1 through 10, was the agent, servant, employee, and/or alter ego of the other
8 respondents/defendants and, that in doing the things alleged herein, was acting within
9 the scope to his/her/its actual or apparent authority.

10 25. Pursuant to C.C.P. §§ 393(b) and Gov't Code § 955, venue is proper because
11 the cause of actions arose, and the subject property is located, in San Mateo County.

12 26. This Court has jurisdiction pursuant to C.C.P. §§ 1085, 1094.5, 1095.5, 1060,
13 and 527(a), and Pub. Res. Code § 30801 [actions against the CCC].

14 **Background on the Coastal Bluff Collapse, the CCC's Issuance of Two**
15 **Emergency Permits, the Coastal Development Permit Application, and the**
16 **CCC's Staff's Findings and Recommendations for Approval of the Seawall**
16 **Project**

17 27. The project site is located in the City of Half Moon Bay along a bluff and beach
18 (Half Moon Bay State Beach) seaward of a segment of the California Coastal Trail and 10
19 townhouses (in four buildings) in the Casa Mira condominium complex (just inland of
20 the Coastal Trail). Just to the north is a multi-family apartment building at 2 Mirada
21 Road. The CCC staff acknowledges that this segment of the Coastal Trail is "extremely
22 popular." The Coastal Trail is next to a coastal bluff.

23 28. From roughly 2003 to 2014, this bluff slowly retreated an average of about 0.3
24 feet per year, and then in the space of one winter (2016) approximately 20 feet of bluff
25 collapsed and eroded away, threatening the Coastal Trail, the 10 Casa Mira townhomes
26 on the landward side of the Coastal Trail, the sewer line under the Coastal Trail, and
27 indirectly, the apartment complex located at 2 Mirada immediately to the north.

28 ///

1 29. Petitioner Casa Mira and Real Parties-in-Interest Place, Top of Mirada and
2 LaMar applied to Respondent CCC for an emergency permit to place a rip rap revetment
3 in the area in order to forestall additional bluff collapse and erosion. On May 13, 2016,
4 and September 22, 2017, respectively, Respondent CCC granted Petitioner Casa Mira and
5 the owners of 2 Mirada two emergency permits (G-2-16-0045 and G-2-17-0046),
6 authorizing Petitioner Casa Mira to place 4,000 tons of riprap to bolster the bluff
7 immediately seaward of the existing Coastal Trail. Casa Mira completed this project and
8 the rip rap remains in place at the time of this filing. The rip rap has protected the
9 Coastal Trail, as well as the 10 Casa Mira townhomes inland of the trail. No material
10 bluff collapse or erosion has occurred in the area of the emergency rip rap.

11 30. In July 2016, Petitioner Casa Mira and the owners of 2 Mirada submitted an
12 application for a regular coastal development permit. After long discussions with the
13 Coastal Commission staff lasting more than a year, Petitioner Casa Mira was pressured
14 by the Coastal Commission staff to revise the application to build a seawall rather than to
15 install a permanent rip rap revetment to protect the coastal bluff. This shift increased in
16 the estimated design and construction costs by millions of dollars, catapulting the cost of
17 the proposed structure to more than \$5 million in 2018 dollars.

18 31. As re-designed, the proposed project included (1) removing the temporary
19 riprap placed pursuant to the two emergency permits, and (2) constructing a tied-back
20 “shotcrete” seawall in the same location. The proposed seawall would have protected the
21 coastal bluff that collapsed in 2016, immediately in front of the Coastal Trail, covering the
22 bluffs in this area completely, and extending approximately 257 lateral feet along the
23 bluff to the south. Casa Mira’s proposed seawall is depicted in blue on **Exhibit 2**,
24 attached hereto (a graphic representation).

25 32. The CCC staff determined that the proposed seawall is the preferable
26 alternative under the Coastal Act to minimize significant adverse impacts to coastal
27 resources while also protecting the coastal-dependent Coastal Trail. Staff concluded that
28 the 2.5-foot wide seawall would “occupy much less public beach space than a riprap

1 revetment would . . . and [could] . . . be designed to blend, as much as feasible, into the
2 natural bluff environment through colorizing and contouring its surface to match natural
3 bluff landforms.”

4 33. To mitigate the alleged impacts of the seawall, including alleged impacts to
5 local shoreline sand supply and other impacts, the CCC staff worked with Casa Mira to
6 develop a “mitigation package” to offset alleged coastal resource impacts. Casa Mira and
7 staff then negotiated the following measures to be imposed as special conditions on any
8 approval by the CCC – Casa Mira would (1) construct a new beach access stairway,
9 incorporated into the seawall design (at a cost exceeding \$500,000); (2) dedicate private
10 blufftop land for public access to facilitate the connection between the Coastal Trail and
11 the new beach stairway; (3) construct a portion of the realigned blufftop Coastal Trail
12 segment (8 feet wide, and approximately 300 feet long) above the seawall and connecting
13 to and running through State Parks’ property directly south of the project site to
14 minimize erosion risk; (4) install landscape improvements and public benches, bicycle
15 racks, and signage, to facilitate public access; (5) remove all old, abandoned timber piles
16 that exist on the beach seaward of the seawall to open up additional sandy beach area for
17 public recreation; (6) donate \$10,000 to help provide for a *second* public access stairway to
18 the beach to the north of the project site; and (7) agree to maintain these public access
19 areas, improvements, and amenities at Casa Mira’s expense.

20 34. The CCC staff concluded that by transitioning to a seawall (at a cost of \$5
21 million), Casa Mira’s proposed project vastly reduced the alleged impacts to the local
22 shoreline sand supply, and vastly improved public access along the coastal blufftop and
23 public access to the beach. Also, by removing historical debris such as the embedded
24 timber piles, the proposal would make the beach much more accessible and useful for
25 public recreation.

26 35. The CCC staff recommended to the full Commission that it approve the
27 project. The CCC staff determined that the Coastal Trail is a coastal dependent use under
28 Pub. Res. Code § 30235, and thus entitled to protection. Staff concluded that the

1 proposed seawall was the “**minimum necessary** to protect the endangered existing
2 structure and the [Coastal Trail].” The CCC staff found that the Coastal Trail and 2
3 Mirada apartments are in danger from erosion based on the CCC’s previous findings of
4 danger when a structure “would be unsafe to use or otherwise occupy **within the next**
5 **two or three storm season cycles**” if no action were taken, i.e., if no “armoring” or
6 seawall was allowed. The CCC staff found that erosion and bluff collapse at this site was
7 occurring through dramatic, episodic events often during winter storms. The CCC staff
8 concluded that “. . . **without protection, it is fair to conclude that anything within about**
9 **20 feet of the present blufftop edge location is in danger of being undermined in such**
10 **an event, and annual and ongoing erosion will continue to exacerbate this threat.**”
11 Staff also found that “the 8-foot wide paved Coastal Trail is located about 3 to 4 feet
12 inland from the blufftop edge in this location, and in one section is being actively
13 undermined. The property line for the Casa Mira condominiums is located another 2 feet
14 inland of the trail, with the Granada Sanitary District’s sewer line located along the
15 property line.” Casa Mira’s geotechnical expert submitted an analysis to the CCC that
16 concluded “the bluff retreat and recession will continue if left *partially or fully*
17 unprotected.” Without the seawall or a revetment, all of these structures would be
18 threatened by erosion in a very short period of time. The CCC staff found that the **entire**
19 **seawall is needed to protect these structures**, and that the wall was designed in a way
20 that is fully **consistent with the Coastal Act**.

21 36. The CCC staff also determined that the alternative of relocating the existing
22 structures was **not feasible**. First, the CCC staff found that “the apartment site is already
23 fully developed with an apartment building, parking, and related infrastructure such as
24 drainage, sewer and water lines, and the entirety of the parcel is subject to coastal
25 hazards and fronted by shoreline armoring.” The CCC staff concluded that attempting
26 to move the apartments inland “would be extremely difficult and costly, and it would
27 still be in a hazardous location, and that there are “no undeveloped areas on the
28 property, outside of the coastal hazards zone, able to accommodate the existing

1 apartment structure and allow for removal of the riprap.” Casa Mira’s geotechnical
2 expert determined that “relocation of this multi-unit structure is infeasible, as moving the
3 structure would not be possible given that areas that must be stable for lifting and rolling
4 the structure’s foundation are occupied with large riprap, and removal of such riprap
5 would further destabilize the areas needed for lifting or rolling.” The CCC did not
6 contest these findings, but rather accepted them. Second, the CCC staff concluded that
7 relocation of the sewer line and the Casa Mira 10 townhomes would be difficult as well.
8 For the sewer line, there would be significant capital outlay by the Granada Community
9 Services District for new sewer pipelines and connections (and pumps etc., as needed).
10 The townhomes could only shift approximately 10 feet inland while remaining within
11 their property. “Given that limitation, relocation would likely also need to include some
12 demolition.” Further, relocation of the townhomes even 10 feet inland would exceed \$2.6
13 million, including moving the structures, constructing new foundations and
14 infrastructure, constructing new buildings, and removing the emergency riprap. The
15 townhomes would remain uninhabitable for at least 18 months and probably longer
16 given the usual permitting and engineering delays and obstacles. Third, the CCC staff
17 concluded that relocating this segment of the Coastal Trail “would require significant
18 additional costs and permitting time, which would be problematic given this
19 infrastructure would be immediately threatened with no armoring present.” **Further,**
20 **there is no viable location for the Coastal Trail to be rerouted in this location while**
21 **maintaining its aesthetic and recreational value adjacent to the ocean and beach** (i.e., it
22 would need to loop inland of existing residential structures, such as the Casa Mira
23 condominiums, if relocated). Due to the narrow pinch-point between the bluff and
24 condominiums, any further erosion will force realignment of the trail far inland, east of
25 the Casa Mira complex, **thereby sacrificing coastal views and a consistent path along**
26 **the shoreline for pedestrians**. For all of these reasons, the relocation alternative was
27 determined not to be feasible in this case.” Casa Mira also presented evidence at the
28 CCC hearing that moving the Coastal Trail inland would violate the Coastal Act’s

1 provisions protecting scenic views and coastal visual resources. Indeed, moving the
2 Coastal Trail inland at this location would eliminate all views of the ocean, meaning that
3 the trail would no longer be a “Coastal Trail,” but rather just a trail very far from the
4 coast and the beach.

5 37. The CCC staff next concluded that “planned or managed retreat,” meaning the
6 intentional abandonment and demolition of the threatened structures, was “**not currently**
7 **feasible** at this location, given the inability to relocate the threatened structures, and the
8 lack of a formalized managed retreat program that otherwise provides regulatory
9 guidance and requirements.” **In other words, neither the CCC nor the City of Half**
10 **Moon Bay has any formal program, policy or guidance for “managed retreat.” So, in**
11 **staff’s view, that was not an option.**

12 38. After rejecting other alternatives, the CCC staff concluded “. . . there do not
13 appear to be feasible non-armoring (or “soft”) alternatives that could be applied in this
14 case to protect the existing structures currently in danger from erosion, and therefore,
15 **hard armoring alternatives must be considered.**”

16 39. The CCC staff rejected Casa Mira’s request to install permanent rip rap, which
17 staff admitted “has been successfully used to protect endangered structures for many
18 decades.” In staff’s view, the rip rap “occupie[s] . . . a large area of sandy beach, and it
19 presents ongoing issues with beach coverage, displacement, and maintenance.” Staff
20 therefore pushed Petitioner Casa Mira to propose a 2.5 foot wide **tied-back concrete**
21 **seawall** extending 257 feet across the bluff. The CCC staff determined that this **seawall**
22 **“is the preferred alternative** for this area because it achieves the desired project goals
23 (e.g., prevents loss of the apartments and the public access pathway) and minimizes
24 adverse impacts to coastal resources, including public access and recreation, as much as
25 feasible” The CCC staff concurred that “. . . the seawall has been **designed to limit**
26 **its impacts on coastal resources** by limiting the beach footprint and by contouring and
27 surfacing the seawall to mimic the natural bluffs in appearance and shape, and as such it
28 helps to reduce adverse impacts to coastal resources as much as feasible with a project

1 like this and in this environment.” In fact, Petitioner Casa Mira spent years working with
2 CCC staff to ensure that all of staff’s concerns were addressed. **Casa Mira spent more**
3 **than \$210,000 on seawall design and engineering work to accommodate staff’s every**
4 **whim.**

5 40. Petitioner Casa Mira and the CCC staff also worked together for **three years** to
6 develop a **comprehensive package to mitigate all alleged impacts**, including, *inter alia*,
7 passive erosion; the long-term loss of beach, if any; impacts to recreational opportunities;
8 the loss of sand and sand generating materials. The mitigation measures imposed by the
9 CCC included (1) constructing a new vertical beach access stairway, incorporated into
10 the seawall design at a cost exceeding \$500,000; (2) dedicating 7,430 square feet of bluff
11 area for public use and enjoyment, including the area where the beach public access
12 stairway would connect to the Coastal Trail; (3) constructing a newly realigned blufftop
13 Coastal Trail (8 feet wide, approximately 300 linear feet) above the proposed seawall,
14 within the dedicated blufftop area and on State Parks’ property directly south of the
15 project site; (4) removing old bike trail components and fully restoring the bluff and
16 habitat; (5) donating \$10,000 to be used for additional public access beach stairway north
17 of the apartments at 2 Mirada Road; (6) installing new landscaping and access amenities
18 (e.g., public benches, picnic tables, bicycle racks, signage, etc.); (7) removing all existing,
19 abandoned timber piles on the beach in the project area to provide additional sandy
20 beach area for public recreation; (8) designing and installing landscaping, drainage, and
21 fencing to improve public access utility and public views; and (9) agreeing to assume
22 long-term maintenance of public access areas, improvements, and amenities, at no cost to
23 the public. Petitioner Casa Mira also had commenced discussions with State Parks about
24 assuming additional Coastal Trail maintenance obligations to reduce State Parks’ public
25 funds outlay for those obligations. Based on this extensive and expensive mitigation
26 package, the CCC staff concluded the mitigation would “enhance public recreational
27 access amenities and utility in the project area, appropriately offsetting the
28 beach/shoreline area impacts” Staff found the mitigation would “allow public access

1 improvements to be realized in the very near term, providing fairly immediate and
2 tangible public benefits” “In addition, the . . . recreational use and access
3 improvement projects will likely be worth much more to users than the cost to develop
4 these improvement projects, as they have an intrinsic value to the shoreline-visiting
5 public, particularly given the significant popularity of the [Coastal Trail] . . . and related
6 public access features on this stretch of coast” “In short, the . . . access improvement
7 project constitutes an appropriate and adequate compensatory mitigation package to
8 offset the impacts” Staff then **found that the seawall project is consistent with the**
9 **Coastal Act, Pub. Res. Code § 30235**. Staff continued: “With regard to this specific site
10 and facts, the Commission finds that the proposed project, as conditioned, can be found
11 consistent with Coastal Act Sections 30235 and 30253 because it is the least
12 environmentally damaging feasible alternative required to protect an existing structure
13 and a coastal-dependent use in relation to the . . . [Coastal Trail], and conditions are
14 included to ensure that the project will appropriately mitigate for its sand supply and
15 beach/shoreline recreational use area impact, and to ensure long term stability.
16 **Therefore, as conditioned, the proposed project is consistent with Coastal Act Sections**
17 **30235 and 30253.**”

18 41. The CCC staff also found the project **consistent with Coastal Act access and**
19 **recreation policies**, including Pub. Res. Code §§ 30210, 30211, 30212(a), 30213, 30221,
20 30222, 30223, and 30240(b).

21 42. The CCC staff found the project consistent with Coastal Act **view policies**,
22 including Pub. Res. Code §§ 30251 and 30240(b).

23 43. The CCC found the project consistent with **marine resources and offshore**
24 **habitat protections**, including Pub. Res. Code §§ 30230 and 30231.

25 44. Based on these findings, the CCC staff recommended that the full Commission
26 approve the project based on the following proposed motion: “The Commission hereby
27 approves Coastal Development Permit Number 2-16-0784 for the proposed development
28 and adopts the findings set forth below on grounds that the development as conditioned

1 will be in conformity with the policies of Chapter 3 of the Coastal Act. Approval of the
2 Permit complies with the California Environmental Quality Act because either 1) feasible
3 mitigation measures and/or alternatives have been incorporated to substantially lessen
4 any significant adverse effects of the development on the environment, or 2) there are no
5 further feasible mitigation measures or alternatives that would substantially lessen any
6 significant adverse impacts of the development on the environment.”

7 45. Casa Mira didn’t agree with *every* aspect of the staff’s analysis. Petitioner Casa
8 Mira disagreed with the CCC’s staff contention that Pub. Res. Code § 30235 protects only
9 those structures that existed at the time that the Coastal Act was adopted in 1977. Section
10 30235 provides, in relevant part, “...**seawalls... shall be permitted when required to**
11 **...protect existing structures** ... in danger from erosion and when designed to eliminate
12 or mitigate adverse impacts on local shoreline sand supply.” The statute does **not** state
13 that existing structures are limited to structures that pre-date the Coastal Act. Indeed, the
14 CCC has over the years interpreted those very same words in that statute to mean
15 structures that existed *at the time of an application for a seawall*. The CCC has used that
16 broader definition as a basis to grant seawall permits to other citizens in California. The
17 CCC should have concluded that Pub. Res. Code § 30235 mandates the agency to grant a
18 seawall permit to Casa Mira in order to protect the 10 existing townhomes just inland of
19 the Coastal Trail. That provision provided an independent basis for protecting the 10
20 townhomes, separate and apart from the protection provided indirectly by the Coastal
21 Act’s requirement that “coastal dependent” uses like the Coastal Trail be protected. Even
22 with this disagreement, however, the CCC staff’s recommendation to the full
23 Commission was that the Coastal Act warranted, if not required, protection of the
24 Coastal Trail. Ninety three percent or more of the seawall was designed to protect the
25 Coastal Trail, not the 2 Mirada apartments.

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1 **The July 11, 2019 Full Commission Hearing and Rejection of Staff’s**
2 **Recommendation to Approve the Project, Nullifying 93 Percent of the Seawall**
3 **and Effectively Denying the Project**

4 46. On July 11, 2019, the CCC held a hearing on the seawall application at its July
5 meeting held in San Luis Obispo.

6 47. Numerous residents of Casa Mira traveled 4 hours from the Bay Area, and as
7 far away as Canada, to attend the hearing and to speak directly to the full Commission
8 about their support for maintaining the Coastal Trail. As explained below, the Chair of
9 the full Commission denied them that right.

10 48. To say that the Commission hearing process was poorly executed is an
11 understatement. The CCC originally scheduled the Casa Mira hearing as Item 8A,
12 scheduled for the morning session beginning at 9 am. When Casa Mira representatives
13 arrived that morning, however, the CCC staff advised them that it was at the last minute
14 changing the schedule and the Casa Mira hearing was being deferred until later in the
15 day so that the CCC could hear a more controversial item first. The CCC then heard the
16 more controversial item for the entire day, meaning that the Casa Mira hearing did not
17 commence until after about 6 pm, **some 9 hours later**. Casa Mira representatives had
18 arrived at about 8 am, meaning they **waited 10 hours** for the full Commission to hear
19 their application. During the previous month, Casa Mira repeatedly had asked the CCC
20 staff to schedule the hearing for August, but staff insisted that the hearing *must* happen
21 in July. As it turns out, the Commission could barely fit the hearing in the July meeting.

22 49. It was clear from the commencement of the Casa Mira hearing that the 12
23 Commissioners were spent and exhausted from the previous 9 hour hearing. The CCC
24 staff gave an overview of the application, and a single Casa Mira representative was
25 allowed to speak for 5 minutes or less. During the public comment period, the CCC
26 Chairwoman failed or refused to hear any of the other residents of Casa Mira or
27 information they wished to present on the Coastal Trail – **despite the fact they had**
28 **driven 4 hours and waited another 10 hours**. Instead, she recognized only an *opponent* of
the project who was allowed to speak for 3 minutes.

1 50. When the hearing shifted to debate by the Commissioners, it became clear
2 they had failed to read the staff report. A few Commissioners proposed rejecting the
3 portion of the seawall that protected the Coastal Trail, even though that comprised 93
4 percent of the seawall. The Commissioners’ discussion on the record shows that they
5 were entirely unaware of the legal standards in the Coastal Act that compelled protecting
6 “coastal dependent uses” like the Coastal Trail. They ignored the detailed findings of
7 their own staff. Their reasoning was limited to not wanting to be “hypocritical” by
8 encouraging “managed retreat” to private applicants, while protecting the public Coastal
9 Trail. They were oblivious that such a consideration was not allowed under the relevant
10 Coastal Act provision, and, worse, they seemed unconcerned that the CCC hasn’t
11 adopted any official policy on “managed retreat” to date. In other words, they based
12 their decision on a CCC policy that doesn’t exist. They merely “approved, with
13 conditions” the seawall, which was a euphemism for denying 93 percent of the
14 seawall. They directed staff to add a condition of approval to submit new plans for a
15 seawall that protected only 2 Mirada, which simply isn’t possible within the designated
16 project area.

17 **The CCC’s August 9, 2019 Refusal to Extend the Emergency Rip Rap Protecting**
18 **the Coastal Trail, the Sewer Line and the Casa Mira Townhomes**

19 51. In light of the full Commission’s July 11, 2019 effective denial of the seawall,
20 Petitioner Casa Mira on August 6, 2019 submitted a request in writing to the CCC
21 Executive Director and CCC staff, asking the CCC to continue to allow (during the
22 pendency of litigation) an existing rip rap revetment placed in 2016 and 2017 pursuant to
23 emergency permits. The existing rip rap revetment currently protects the Coastal Trail,
24 the sewer line, and the Casa Mira townhomes by preventing further erosion of the bluff
25 and shoreline.

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1 55. Casa Mira’s members pay real estate taxes as property owners in California
2 and San Mateo County and they have an interest in ensuring that public officials and
3 agencies (1) do not unlawfully exceed their jurisdiction by misinterpreting and/or
4 misapplying the Coastal Act and denying lawful permits to build structures needed to
5 protect the Coastal Trail (and their long-standing homes) from erosion and bluff collapse;
6 (2) duly execute, and fairly and uniformly apply the Coastal Act laws, as written; (3) do
7 not abuse their discretion or exceed their jurisdiction in reviewing applications for such
8 permits; and (4) do not act in an arbitrary and capricious manner, or without proper and
9 substantial evidentiary support, or in the absence of proper procedures or a fair hearing.
10 Alternatively, Petitioner Casa Mira and its members are citizens seeking to enforce public
11 rights and the object of this mandamus is to enforce a public duty, including protecting
12 the long-standing Coastal Trail and/or sewer line from collapse and ruin.

13 56. Petitioner Casa Mira and its members have performed all conditions
14 precedent to the filing of this Petition and Complaint and otherwise have exhausted all
15 required and applicable administrative remedies, or are otherwise excused given that
16 this is a challenge to the authority of the CCC and/or its Executive Director, or is exempt
17 under the doctrine of futility.

18 57. Petitioner Casa Mira and its members have no plain, speedy, and adequate
19 remedy in the ordinary course of law, other than the relief sought in this Petition. Absent
20 intervention by this Court, the CCC’s denial of 93 percent of Casa Mira’s application for a
21 seawall (and the Executive Director’s refusal to extend the term of the existing emergency
22 rip rap) will aver to the detriment of Petitioner and its members as described herein. No
23 additional administrative appeal or other form of relief is available to prevent such an
24 occurrence. Petitioner Casa Mira and its members have a clear, present and beneficial
25 right to performance of the public business in accordance with the law and legal
26 standards set forth herein.

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COUNT 1

(The CCC's Effective Denial of the Seawall Exceeds the CCC's Authority and Violates the Coastal Act, Pub. Res. Code § 30235 Because It Fails to Protect the Coastal Trail as a "Coastal Dependent Use," Threatened by Erosion, and Also Violates the Coastal Act's Visual Resources Protections in Pub. Res. Code §§ 30001(b) and 30251)

58. Petitioner and Plaintiff Casa Mira repeats, realleges and incorporates herein by reference, the allegations contained in paragraphs 1-57, inclusive, as though fully set forth.

59. Administrative agencies like the CCC have only the power conferred upon them by statute, and an act in excess of those powers is void.

60. Pub. Res. Code § 30235, in relevant part, provides that ". . . seawalls that alter[] natural shoreline processes **shall be permitted when required to serve coastal-dependent uses** or to protect existing structures or public beaches **in danger from erosion and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply.**"

61. The CCC staff determined that the segment of the Coastal Trail identified in Petitioner Casa Mira's application for a coastal development permit to construct a seawall is a coastal dependent use under Pub. Res. Code § 30235.

62. The CCC staff also determined that this segment of the Coastal Trail is "in danger of erosion" and without the proposed seawall "would be immediately threatened" by coastal erosion and bluff collapse.

63. The CCC staff concluded that relocating this segment of the Coastal Trail "would require significant additional costs and permitting time, which would be problematic given this infrastructure would be immediately threatened with no armoring present." **"Further, there is no viable location for the Coastal Trail to be rerouted in this location while maintaining its aesthetic and recreational value adjacent to the ocean and beach** (i.e., it would need to loop inland of existing residential structures, such as the Casa Mira condominiums, if relocated). Due to the narrow pinch-point between

1 the bluff and condominiums, any further erosion will force realignment of the trail far
2 inland, east of the Casa Mira complex, **thereby sacrificing coastal views and a consistent**
3 **path along the shoreline for pedestrians.** For all of these reasons, the relocation
4 alternative was determined not to be feasible in this case.”

5 64. Casa Mira also presented evidence at the CCC hearing that moving the
6 Coastal Trail inland would violate the Coastal Act’s provisions protecting scenic views
7 and coastal visual resources. Indeed, moving the Coastal Trail inland at this location
8 would eliminate all views of the ocean, meaning that the trail would no longer be a
9 “Coastal Trail,” but rather just a trail very far from the coast and the beach.

10 65. Finally, the CCC staff found that the proposed seawall is “designed to
11 eliminate or mitigate adverse impacts on local shoreline sand supply,” as well as other
12 impacts to coastal resources.

13 66. The CCC staff mandated a mitigation package as a condition of approval for
14 the seawall that required Casa Mira to fund and implement numerous improvements to
15 the Coastal Trail, including, but not limited to, constructing a new beach access stairway
16 that connected to the Coastal Trail; dedicating private blufftop land for public access to
17 facilitate further the connection between the Coastal Trail and the new beach stairway;
18 constructing a portion of the realigned blufftop Coastal Trail segment (8 feet wide, and
19 approximately 300 feet long) above the seawall and connecting to and running through
20 State Parks’ property directly south of the project site; installing landscape improvements
21 and public benches, bicycle racks, and signage, to facilitate public access on and along the
22 Coastal Trail; donating \$10,000 to help provide for a *second* public access stairway to the
23 beach from a different segment of the Coastal Trail; and agreeing to maintain these
24 public access areas on and along the Coastal Trail at Casa Mira’s expense. In addition to
25 Casa Mira’s role as a citizen seeking to enforce a public right and duty, i.e., the protection
26 of the Coastal Trail from collapse and ruin, Casa Mira and its members also have a
27 beneficial interest in this petition to protect the Coastal Trail by virtue of the CCC’s
28 mandatory mitigation requiring Casa Mira to expend hundreds of thousands of dollars

1 to improve the Coastal Trail and public access to the beach from the trail. The full CCC
2 retained those requirements even though it denied 93 percent of the seawall.

3 67. On July 11, 2019, the full Commission “approved, with conditions,” Casa
4 Mira’s seawall application – but in reality denied 93 percent of the seawall, including all
5 of the seawall designed to protect the coastal dependent Coastal Trail.

6 68. The full Commission’s July 11, 2019 action effectively denying all of the
7 seawall designed to protect the Coastal Trail violated Pub. Res. Code § 30235 which
8 states that seawalls “**shall be permitted**” so long as the statute’s conditions are fulfilled.
9 All statutory requirements were fulfilled, and indeed, the CCC’s staff found that they
10 were fulfilled. The CCC staff determined that the Coastal Trail is a coastal dependent use
11 and that it needed protection from erosion and bluff collapse. Staff found that CCC the
12 proposed seawall would address local shoreline sand supply issues, and thus complied
13 with the statute’s requirement. Finally, staff found that moving the trail inland would not
14 maintain the trail’s aesthetic and recreational value, and therefore would be inconsistent
15 with the Coastal Act. Casa Mira also presented visual evidence at the hearing showing
16 that moving the trail would eliminate almost all ocean and coast views and therefore
17 would violate the Coastal Act. Pub. Res. Code, § 30001(b) provides that “That the
18 permanent protection of the state’s natural and **scenic resources is a paramount concern**
19 to present and future residents of the state and nation.” In addition, Pub. Res. Code, §
20 30251 states, in relevant part, that “the **scenic and visual qualities of coastal areas shall**
21 **be considered and protected as a resource of public importance.** Permitted
22 development shall be sited and designed to protect views to and along the ocean and
23 scenic coastal areas” Thus, the Coastal Act policies mandate that the Commission
24 protect scenic resources and views. The current location of the Coastal Trail in this area
25 provides iconic views of the ocean that are not found anywhere else on the California
26 coast. The alternative location for the Coastal Trail in this area would be far inland and
27 views of the coast and the ocean from the relocated trail would be blocked and impeded
28 by trees, shrubs and homes. It simply would not be the same experience.

1 "existing structures' refers to those structures in place prior to the effective date of the
2 Coastal Act. Coastal zone development approved and constructed prior to the time the
3 Coastal Act went into effect was not subject to Coastal Act and/or LCP requirements... . A
4 second class of existing structures refers to those structures that have been permitted
5 since the effective date of the Coastal Act.").

6 84. Yet, when Respondent CCC processed and considered Petitioner Casa Mira's
7 seawall application, it interpreted Pub. Res. Code § 30235 differently. In evaluating Casa
8 Mira's application, the CCC interpreted the phrase "existing structures" in § 30235 to
9 mean only structures that pre-dated the Coastal Act.

10 85. There is no rational basis for interpreting the same words in § 30235 *one way*
11 for one seawall permit applicant – thus allowing that applicant to build a seawall – but
12 then interpreting those very same words "existing structure" *differently* when applied to
13 Petitioner Casa Mira – thus prohibiting Casa Mira from building a seawall to protect its
14 homes. That is the very definition of unequal application of the law, and is a clear
15 violation of Casa Mira's equal protection rights.

16 86. To the extent that Respondent CCC contends that in its 2015 Sea Level Rise
17 Policy Guidance interprets the term "existing structures" in § 30235 to mean only
18 structures that were in existence on January 1, 1977, the effective date of the Coastal Act,
19 Petitioner Casa Mira brings an as applied challenge to the application of that guidance
20 here as an exceedance of the CCC's authority. The guidance cannot excuse treating
21 Petitioner Casa Mira differently than similarly situated seawall applicants when the only
22 thing that has changed is the CCC's gloss or interpretation of the statute. The statute has
23 not been amended, nor has the CCC adopted a formal regulation on this issue. The
24 guidance is simply an agency legal opinion that is not binding on the CCC or a court.
25 The CCC's vacillation on its interpretation of the statute means it is entitled to no
26 deference. The CCC's guidance does not fill in "gaps" in the statutory language, but
27 simply imposes a new "gloss" on what the phrase "existing structures" in § 30235 means.

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1 92. A fair hearing means a hearing that respects procedural due process. And
2 procedural due process means a fair and reasonable opportunity to be heard and to
3 respond. This means the right to present *and rebut* evidence.

4 93. Supporters of Casa Mira, including residents of the Casa Mira townhomes
5 traveled 4 hours or longer from the Bay Area, and as far away as Canada, to the CCC July
6 11, 2019 public hearing in San Luis Obispo, California. Although the CCC had given
7 notice that the hearing on the Casa Mira application would commence as Item 8a on the
8 morning agenda, when Casa Mira representatives and supporters arrived at the hearing
9 location on the morning of July 11, 2019, the CCC advised them that the application
10 hearing was being postponed until later on the agenda. The full Commission did not call
11 Item 8a until approximately 6 pm, meaning that the Casa Mira representatives and
12 supporters waited 10 hours for their hearing. Casa Mira representatives had during June
13 2019 requested that the CCC postpone the hearing until early August (the next scheduled
14 CCC hearing), but the CCC staff refused. Yet, as it turned out, the full Commission
15 barely had room on its July 11, 2019 calendar to hear the matter.

16 94. Once the hearing commenced, the Commission Chair allotted 5 minutes for
17 Casa Mira’s representative to speak. Five or six additional supporters and residents
18 complied with CCC procedures and submitted speaker forms at 9 am. Yet, being tired
19 from the previous 9 hour hearing, the Commission Chair decided not to allow those
20 supporters to speak *at all*. The supporters, who had driven 4 hours and waited another
21 10, were shocked at the Chair’s failure to recognize them.

22 95. At that juncture of the hearing **none** of the Commissioners had spoken, and **no**
23 **one from the CCC even hinted that the CCC objected to the project.** The CCC staff had
24 made a presentation recommending that the full Commission **approve the seawall in**
25 **full.** The Casa Mira representative explained that moving the Coastal Trail would
26 eliminate views of the ocean, which is one of the defining characteristics of a “coastal”
27 trail. A representative from the Surfrider Foundation spoke in opposition to that portion
28 of the seawall that protected the Coastal Trail. At that point, the Commission Chair

1 closed the public hearing and began “deliberation” by the Commissioners. Thus, at
2 up until that moment, there was no indication whatsoever that the Commission would
3 reject any part of the project, much less 93 percent of it. The CCC’s procedures did **not**
4 allow any opportunity for Casa Mira’s representatives to respond to statements made by
5 the individual Commissioners during deliberation or to correct their misunderstanding
6 of the relevant Coastal Act provisions, and/or the factual underpinnings of the seawall
7 application. The hearing procedures did not provide any opportunity for Casa Mira’s
8 counsel to object after the Commissioners began to deliberate. Neither the Casa Mira
9 representative nor its counsel was allowed to speak outside of the specific 5 minute
10 period allotted by the Chair, which occurred before any Commissioner announced their
11 objections to the project. In essence, Casa Mira was swindled out of a fair hearing,
12 because while all indicia caused them to think they were winning, they were in fact
13 losing – no Commissioner shared his or her objections until all applicant and third party
14 comments were *closed*. Yet, before the Commissioners spoke, the **only** statement by the
15 CCC was a 55-page report *recommending approval*. Only after Casa Mira’s opportunity to
16 speak came and went, did the Commissioners reveal their true intention to Kill 93
17 percent of the project. The CCC hearing process sandbagged Casa Mira by concealing
18 the proposed 93 percent denial until a point in the hearing where Casa Mira was no
19 longer allowed to speak.

20 96. Casa Mira was not given a fair opportunity to be heard, or to rebut the
21 Commissioners’ erroneous statements and views at the July 11, 2019 hearing on the
22 seawall application. The CCC denied Casa Mira a fair hearing, denied its due process
23 rights under the California and U.S. Constitutions, was contrary to law, and constituted a
24 prejudicial abuse of discretion.

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COUNT 5

(The CCC Executive Director Prejudicially Abused His Discretion, Violated the CCC's Own Regulations, and Failed to Proceed in a Manner Required by Law By Rejecting Petitioner Casa Mira's Request to Allow the Emergency Rip Rap to Remain in Place During the Challenge to the Commission Denial of the Seawall)

97. Petitioner and Plaintiff Casa Mira repeats, realleges and incorporates herein by reference, the allegations contained in paragraphs 1-96, inclusive, as though fully set forth.

98. The Coastal Act authorizes the CCC Executive Director to issue emergency permits. Pub. Res. Code §§ 30611 and 30624. That authority is clarified by CCC regulations, 14 CCR §§ 13136-13144. Those regulations state "the decision to issue an emergency permit is solely at the discretion of the executive director" 14 CCR § 13143(c).

99. In 2016 and 2017, CCC Executive Director Ainsworth issued two emergency permits authorizing the placement of a rip rap revetment to protect a collapsing bluff immediately in front of the Coastal Trail, a sewer line, and the Casa Mira townhomes. Casa Mira placed the rip rap revetment at that location and it has functioned to protect the bluff, the trail , the sewer line and the townhomes since then.

100. The 2017 emergency permit allows the term of the permit to be extended "through correspondence, for good cause."

101. The CCC staff determined that this segment of the Coastal Trail is "in danger of erosion" and without armoring of some kind "would be immediately threatened" by coastal erosion and bluff collapse. Because the sewer line and Casa Mira townhomes are immediately adjacent to the Coastal Trail, removal of present armoring will immediately threaten those long-standing structures as well.

102. On August 6, 2019, Petitioner Casa Mira submitted a written request to the Executive Director to allow the emergency rip rap to remain in place during the pendency of a judicial challenge to the full Commission's July 11, 2019 effective denial of the seawall. Casa Mira showed, based on the CCC staff's own analysis, that good cause

1 exists to extend the term of the emergency permit.

2 103. On August 9, 2019, the CCC staff, on behalf of Executive Director Ainsworth,
3 rejected Casa Mira’s request on the sole basis that “the Commission’s directions during
4 the hearing of July 11, 2019 were clear and unequivocal that no permanent shoreline
5 protection is authorized to protect the coastal trail, due to the available alternative of
6 routing the trail landward. As such, staff has no discretion to vary from that direction ...”

7 104. The Executive Director and staff’s rejection failed to proceed in a manner
8 required by law and prejudicially abused their discretion. First, staff’s August 9, 2019
9 description of the full Commission’s July 11, 2019 direction to staff states that the
10 Commission denied a “permanent” shoreline protection device. Petitioner Casa Mira, in
11 its August 6, 2019, did not request a “*permanent*” device, but asked the Executive Director
12 to allow the existing *temporary*, emergency rip rap to remain in place during the judicial
13 challenge. That is not a permanent shoreline protection device. Second, the full
14 Commission, at the July 11, 2019 hearing, did not consider, and did not have before them,
15 the question of whether to extend the temporary rip rap during any challenge to the
16 Commission’s July 11, 2019 effective denial. Third, CCC regulations expressly provide
17 that the Executive Director has **sole** authority to issue emergency permits and that he
18 simply reports his decision to the full Commission. So, the Executive Director and staff
19 failed to follow their own regulations and erred in deciding that they have “no
20 discretion.” The CCC regulations expressly grant the Executive Director that discretion,
21 no action of the Commission or staff can limit that discretion, and, in any event, the
22 question was never presented, nor ruled upon by the full Commission, and therefore,
23 cannot serve as the lawful basis for rejection of Casa Mira’s request.

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1 **SECOND CAUSE OF ACTION**

2 **(Petition for Writ of Traditional Mandate, C.C.P. § 1085)**

3 105. Petitioner and Plaintiff Casa Mira repeats, realleges and incorporates herein
4 by reference, the allegations contained in paragraphs 1-104, inclusive, as though fully set
5 forth.

6 106. Petitioner Casa Mira and its members are beneficially interested in the
7 issuance of the subject writ mandating that the CCC set aside its July 11, 2019 effective
8 denial of the seawall coastal development permit, and in the issuance of a writ
9 mandating that the CCC Executive Director set aside his August 9, 2019 refusal to extend
10 the existing emergency rip rap. First, Petitioner Casa Mira and its members are
11 beneficially interested in the issuance of the writs because, according the CCC's own
12 staff, the denial of the seawall for the Coastal Trail will result in the trail being
13 "immediately threatened" by episodic erosion events. Casa Mira's members, residents
14 and guests have used, presently use, and plan to use in the coming weeks and months,
15 the Coastal Trail for recreation, biking, hiking, walking, and scenic viewing, which are all
16 interests strongly protected by the Coastal Act's provisions and policies. Second, Casa
17 Mira and its members are beneficially interested in the issuance of the writs because the
18 CCC's denial of the majority of the seawall will result in the 10 Casa Mira townhomes
19 being "immediately threatened" by episodic erosion events. Third, Casa Mira and its
20 members are beneficially interested in the issuance of the writs because the CCC's denial
21 of the majority of the seawall will result in the sewer line servicing the 10 townhomes
22 being "immediately threatened" by episodic erosion events.

23 107. Casa Mira's members pay real estate taxes as property owners in California
24 and San Mateo County and they have an interest in ensuring that public officials and
25 agencies (1) do not unlawfully exceed their jurisdiction by misinterpreting and/or
26 misapplying the Coastal Act and denying lawful permits to build structures needed to
27 protect the Coastal Trail (and their long-standing homes) from erosion and bluff collapse;
28 (2) duly execute, and fairly and uniformly apply the Coastal Act laws, as written; (3) do

1 not abuse their discretion or exceed their jurisdiction in reviewing applications for such
2 permits; and (4) do not act in an arbitrary and capricious manner, or without proper and
3 substantial evidentiary support, or in the absence of proper procedures or a fair hearing.
4 Alternatively, Petitioner Casa Mira and its members are citizens seeking to enforce public
5 rights and the object of this mandamus is to enforce a public duty, including protecting
6 the long-standing Coastal Trail and/or sewer line from collapse and ruin.

7 108. Petitioner Casa Mira and its members have performed all conditions
8 precedent to the filing of this Petition and Complaint and otherwise have exhausted all
9 required and applicable administrative remedies, or are otherwise excused given that
10 this is a challenge to the authority of the CCC and/or its Executive Director, or is exempt
11 under the doctrine of futility.

12 109. Petitioner Casa Mira and its members have no plain, speedy, and adequate
13 remedy in the ordinary course of law, other than the relief sought in this Petition. Absent
14 intervention by this Court, the CCC's denial of 93 percent of Casa Mira's application for a
15 seawall (and the Executive Director's refusal to extend the term of the existing emergency
16 rip rap) will aver to the detriment of Petitioner and its members as described herein. No
17 additional administrative appeal or other form of relief is available to prevent such an
18 occurrence. Petitioner Casa Mira and its members have a clear, present and beneficial
19 right to performance of the public business in accordance with the standards set forth
20 herein.

21 **COUNT 1**

22 **(The CCC's Effective Denial of the Seawall Exceeds the CCC's Authority and**
23 **Violates the Coastal Act, Pub. Res. Code § 30235 Because It Fails to Protect the Coastal**
24 **Trail as a "Coastal Dependent Use," Threatened by Erosion, and Also Violates the**
25 **Coastal Act's Visual Resources Protections in Pub. Res. Code §§ 30001(b) and 30251)**

26 110. Petitioner and Plaintiff Casa Mira repeats, realleges and incorporates herein
27 by reference, the allegations contained in paragraphs 1-109, inclusive, as though fully set
28 forth.

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1 111. Administrative agencies like the CCC have only the power conferred upon
2 them by statute, and an act in excess of those powers is void.

3 112. Pub. Res. Code § 30235, in relevant part, provides that “. . . seawalls that
4 alter[] natural shoreline processes **shall be permitted when required to serve coastal-**
5 **dependent uses** or to protect existing structures or public beaches **in danger from**
6 **erosion and when designed to eliminate or mitigate adverse impacts on local shoreline**
7 **sand supply.**”

8 113. The CCC staff determined that the segment of the Coastal Trail identified in
9 Petitioner Casa Mira’s application for a coastal development permit to construct a
10 seawall is a coastal dependent use under Pub. Res. Code § 30235.

11 114. The CCC staff also determined that this segment of the Coastal Trail is “in
12 danger of erosion” and without the proposed seawall “would be immediately
13 threatened” by coastal erosion and bluff collapse.

14 115. The CCC staff concluded that relocating this segment of the Coastal Trail
15 “would require significant additional costs and permitting time, which would be
16 problematic given this infrastructure would be immediately threatened with no armoring
17 present.” **Further, there is no viable location for the Coastal Trail to be rerouted in**
18 **this location while maintaining its aesthetic and recreational value adjacent to the**
19 **ocean and beach** (i.e., it would need to loop inland of existing residential structures, such
20 as the Casa Mira condominiums, if relocated). Due to the narrow pinch-point between
21 the bluff and condominiums, any further erosion will force realignment of the trail far
22 inland, east of the Casa Mira complex, **thereby sacrificing coastal views and a consistent**
23 **path along the shoreline for pedestrians.** For all of these reasons, the relocation
24 alternative was determined not to be feasible in this case.”

25 116. Casa Mira also presented evidence at the CCC hearing that moving the
26 Coastal Trail inland would violate the Coastal Act’s provisions protecting scenic views
27 and coastal visual resources. Indeed, moving the Coastal Trail inland at this location
28 would eliminate all views of the ocean, meaning that the trail would no longer be a

1 “Coastal Trail,” but rather just a trail very far from the coast and the beach.

2 117. Finally, the CCC staff found that the proposed seawall is “designed to
3 eliminate or mitigate adverse impacts on local shoreline sand supply,” as well as other
4 impacts to coastal resources.

5 118. The CCC staff mandated a mitigation package as a condition of approval for
6 the seawall that required Casa Mira to fund and implement numerous improvements to
7 the Coastal Trail, including, but not limited to, constructing a new beach access stairway
8 that connected to the Coastal Trail; dedicating private blufftop land for public access to
9 facilitate further the connection between the Coastal Trail and the new beach stairway;
10 constructing a portion of the realigned blufftop Coastal Trail segment (8 feet wide, and
11 approximately 300 feet long) above the seawall and connecting to and running through
12 State Parks’ property directly south of the project site; installing landscape improvements
13 and public benches, bicycle racks, and signage, to facilitate public access on and along the
14 Coastal Trail; donating \$10,000 to help provide for a *second* public access stairway to the
15 beach from a different segment of the Coastal Trail; and agreeing to maintain these
16 public access areas on and along the Coastal Trail at Casa Mira’s expense. In addition to
17 Casa Mira’s role as a citizen seeking to enforce a public right and duty, i.e., the protection
18 of the Coastal Trail from collapse and ruin, Casa Mira and its members also have a
19 beneficial interest in this petition to protect the Coastal Trail by virtue of the CCC’s
20 mandatory mitigation requiring Casa Mira to expend hundreds of thousands of dollars
21 to improve the Coastal Trail and public access to the beach from the trail. The full CCC
22 retained those requirements even though it denied 93 percent of the seawall.

23 119. On July 11, 2019, the full Commission “approved, with conditions,” Casa
24 Mira’s seawall application – but in reality denied 93 percent of the seawall, including all
25 of the seawall designed to protect the coastal dependent Coastal Trail.

26 120. The full Commission’s July 11, 2019 action effectively denying all of the
27 seawall designed to protect the Coastal Trail violated Pub. Res. Code § 30235 which
28 states that seawalls “**shall be permitted**” so long as the statute’s conditions are fulfilled.

1 All statutory requirements were fulfilled, and indeed, the CCC's staff found that they
2 were fulfilled. The CCC staff determined that the Coastal Trail is a coastal dependent use
3 and that it needed protection from erosion and bluff collapse. Staff found that CCC the
4 proposed seawall would address local shoreline sand supply issues, and thus complied
5 with the statute's requirement. Finally, staff found that moving the trail inland would not
6 maintain the trail's aesthetic and recreational value, and therefore would be inconsistent
7 with the Coastal Act. Casa Mira also presented visual evidence at the hearing showing
8 that moving the trail would eliminate almost all ocean and coast views and therefore
9 would violate the Coastal Act. Pub. Res. Code, § 30001(b) provides that "That the
10 permanent protection of the state's natural and **scenic resources is a paramount concern**
11 to present and future residents of the state and nation." In addition, Pub. Res. Code, §
12 30251 states, in relevant part, that "the **scenic and visual qualities of coastal areas shall**
13 **be considered and protected as a resource of public importance.** Permitted
14 development shall be sited and designed to protect views to and along the ocean and
15 scenic coastal areas" Thus, the Coastal Act policies mandate that the Commission
16 protect scenic resources and views. The current location of the Coastal Trail in this area
17 provides iconic views of the ocean that are not found anywhere else on the California
18 coast. The alternative location for the Coastal Trail in this area would be far inland and
19 views of the coast and the ocean from the relocated trail would be blocked and impeded
20 by trees, shrubs and homes. It simply would not be the same experience.

21 121. The full Commission's July 11, 2019 rejection of its own staff's
22 recommendations (and detailed 55-page report and findings) by denying any part of the
23 proposed seawall that would have protected the Coastal Trail, exceeded the
24 Commission's authority under the Coastal Act, violated Pub. Res. Code §§ 30235,
25 30001(b), and 30251, was contrary to law, was a prejudicial abuse of discretion, and
26 lacked substantial evidence.

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COUNT 2

(The CCC's Effective Denial of the Seawall Exceeds the CCC's Authority and Violates the Coastal Act, Pub. Res. Code § 30235 Because It Fails to Protect the Casa Mira Townhomes as "Existing Structures")

122. Petitioner and Plaintiff Casa Mira repeats, realleges and incorporates herein by reference, the allegations contained in paragraphs 1-121, inclusive, as though fully set forth.

123. Administrative agencies like the CCC have only the power conferred upon them by statute, and an act in excess of those powers is void.

124. Pub. Res. Code § 30235, in relevant part, provides that ". . . seawalls that alter[] natural shoreline processes **shall be permitted when required** to serve coastal-dependent uses or **to protect existing structures** or public beaches **in danger from erosion and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply.**"

125. The 10 Casa Mira townhomes are "existing structures" under Pub. Res. Code § 30235, because they were existing at the time of the seawall application.

126. The 10 Casa Mira townhomes are threatened and in danger from erosion and bluff collapse.

127. The CCC staff issued a lengthy report finding that Petitioner Casa Mira's proposed seawall is designed to "eliminate or mitigate adverse impacts on local shoreline sand supply," thus concluding that the seawall design complies with that requirement in Pub. Res. Code § 30235.

128. Petitioner Casa Mira has a right to a seawall because it met all requirements of In accordance with Pub. Res. Code § 30235, and otherwise complied with the Coastal Act.

129. The full Commission's July 11, 2019 decision denying that portion of the proposed seawall that would have protected the 10 Casa Mira townhomes, exceeded the Commission's authority under the Coastal Act, violated Pub. Res. Code §§ 30235, was contrary to law, was a prejudicial abuse of discretion, and lacked substantial evidence.

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COUNT 3

(The CCC's Effective Denial of the Seawall Violates Casa Mira's
Equal Protection Rights Under the California and U.S. Constitutions)

130. Petitioner and Plaintiff Casa Mira repeats, realleges and incorporates herein by reference, the allegations contained in paragraphs 1-129, inclusive, as though fully set forth.

131. The 14th Amendment of the U.S. Constitution provides that no state shall "deny to any person . . . the equal protection of the laws." Likewise, Article I, § 7 of the California Constitution guarantees equal protection rights.

132. The CCC's July 11, 2019 "approval, with conditions," which was in reality a denial of 93 percent of the proposed seawall, was a final decision and/or action by the CCC.

133. In making its application for authorization to construct a seawall to protect "an existing structure" as that phrase is used in Pub. Res. Code § 30235, Petitioner Casa Mira is similarly situated to other seawall or coast armoring applicants, and, yet, the CCC treated Casa Mira differently.

134. Since 1977 when the Coastal Act was adopted, the CCC has interpreted Pub. Res. Code § 30235 differently for similarly situated seawall applicants.

135. When processing some applications, the CCC has at times interpreted the term "existing structures" in § 30235 to mean those structures **in existence when an application for a protective structure is made to the Commission**, as is the case with Casa Mira here. The CCC has previously stated expressly the following: "One class of 'existing structures' refers to those structures in place prior to the effective date of the Coastal Act. Coastal zone development approved and constructed prior to the time the Coastal Act went into effect was not subject to Coastal Act and/or LCP requirements... . **A second class of existing structures refers to those structures that have been permitted since the effective date of the Coastal Act.**".

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1 136. Yet, when Respondent CCC processed and considered Petitioner Casa
2 Mira’s seawall application, it interpreted Pub. Res. Code § 30235 differently. In
3 evaluating Casa Mira’s application, the CCC interpreted the phrase “existing structures”
4 in § 30235 to mean **only structures that pre-dated the Coastal Act.**

5 137. There is no rational basis for interpreting the same words in § 30235 *one way*
6 for one seawall permit applicant – thus allowing that applicant to build a seawall – but
7 then interpreting those very same words “existing structure” *differently* when applied to
8 Petitioner Casa Mira – thus prohibiting Casa Mira from building a seawall to protect its
9 homes. That is the very definition of unequal application of the law, and is a clear
10 violation of Casa Mira’s equal protection rights.

11 138. To the extent that Respondent CCC contends that in its 2015 Sea Level Rise
12 Policy Guidance interprets the term “existing structures” in § 30235 to mean only
13 structures that were in existence on January 1, 1977, the effective date of the Coastal Act,
14 Petitioner Casa Mira brings an as applied challenge to the application of that guidance
15 here as an exceedance of the CCC’s authority. The guidance cannot excuse treating
16 Petitioner Casa Mira differently than similarly situated seawall applicants when the only
17 thing that has changed is the CCC’s gloss or interpretation of the statute. The statute has
18 not been amended, nor has the CCC adopted a formal regulation on this issue. The
19 guidance is simply an agency legal opinion that is not binding on the CCC or a court.
20 The CCC’s vacillation on its interpretation of the statute means it is entitled to no
21 deference. The CCC’s guidance does not fill in “gaps” in the statutory language, but
22 simply imposes a new “gloss” on what the phrase “existing structures” mean.

23 139. The full Commission’s July 11, 2019 decision denying that portion of the
24 proposed seawall that would have protected the 10 Casa Mira townhomes, exceeded the
25 Commission’s authority under the Coastal Act, violated Casa Mira’s equal protection
26 rights, was contrary to law, was a prejudicial abuse of discretion, and lacked substantial
27 evidence.

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COUNT 4

(The CCC Violated Casa Mira’s Due Process Rights and Failed to Provide Casa Mira with a Fair Hearing)

140. Petitioner and Plaintiff Casa Mira repeats, realleges and incorporates herein by reference, the allegations contained in paragraphs 1-139, inclusive, as though fully set forth.

141. Respondent’s July 11, 2019 hearing on Petitioner Casa Mira’s coastal development permit application was a hearing “required by law,” where the CCC was required to accept and consider evidence at the hearing.

142. State law required the CCC to provide a “fair” hearing. (Code Civ. Proc., § 1094.5(b).) Article I, § 7 of the California Constitution provides that “a person may not be deprived of life, liberty, or property without due process of law.” The 14th Amendment to the U.S. Constitution provides that a State shall not “deprive any person of life, liberty, or property, without due process of law.” An essential principle of due process is that a deprivation of life, liberty, or property be preceded by notice, an opportunity to be heard, and an opportunity to respond. The opportunity to present reasons why a proposed agency action should not be taken is a fundamental due process requirement. The right to due process is conferred, not by legislative grace, but by constitutional guarantee.

143. An agency that holds a hearing required by law but holds it in an unfair manner has prejudicially abused its discretion and has failed to proceed in the “manner required by law” as required by C.C.P. § 1094.5(b), as well as the 14th Amendment to the U.S. Constitution.

144. A fair hearing means a hearing that respects procedural due process. And procedural due process means a fair and reasonable opportunity to be heard and to respond. This means the right to present *and rebut* evidence.

145. Supporters of Casa Mira, including residents of the Casa Mira townhomes traveled 4 hours or longer from the Bay Area, and as far away as Canada, to the CCC July 11, 2019 public hearing in San Luis Obispo, California. Although the CCC had given

1 notice that the hearing on the Casa Mira application would commence as Item 8a on the
2 morning agenda, when Casa Mira representatives and supporters arrived at the hearing
3 location on the morning of July 11, 2019, the CCC advised them that the application
4 hearing was being postponed until later on the agenda. The full Commission did not call
5 Item 8a until approximately 6 pm, meaning that the Casa Mira representatives and
6 supporters waited 10 hours for their hearing. Casa Mira representatives had during June
7 2019 requested that the CCC postpone the hearing until early August (the next scheduled
8 CCC hearing), but the CCC staff refused. Yet, as it turned out, the full Commission
9 barely had room on its July 11, 2019 calendar to hear the matter.

10 146. Once the hearing commenced, the Commission Chair allotted 5 minutes for
11 Casa Mira's representative to speak. Five or six additional supporters and residents
12 complied with CCC procedures and submitted speaker forms at 9 am. Yet, being tired
13 from the previous 9 hour hearing, the Commission Chair decided not to allow those
14 supporters to speak *at all*. The supporters, who had driven 4 hours and waited another
15 10, were shocked at the Chair's failure to recognize them.

16 147. At that juncture of the hearing **none** of the Commissioners had spoken, and
17 **no one from the CCC even hinted that the CCC objected to the project.** The CCC staff
18 had made a presentation recommending that the full Commission **approve the seawall**
19 **in full.** The Casa Mira representative explained that moving the Coastal Trail would
20 eliminate views of the ocean, which is one of the defining characteristics of a "coastal"
21 trail. A representative from the Surfrider Foundation spoke in opposition to that portion
22 of the seawall that protected the Coastal Trail. At that point, the Commission Chair
23 **closed the public hearing and began "deliberation" by the Commissioners.** Thus, at
24 up until that moment, **there was no indication whatsoever that the Commission would**
25 **reject any part of the project, much less 93 percent of it.** The CCC's procedures did **not**
26 allow any opportunity for Casa Mira's representatives to respond to statements made by
27 the individual Commissioners during deliberation or to correct their misunderstanding
28 of the relevant Coastal Act provisions, and/or the factual underpinnings of the seawall

1 application. The hearing procedures did not provide any opportunity for Casa Mira’s
2 counsel to object after the Commissioners began to deliberate. Neither the Casa Mira
3 representative nor its counsel was allowed to speak outside of the specific 5 minute
4 period allotted by the Chair, which occurred before any Commissioner announced their
5 objections to the project. In essence, Casa Mira was swindled out of a fair hearing,
6 because while all indicia caused them to think they were winning, they were in fact
7 losing – no Commissioner shared his or her objections until all applicant and third party
8 comments were *closed*. Yet, before the Commissioners spoke, the **only** statement by the
9 CCC was a 55-page report *recommending approval*. Only after Casa Mira’s opportunity to
10 speak came and went, did the Commissioners reveal their true intention to Kill 93
11 percent of the project. **The CCC hearing process sandbagged Casa Mira by concealing**
12 **the proposed 93 percent denial until a point in the hearing where Casa Mira was no**
13 **longer allowed to speak.**

14 148. Casa Mira was not given a fair opportunity to be heard, or to rebut the
15 Commissioners’ erroneous statements and views at the July 11, 2019 hearing on the
16 seawall application. The CCC denied Casa Mira a fair hearing, denied its due process
17 rights under the California and U.S. Constitutions, was contrary to law, and constituted a
18 prejudicial abuse of discretion.

19 **COUNT 5**

20 **(The CCC Executive Director Prejudicially Abused His Discretion, Violated the**
21 **CCC’s Own Regulations, and Failed to Proceed in a Manner Required by Law By**
22 **Rejecting Petitioner Casa Mira’s Request to Allow the Emergency Rip Rap to Remain**
23 **in Place During the Challenge to the Commission Denial of the Seawall)**

24 149. Petitioner and Plaintiff Casa Mira repeats, realleges and incorporates herein
25 by reference, the allegations contained in paragraphs 1-148, inclusive, as though fully set
26 forth.

27 150. The Coastal Act authorizes the CCC Executive Director to issue emergency
28 permits. Pub. Res. Code §§ 30611 and 30624. That authority is clarified by CCC
regulations, 14 CCR §§ 13136-13144. Those regulations state “the decision to issue an

1 emergency permit is **solely** at the discretion of the executive director” 14 CCR §
2 13143(c).

3 151. In 2016 and 2017, CCC Executive Director Ainsworth issued two emergency
4 permits authorizing the placement of a rip rap revetment to protect a collapsing bluff
5 immediately in front of the Coastal Trail, a sewer line, and the Casa Mira townhomes.
6 Casa Mira placed the rip rap revetment at that location and it has functioned to protect
7 the bluff, the trail , the sewer line and the townhomes since then.

8 152. The 2017 emergency permit allows the term of the permit to be extended
9 “through correspondence, for good cause.”

10 153. The CCC staff determined that this segment of the Coastal Trail is “in danger
11 of erosion” and without armoring of some kind “would be immediately threatened” by
12 coastal erosion and bluff collapse. Because the sewer line and Casa Mira townhomes are
13 immediately adjacent to the Coastal Trail, removal of present armoring will immediately
14 threaten those long-standing structures as well.

15 154. On August 6, 2019, Petitioner Casa Mira submitted a written request to the
16 Executive Director to allow the emergency rip rap to remain in place during the
17 pendency of a judicial challenge to the full Commission’s July 11, 2019 effective denial of
18 the seawall. Casa Mira showed, based on the CCC staff’s own analysis, that good cause
19 exists to extend the term of the emergency permit.

20 155. On August 9, 2019, the CCC staff, on behalf of Executive Director Ainsworth,
21 rejected Casa Mira’s request on the sole basis that “the Commission’s directions during
22 the hearing of July 11, 2019 were clear and unequivocal that no permanent shoreline
23 protection is authorized to protect the coastal trail, due to the available alternative of
24 routing the trail landward. As such, staff has no discretion to vary from that direction...”

25 156. The Executive Director and staff’s rejection failed to proceed in a manner
26 required by law and prejudicially abused their discretion. First, staff’s August 9, 2019
27 description of the full Commission’s July 11, 2019 direction to staff states that the
28 Commission denied a “permanent” shoreline protection device. Petitioner Casa Mira, in

1 its August 6, 2019, did not request a “*permanent*” device, but asked the Executive Director
2 to allow the existing *temporary*, emergency rip rap to remain in place during the judicial
3 challenge. That is not a permanent shoreline protection device. Second, the full
4 Commission, at the July 11, 2019 hearing, did not consider, and did not have before them,
5 the question of whether to extend the temporary rip rap during any challenge to the
6 Commission’s July 11, 2019 effective denial. Third, CCC regulations expressly provide
7 that the Executive Director has **sole** authority to issue emergency permits and that he
8 simply reports his decision to the full Commission. So, the Executive Director and staff
9 failed to follow their own regulations and erred in deciding that they have “no
10 discretion.” The CCC regulations expressly grant the Executive Director that discretion,
11 no action of the Commission or staff can limit that discretion, and, in any event, the
12 question was never presented, nor ruled upon by the full Commission, and therefore,
13 cannot serve as the lawful basis for rejection of Casa Mira’s request.

14
15 **THIRD CAUSE OF ACTION**
16 **(Inverse Condemnation Without Payment of Just Compensation As Required**
17 **by the U.S. and California Constitutions)**

18 157. Petitioner and Plaintiff Casa Mira repeats, realleges and incorporates herein
19 by reference, the allegations contained in paragraphs 1-156, inclusive, as though fully set
20 forth.

21 158. The California and United States Constitutions prohibit the government from
22 taking private property for public use without just compensation. (Cal. Const., art. I, § 19,
23 subd. (a); U.S. Const., 5th & 14th Amends.)

24 159. Even assuming that the Respondent CCC prevails on the writ claims, and
25 even assuming that the Court finds the CCC’s denial was legally permissible,
26 Respondent CCC in that event has caused a taking of Casa Mira’s real and personal
27 property, and its members’ real and personal property, because the CCC’s July 11, 2019
28 final action denying the seawall, combined with the CCC’s requirement to remove the
existing rip rap revetment placed in accordance with two emergency permits to secure

1 the collapsing and eroding bluff seaward of the Casa Mira townhomes, will cause the
2 bluff to be exposed to immediate and continuing erosion and collapse – which will result
3 in the collapse of Casa Mira property and the 10 townhomes. Casa Mira is the owner of
4 the common space of the Association, and each Association member listed herein owns
5 his, her, their or its respective separate interest townhome unit.

6 160. Geotechnical analysis in this case, and the CCC's *own* analysis concludes that
7 "the bluff retreat and recession will continue if left partially or fully unprotected," and
8 the bluff in question will collapse or erode very quickly if no seawall is built and the
9 emergency rip rap is removed. The CCC has stated that it requires the emergency riprap
10 to be removed if no seawall is built. The CCC's July 11, 2019 so-called "approval" only
11 authorizes about a 20 foot seawall, which is less than 10 percent of the original proposal.
12 A 20-foot seawall at this location will be wholly ineffective at preventing bluff erosion
13 and collapse, and the Casa Mira townhomes will be subject to immediate and continuous
14 erosion and quickly destroyed by ocean wave action. A graphic drawing of Casa Mira's
15 proposed 257-foot seawall (in blue) is attached as **Exhibit 2**, and can be compared with
16 what the CCC approved as shown on **Exhibit 3** (in pink). Accordingly, the CCC's July 11,
17 2019 denial of a permit to build a seawall is the final agency action that will result in, or
18 be a "substantial factor or cause" in, the bluff collapse and destruction, damage and take
19 of Casa Mira's and its members' property. The CCC exacerbated its action again on
20 August 9, 2019 by rejecting out of hand Petitioner and Plaintiff Casa Mira's request that
21 the CCC Executive Director extend the existing emergency rip rap revetment that
22 protects the private townhomes.

23 161. The CCC's denial results in a take of the Casa Mira property and each
24 individual member's property without compensation, in violation of Cal. Const., art. I, §
25 19, subd. (a), and the U.S. Constitution, 5th & 14th Amends. The CCC has taken the
26 property in each of three different, alternative ways, by: (1) blocking Casa Mira's effort
27 to prevent the physical invasion of the property by coastal erosion and bluff and land
28 collapse; (2) interfering with distinct, investment-backed expectations; and/or (3)

1 preventing all economically beneficial or productive use. Any one of these alternatives is
2 sufficient to sustain a cause of action for inverse condemnation either by a physical
3 invasion or a regulatory taking. Respondent CCC's action of denying the seawall
4 application were purportedly for a public use of benefit.

5 162. There is no variance procedure or administrative appeal from the CCC's
6 denial. The CCC's decision is final.

7 163. The submission of another application for a seawall would be an idle and
8 futile act because of the way that the CCC interprets Pub. Res. Code § 30235, i.e., that
9 structures built after 1977 are not "existing" structures entitled to a seawall, and that it
10 doesn't protect the Coastal Trail here.

11 164. The CCC has effected a physical or regulatory taking of Casa Mira's and the
12 individual members' property. The agency's action denies Casa Mira's and the
13 individual members' constitutional right to just compensation as guaranteed by Article I,
14 § 19 of the California Constitution and the 5th and 14th Amendments to the United States
15 Constitution.

16 165. As a direct and proximate result of the CCC's action, Casa Mira's and the
17 individual Association members' property has been damaged in an amount that will be
18 proven at trial, but estimated to be \$20 million in aggregate.

19 166. Casa Mira and the individual Association members have not received any
20 compensation from the CCC or the State of California as "just compensation."

21 167. As a direct and proximate result of the CCC's action, Casa Mira and the
22 individual Association members have been compelled to employ counsel, and other
23 experts, to protect their rights.

24 168. Casa Mira and the individual Association members are entitled to recover
25 their attorneys' fees and litigation costs under Code Civ. Proc. § 1036.

26 / / /

27 / / /

28 / / /

1 **FOURTH CAUSE OF ACTION**
2 **(Inverse Condemnation Without Payment of Just Compensation As a Result of**
3 **Unconstitutional Conditions)**

4 169. Petitioner and Plaintiff Casa Mira repeats, realleges and incorporates herein
5 by reference, the allegations contained in paragraphs 1-168, inclusive, as though fully set
6 forth.

7 170. The California and United States Constitutions prohibit the government from
8 taking private property for public use without just compensation. (Cal. Const., art. I, § 19,
9 subd. (a); U.S. Const., 5th & 14th Amends.)

10 171. A subset of this constitutional requirement is that the CCC may not condition
11 the approval of a land-use permit on the owner's relinquishment of a portion of his
12 property unless there is a "nexus" and "rough proportionality" between the
13 government's demand and the effects of the proposed land use. Known as the
14 "unconstitutional conditions" doctrine, this standard vindicates the Constitution's
15 enumerated rights by preventing the government from coercing people into giving them
16 up. The principles that undergird the unconstitutional conditions doctrine do not change
17 depending on whether the government "approves" a permit on the condition that the
18 applicant turn over property or "denies" a permit because the applicant refuses to do so.

19 172. In this case, the CCC staff developed an extensive mitigation package that
20 included (1) constructing a new beach access stairway, incorporated into the seawall
21 design (at a cost exceeding \$500,000); (2) dedicating private blufftop land for public
22 access to facilitate the connection between the Coastal Trail and the new beach stairway;
23 (3) constructing a portion of the realigned blufftop Coastal Trail segment (8 feet wide,
24 and approximately 300 feet long) above the seawall and connecting to and running
25 through State Parks' property directly south of the project site to minimize erosion risk;
26 (4) installing landscape improvements and public benches, bicycle racks, and signage, to
27 facilitate public access; (5) removing all old, abandoned timber piles that exist on the
28 beach seaward of the seawall to open up additional sandy beach area for public

1 recreation; (6) donating \$10,000 to help provide for a *second* public access stairway to the
2 beach to the north of the project site; and (7) agreeing to maintain these public access
3 areas, improvements, and amenities at Casa Mira’s expense.

4 173. The CCC staff specifically and expressly created this mitigation package to
5 address alleged impacts created by a 257-foot seawall, and included the requirement that
6 Casa Mira donate private land as a condition for receiving the coastal development
7 permit to build the seawall, and donate money. However, on July 11, 2019, the full
8 Commission in a final action denied 93 percent of the proposed seawall, *without adjusting*
9 *in any way* the mitigation package created for the 257-foot wall. Thus, the CCC
10 conditioned approval of a 20-foot wall on the implementation of mitigation and exactions
11 designed for a 257-foot wall. Accordingly, the full Commission imposed exactions,
12 including the donation of private land and money, that are not “roughly proportional” to
13 the effects of the much shorter seawall.

14 174. As a result, the mitigation package and property and monetary exactions
15 demanded as a condition of approval for the 20-foot seawall violates the unconstitutional
16 condition doctrine and Article I, § 19 of the California Constitution and the 5th and 14th
17 Amendments to the United States Constitution, and are invalid.

18 175. As a direct and proximate result of the CCC's action, Casa Mira and the
19 individual Association members have been compelled to employ counsel, and other
20 experts, to protect their rights.

21 176. Casa Mira and the individual Association members are entitled to recover
22 their attorneys' fees and litigation costs under Code Civ. Proc. § 1036.

23
24 **PRAYER FOR RELIEF**

25 WHEREFORE, the Petitioners and Plaintiffs respectfully pray for relief as follows:

26 1. That the Court issue a writ of mandate (administrative or traditional) ordering
27 Respondent CCC to vacate and set aside its July 11, 2019 effective denial of the seawall
28 permit application.

1 2. That the Court issue a writ of mandate (administrative or traditional) ordering
2 Respondent CCC Executive Director to vacate and set aside his August 9, 2019 denial to
3 extend the term of the existing emergency rip rap.

4 3. That the Court find and declare that the CCC exceeded its authority under the
5 Coastal Act, violated Pub. Res. Code §§ 30235, 30001(b), and 30251, and prejudicially
6 abused its discretion when it effectively denied Petitioner’s seawall application.

7 4. That the Court find and declare that the CCC violated Petitioners’ equal
8 protection rights under the California and U.S. Constitutions.

9 5. That the Court find and declare that the CCC violated Petitioners’ fair hearing
10 and due process rights.

11 6. That the Court find and declare that the CCC Executive Director exceeded his
12 authority and failed to proceed in a manner required by law in denying Casa Mira’s
13 request to extend the term of the existing emergency rip rap.

14 7. That even if the CCC’s effective denial of the majority of the seawall was
15 authorized, the CCC’s action nonetheless constitutes a taking of private property without
16 just compensation under the California and U.S. Constitutions with damages in the
17 amount of approximately \$20 million.

18 8. That the CCC’s mitigation package and exactions demanded as conditions of
19 approval for the greatly reduced seawall violate the unconstitutional condition doctrine
20 and Article I, § 19 of the California Constitution and the 5th and 14th Amendments to the
21 United States Constitution, and are invalid.

22 9. That the Court grant temporary, preliminary, and permanent injunctive relief
23 against the CCC.

24 10. That the Court award costs of suit to Petitioners and Plaintiffs.

25 11. That the Court award attorneys’ fees to Petitioners and Plaintiffs, pursuant to
26 C.C.P. § 1021.5, C.C.P. § 1036, the equitable private attorney general doctrine, Gov’t Code
27 § 800, state law, for the litigation and the prerequisite administrative proceedings. On
28 August 6, 2019 at 4:25 pm, counsel for Petitioners sent by email to the CCC a settlement

1 demand letter in a good faith effort to resolve their objections to the CCC's denial of 93
2 percent of the seawall without resorting to litigation. A copy of the letter is attached as
3 **Exhibit 4**. On August 9, 2019, less than 72 hours later, the CCC staff responded by
4 foreclosing any settlement discussions. Staff stated "North Central staff has received
5 your letters of August 6, 2019. The Commission's directions during the hearing of July
6 11, 2019 were clear and unequivocal that no permanent shoreline protection is authorized
7 to protect the coastal trail As such, staff has no discretion to vary from that direction,
8 and **cannot meet your requests to . . . settle ahead of litigation** Thank you for
9 contacting us with your concerns." Thus, the CCC staff unequivocally and rapidly
10 rejected any efforts by Casa Mira to settle these disputes before litigation.

11 12. For any other equitable or legal relief that the Court deems just and proper.

12
13 Dated: August 12, 2019

14 Respectfully submitted,

15 s/ Thomas D. Roth
16 Thomas D. Roth
17 Law Offices of Thomas D. Roth
18 One Market, Spear Tower, Suite 3600
19 San Francisco, California 94105
20 (415) 293-7684

21 Attorneys for
22 Petitioner/ Plaintiff
23 Casa Mira Homeowners' Association and its
24 members, as specified herein
25
26
27
28

VERIFICATION

State of California

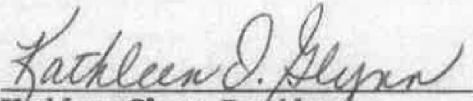
County of San Mateo

I am the President of CASA MIRA HOMEOWNERS' ASSOCIATION, and I am authorized to make this verification on its behalf, and members of the Association, and I make this verification for that reason.

I have read the foregoing CASA MIRA HOMEOWNERS ASSOCIATION'S VERIFIED PETITION FOR A WRIT OF ADMINISTRATIVE MANDAMUS (C.C.P. § 1094.5) AND/OR A PETITION FOR TRADITIONAL MANDAMUS (C.C.P. § 1085), AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF, and know the contents thereof. I am informed and believe the matters therein to be true and on that ground allege that the matters stated therein are true.

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

Executed August 10, 2019 at Walnut Creek, California


Kathleen Glynn, President

VERIFICATION

State of California


County of San Mateo

We are TRUSTEES of the GLYNN 1994 REVOCABLE TRUST AGREEMENT, dated March 15, 1994, and we are authorized to make this verification on its behalf, and we make this verification for that reason.

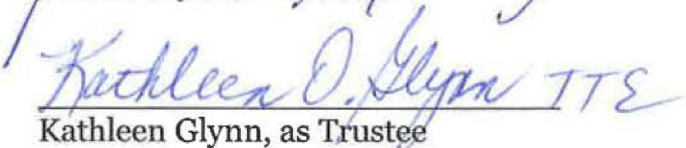
We have read the foregoing CASA MIRA HOMEOWNERS ASSOCIATION'S VERIFIED PETITION FOR A WRIT OF ADMINISTRATIVE MANDAMUS (C.C.P. § 1094.5) AND/OR A PETITION FOR TRADITIONAL MANDAMUS (C.C.P. § 1085), AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF, and know the contents thereof. We are informed and believe the matters therein to be true and on that ground allege that the matters stated therein are true.

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

Executed August 4, 2019 at HALF MOON BAY, California

 TTE

Robert Glynn, as Trustee

 TTE

Kathleen Glynn, as Trustee

VERIFICATION

State of California

County of San Mateo

We are TRUSTEES of the Regan Revocable Trust dated December 29, 1992, and we are authorized to make this verification on its behalf, and we make this verification for that reason.

We have read the foregoing CASA MIRA HOMEOWNERS ASSOCIATION'S VERIFIED PETITION FOR A WRIT OF ADMINISTRATIVE MANDAMUS (C.C.P. § 1094.5) AND/OR A PETITION FOR TRADITIONAL MANDAMUS (C.C.P. § 1085), AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF, and know the contents thereof. We are informed and believe the matters therein to be true and on that ground allege that the matters stated therein are true.

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

Executed August 4, 2019 at Half Moon Bay, California

William Regan, as trustee
William Regan, as Trustee

Ann Regan as trustee
Ann Regan, as Trustee

VERIFICATION

State of California

County of San Mateo

We are authorized to make this verification.


We have read the foregoing CASA MIRA HOMEOWNERS ASSOCIATION'S VERIFIED PETITION FOR A WRIT OF ADMINISTRATIVE MANDAMUS (C.C.P. § 1094.5) AND/OR A PETITION FOR TRADITIONAL MANDAMUS (C.C.P. § 1085), AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF, and know the contents thereof. We are informed and believe the matters therein to be true and on that ground allege that the matters stated therein are true.

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

Executed August 2, 2019 at San Felice, California



Paula Skinner



Karen Pearlman



Christen Agnello

VERIFICATION

State of California

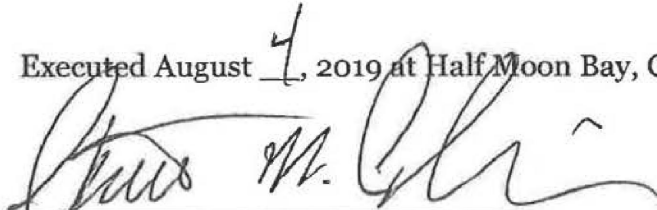
County of San Mateo

I am the TRUSTEE of the STUART MARK SCHLISSERMAN REVOCABLE TRUST dated April 14, 2004, and I am authorized to make this verification on its behalf, and I make this verification for that reason.

I have read the foregoing CASA MIRA HOMEOWNERS ASSOCIATION'S VERIFIED PETITION FOR A WRIT OF ADMINISTRATIVE MANDAMUS (C.C.P. § 1094.5) AND/OR A PETITION FOR TRADITIONAL MANDAMUS (C.C.P. § 1085), AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF, and know the contents thereof. I am informed and believe the matters therein to be true and on that ground allege that the matters stated therein are true.

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

Executed August 4, 2019 at Half Moon Bay, California



STUART M. SCHLISSERMAN, as TRUSTEE

VERIFICATION

State of California

County of San Mateo

I am the TRUSTEE of the Taraneh Razavi Living Trust dated September 29, and I am authorized to make this verification on its behalf, and I make this verification for that reason.

I have read the foregoing CASA MIRA HOMEOWNERS ASSOCIATION'S VERIFIED PETITION FOR A WRIT OF ADMINISTRATIVE MANDAMUS (C.C.P. § 1094.5) AND/OR A PETITION FOR TRADITIONAL MANDAMUS (C.C.P. § 1085), AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF, and know the contents thereof. I am informed and believe the matters therein to be true and on that ground allege that the matters stated therein are true.

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

Executed August __, 2019 at Half Moon Bay, California



Taraneh Razavi, as Trustee

VERIFICATION

State of California


County of San Mateo

I am the TRUSTEE of the Kelly Ann Kramer 2017 Trust under Declaration of Trust dated July 18, 2017, and I am authorized to make this verification on its behalf, and I make this verification for that reason.

I have read the foregoing CASA MIRA HOMEOWNERS ASSOCIATION'S VERIFIED PETITION FOR A WRIT OF ADMINISTRATIVE MANDAMUS (C.C.P. § 1094.5) AND/OR A PETITION FOR TRADITIONAL MANDAMUS (C.C.P. § 1085), AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF, and know the contents thereof. I am informed and believe the matters therein to be true and on that ground allege that the matters stated therein are true.

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

Executed August 5, 2019 at Hals ^{Bees}man, California



Kelly Kramer, as Trustee

VERIFICATION

State of California

County of San Mateo

I am the TRUSTEE of the Miller Survivor's Trust dated April 5, 1993, and I am authorized to make this verification on its behalf, and we make this verification for that reason.

I have read the foregoing CASA MIRA HOMEOWNERS ASSOCIATION'S VERIFIED PETITION FOR A WRIT OF ADMINISTRATIVE MANDAMUS (C.C.P. § 1094.5) AND/OR A PETITION FOR TRADITIONAL MANDAMUS (C.C.P. § 1085), AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF, and know the contents thereof. I am informed and believe the matters therein to be true and on that ground allege that the matters stated therein are true.

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

Executed August 6, 2019 at Santa Barbara, California


Gregg Miller, as Trustee

VERIFICATION

State of California

County of San Mateo

We are TRUSTEES of the TRUST OF GIAN AND ROBIN POLASTRI, dated April 7, 2001, and we are authorized to make this verification on its behalf, and we make this verification for that reason.

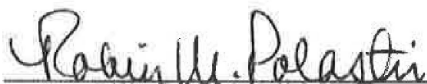
We have read the foregoing CASA MIRA HOMEOWNERS ASSOCIATION'S VERIFIED PETITION FOR A WRIT OF ADMINISTRATIVE MANDAMUS (C.C.P. § 1094.5) AND/OR A PETITION FOR TRADITIONAL MANDAMUS (C.C.P. § 1085), AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF, and know the contents thereof. We are informed and believe the matters therein to be true and on that ground allege that the matters stated therein are true.

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

Executed August 6, 2019 at HALF MOON BAY, California



Gian Polastri, as Trustee



Robin Polastri, as Trustee

VERIFICATION

State of California

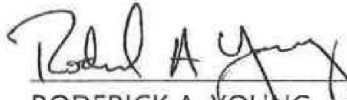
County of San Mateo

We are TRUSTEES of the YOUNG/JACOB 1998 TRUST, and we are authorized to make this verification on its behalf, and we each make this verification for that reason.


We have read the foregoing CASA MIRA HOMEOWNERS ASSOCIATION'S VERIFIED PETITION FOR A WRIT OF ADMINISTRATIVE MANDAMUS (C.C.P. § 1094.5) AND/OR A PETITION FOR TRADITIONAL MANDAMUS (C.C.P. § 1085), AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF, and know the contents thereof. We are informed and believe the matters therein to be true and on that ground allege that the matters stated therein are true.

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

Executed August 3, 2019 at Stanford, California



RODERICK A. YOUNG, as Trustee



CHARLOTTE D. JACOBS, as Trustee

VERIFICATION

State of California

City and County of San Francisco

I am the attorney for CASA MIRA HOMEOWNERS' ASSOCIATION and its members, and I am authorized to make this verification, and I make this verification for that reason.

C.C.P. § 446 authorizes me to verify the Petition when a party is absent from the county where I have my office, or for other cause is unable to verify it, or when the verification is made on behalf of a corporate entity. I provide this verification on behalf of MAVIS R. SULLIVAN, as Trustee of the MAVIS R. SULLIVAN DECLARATION OF TRUST dated October 21, 2015, solely as a member of the Casa Mira Homeowners' Association and not individually; the MAVIS R. SULLIVAN DECLARATION OF TRUST dated October 21, 2015, solely as a member of the Casa Mira Homeowners' Association and not individually; KIM M. THOMAS, solely as a member of the Casa Mira Homeowners' Association and not individually; MICHAEL PATRICK SULLIVAN, JR., solely as a member of the Casa Mira Homeowners' Association and not individually; KERRY SULLIVAN, solely as a member of the Casa Mira Homeowners' Association and not individually; JAMIE SULLIVAN, solely as a member of the Casa Mira Homeowners' Association and not individually; ASHLEY SULLIVAN, solely as a member of the Casa Mira Homeowners' Association and not individually; and MAGGIE SUE SULLIVAN, solely as a member of the Casa Mira Homeowners' Association and not individually, and GUSTAVINO HOLDINGS, LLC, solely as a member of the Casa Mira Homeowners' Association and not individually.

These Association members have been unable to provide a verification due to on-going probate proceedings, the absence from San Francisco and residence in numerous locations that made signing the verification logistically difficult, and in some cases the trust or corporate status and related logistical issues.

I have read the foregoing CASA MIRA HOMEOWNERS ASSOCIATION'S VERIFIED PETITION FOR A WRIT OF ADMINISTRATIVE MANDAMUS (C.C.P. § 1094.5) AND/OR A PETITION FOR TRADITIONAL MANDAMUS (C.C.P. § 1085), AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF, and know the contents thereof. I am informed and

believe the matters therein to be true and on that ground allege that the matters stated therein are true.

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

Executed August 12, 2019 at San Francisco, California



Thomas D. Roth, attorney

EXHIBIT "1"



2 Mirada Road

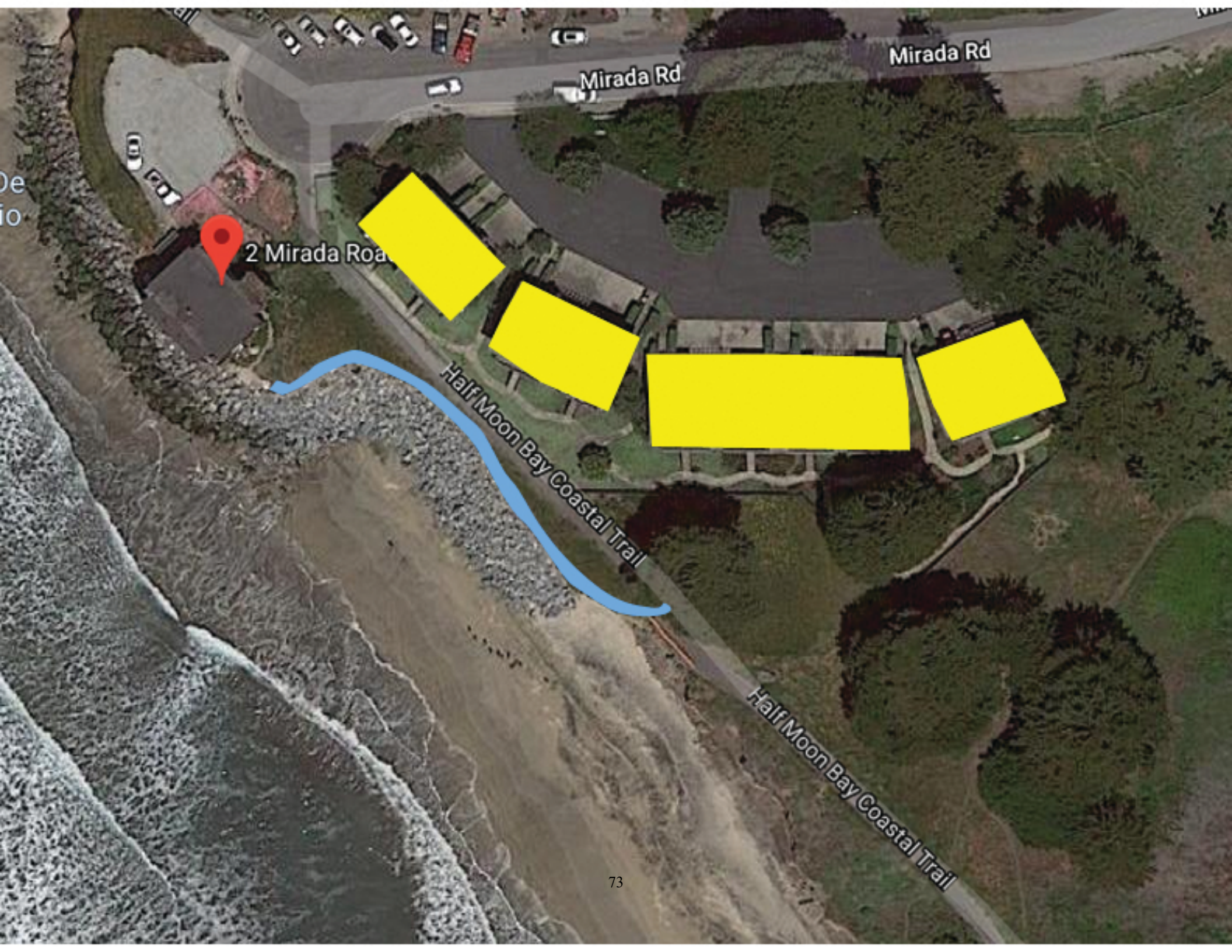
Mirada Rd

Mirada Rd

Half Moon Bay Coastal Trail

Half Moon Bay Coastal Trail

EXHIBIT "2"



Mirada Rd

Mirada Rd

2 Mirada Road

Half Moon Bay Coastal Trail

Half Moon Bay Coastal Trail

EXHIBIT "3"



2 Mirada Road

Mirada Rd

Mirada Rd

Half Moon Bay Coastal Trail

Half Moon Bay Coastal Trail

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EXHIBIT "4"

By E-Mail

August 6, 2019

Jack Ainsworth, Executive Director
Jeannine Manna
Stephanie Rexing
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105

Re: Casa Mira's Pre-Litigation Settlement Demand

Dear staff:

On behalf of Casa Mira HOA and its members ("Casa Mira"), we request that the Coastal Commission set aside its July 11, 2019 decision on the seawall application. The Commission calls its action an "approval, with conditions," but the condition denied 93 percent or more of the seawall and rendered the remaining wall useless.

The Commission's action exceeds its authority under the Coastal Act, and violates the California and U.S. Constitutions.

Please advise me in writing (by email or fax) no later than noon on August 13, 2019 if the Commission is willing to set aside its unlawful denial and engage in meaningful discussions to identify ways to fully comply with the Coastal Act and the constitutional standards set by the U.S. Supreme Court.

Casa Mira remains open to discuss ways to resolve the Commission's unlawful denial. However, due to a short statute of limitations set by the State Legislature, the parties have limited time for these discussions before a suit must be filed. We sincerely hope that the Commission is interested in holding such discussions.

Sincerely,

/s/

Tom Roth