

# **STOP** Eminent Domain Abuse

## CALIFORNIA ALLIANCE TO PROTECT PRIVATE PROPERTY RIGHTS

November 17, 2014

The Honorable Chief Justice  
And Associate Justices  
California Supreme Court  
350 McAllister Street  
San Francisco, CA 94102

RE: Amicus Curiae letter in support of Petition for Review  
*Lynch, et al. v. California Coastal Commission*  
Fourth Appellate District, Division One, Case No: D064120

Honorable Justices:

The California Alliance to Protect Private Property Rights (the Alliance) is a coalition of family farmers, community and taxpayer advocates committed to exposing the dangers and abuses of eminent domain and protecting private property from unwarranted or improper government overreach.

In 2005, its founders started the organization after Yolo County decided to use its power to forcibly seize the 17,300 acre Conaway Ranch from its unwilling sellers, an unprecedented decision by local government. But what began as a local effort to protect Yolo County's farmland from a county determined to erode private property rights has grown into a statewide movement. Since then, the Alliance has become California's leading private property rights organization.

We write to you today to strongly urge you to grant the Petition for Review for *Lynch v. California Coastal Commission*. The Alliance believes that the Court of Appeals' misguided, published decision has wide-ranging implications for all California property owners and merits the Court's consideration. The Petition and other amicus letters have underscored the vital importance of reviewing all three issues presented, and the Alliance agrees. But we wish to focus on the significance of the Majority Opinion's holding on the right of landowners to replace destroyed structures on their properties.

The Majority Opinion by the Court of Appeals has ruled that the City of Encinitas has the power to require a permit to rebuild a private staircase destroyed by a natural disaster, through no fault of the owner. However, no local government has the legal authority to require this permit, as State law (the Coastal Act) grants a property owner the right to rebuild a disaster-destroyed structure without having to go

through an expensive and arduous permitting process for a previously-permitted structure.

The Coastal Act governs land use in the coastal zone of California, a very heavily populated area of the State with millions of homeowners and businesses. Like all statutes, the Coastal Act was a product of legislative compromise. So while the Act regulates how individuals can use their homes and properties, the Act also provides significant protections. One such protection is the right to replace a private structure destroyed by natural disaster without a permit, but there are many other similar exemptions.

The Alliance is greatly concerned that the Majority's decision will allow coastal municipalities to enact local ordinances that would skirt these state-law protections for property owners. Not only does the Majority's Opinion ignore basic preemption principles, but it unnecessarily injects confusion as to which state-law protections are guaranteed to owners and which are not.

The State Legislature had it right when it originally granted property owners the ability to rebuild destroyed structures without having to apply for new permits. The Majority Decision in this case has erased those rights granted to property owners. For this reason, and the others explained in the Petition and in the letter briefs of numerous other amici, we urge you to consider *Lynch v. California Coastal Commission*.

Sincerely,

A handwritten signature in black ink, appearing to read 'Marko Mlikotin', with a long horizontal flourish extending to the right.

Marko Mlikotin  
President

**DECLARATION OF SERVICE BY MAIL**

I, Nick Mirman, declare as follows:

I am a resident of the State of California, residing or employed in Folsom, California. I am over the age of 18 years and am not a party to the above-entitled action. My business address is 2795 E. Bidwell Street, Suites 100-119, Folsom, California, 95630.

On November 17, 2014, true copies of the foregoing document described as Amicus Letter in support of Petition of Review were placed in envelopes addressed to:

Paul J. Beard II  
Pacific Legal Foundation  
930 G Street  
Sacramento, CA 95814

Hayley Elizabeth Peterson  
Office of the Attorney General  
110 West A Street, Suite 1100  
San Diego, CA 92101

Clerk of the Court  
Fourth District Court of Appeal, Division One  
Symphony Towers  
750 B Street, Suite 300  
San Diego, CA 92101

Clerk of the Court  
San Diego County Superior Court  
North County Division  
325 South Melrose Drive  
Vista, CA 92081

which envelopes, with postage thereon fully prepaid, were then sealed and deposited in a mailbox regularly maintained by the United States Postal Service in Folsom, California.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed this seventeenth day of November, 2014, at Folsom, California.



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NICK MIRMAN