

1 Lawrence G. Salzman (State Bar No. 224727)
Joshua P. Thompson (State Bar No. 250955)
2 PACIFIC LEGAL FOUNDATION
930 G Street
3 Sacramento, California 95814
Telephone: (916) 419-7111
4 Facsimile: (916) 419-7747
Email: lgs@pacificlegal.org
5 Email: jpt@pacificlegal.org

6 David R. Greene (State Bar No. 285472)
DIGNITY LAW GROUP, APC
7 14401 Sylvan Street, Suite 100
Van Nuys, California 91401
8 Telephone: (323) 212-5365
Facsimile: (323) 729-3258
9 E-Mail: david@davidgreenelaw.com

10 Attorneys for Petitioners and Plaintiffs MARK I. GREENE & BELLA GREENE

11
12 **SUPERIOR COURT FOR THE STATE OF CALIFORNIA**
13 **FOR THE COUNTY OF LOS ANGELES, CENTRAL DISTRICT**

14
15 MARK I. GREENE and BELLA GREENE,
16
17 Petitioners and Plaintiffs,
18 vs.
19 CALIFORNIA COASTAL COMMISSION,
20 Respondent and Defendant.

Case No.:

**VERIFIED PETITION FOR WRIT OF
ADMINISTRATIVE MANDATE AND
COMPLAINT FOR DECLARATORY &
INJUNCTIVE RELIEF
(CCP § 1060, §527, § 1094.5)**

21 **INTRODUCTION**

22 1. Petitioners and Plaintiffs Mark and Bella Greene (Greenes) seek an administrative
23 writ of mandate and declaration invalidating the California Coastal Commission's (Commission)
24 imposition of two unlawful conditions (Special Conditions 1 and 3) on their permit to remodel
25 their home in the community of Playa del Rey (the Property). The Greenes purchased the Property
26 with the plan of retiring from their present home in Pennsylvania to live near their children and
27 grandchildren in Los Angeles. The City of Los Angeles (City) approved a permit for a modest
28 expansion of the property to make the aging duplex structure more livable as a permanent

1 retirement home. Under its authority to issue a “Dual Permit,” however, the Coastal Commission
2 imposed conditions in violation of their authority under the Coastal Act and the United States and
3 California Constitutions. By this verified petition and complaint, Petitioners and Plaintiffs allege:

4 **PARTIES**

5 2. Petitioners and Plaintiffs Mark and Bella Greene are joint-owners of the Property
6 at 6517 Ocean Front Walk, Playa Del Rey, California 90293.

7 3. Respondent California Coastal Commission is the state administrative body
8 authorized to enforce the California Coastal Act (Pub. Res. Code § 30000, *et seq.*) consistent with
9 the constitutional rights of private property owners (*id.* § 30001.5(c)). The Commission made its
10 final determination to approve the Greenes’ Coastal Development Permit (CDP) No. 5-16-0757,
11 subject to the conditions and pursuant to the policies challenged by this action, on March 9, 2017.

12 **JURISDICTION AND VENUE**

13 4. This Court has jurisdiction over this petition for writ of mandate and complaint for
14 declaratory and injunctive relief pursuant to Sections 1060, 527, and 1094.5 of the Code of Civil
15 Procedure.

16 5. Venue is proper in this Court because the property that is the subject of this
17 litigation is located in the County of Los Angeles. As required by Local Court Rule 2.3(a), this
18 petition for writ of mandate is filed in the Central District.

19 6. The Greenes have exhausted their administrative remedies and timely filed this
20 petition for writ of administrative mandate and complaint for declaratory relief within 60 days of
21 the Commission’s final decision on CDP No. 5-16-0757.

22 7. The Greenes have no plain, speedy, or adequate remedy available in the normal
23 course of law other than mandamus and equitable relief.

24 **FACTUAL ALLEGATIONS**

25 **The Greenes and the Property**

26 8. The Greenes’ Property is a 2,410 square-foot residential duplex adjacent to the
27 beach, well over 500 feet from the mean high tide line of the Pacific Ocean.

28 ///

1 9. The Greenes bought the Property in 2006 as an investment and future retirement
2 home. Between 2006 and the present, the Greenes have rented the Property to their son, David,
3 where he lives with his wife and the Greenes' grandchildren.

4 10. Petitioner and Plaintiff Mark Greene is scheduled to retire from his position as a
5 professor at the University of Pennsylvania in 2018. In anticipation of that event, the Greenes
6 began a permitting process with the City of Los Angeles last year to remodel the property. The
7 remodel proposes to improve the safety and use of the home as a permanent retirement home.

8 11. The Greenes' plans include reinforcing the existing structure to meet more modern
9 standards concerning earthquakes, increasing the interior square footage and exterior deck space,
10 and adding a short staircase and chair glide to allow Bella Greene to avoid the use of stairs and the
11 potential exacerbation of knee problems.

12 **The Los Angeles Ordinance and the City's Permit Approval**

13 12. The City's land-use ordinances applying to the Property allow a residential home
14 to be built up to one foot inland of the rear property line. Los Angeles Ordinance No. 127701, City
15 Planning Commission Case No. 16546-BL. Other homes developed on neighboring parcels to the
16 Greenes' home have a one-foot setback, which is consistent with ordinances adopted to allow for
17 that development. *See* Los Angeles Ordinance No. 164763, Los Angeles Ordinance No. 138322.

18 13. In 2015, the Greenes hired Mark Appel, an architect, to develop plans for a remodel
19 of the Property expanding the ground-level so that it would have a 1.5-foot setback from their rear
20 property line—well-within the space permitted by Los Angeles.

21 14. In, or about, March 2016 the Greenes submitted plans to the City of Los Angeles
22 Planning Department for a remodel that would add 1,190 square feet of total space to the upper
23 and lower units of the Property. Even with the proposed renovation, the Greene's property would
24 retain the smallest profile of all the properties on Ocean Front Walk between 62nd St. and 68th St.
25 The Greenes did not request, and did not need to request, any zoning variances.

26 15. On June 28, 2016, the City approved a permit for the Greenes' proposed remodel,
27 pursuant to its authority to issue permits under Section 30600(b) of the Coastal Act, finding the
28 plans to be consistent with the Coastal Act, its local setback ordinance, and all other applicable

1 requirements. A true and accurate copy of this Permit, as corrected, is attached hereto as “Exhibit 1.”

2 16. The City specifically acknowledged its plans for a 12-foot-wide boardwalk, “Ocean
3 Front Walk,” on City-owned land that abuts the Property, and which is “designated as a Local
4 Street, but is not improved as a usable pedestrian right-of-way.” Exhibit 1 at 7. The boardwalk has
5 been intermittently developed during the past fifty years, but no boardwalk has ever been
6 constructed on the stretch of land abutting the Greenes’ Property in Playa del Rey.

7 17. The Greenes have no plans, nor any legal right, to make exclusive use of the public
8 land that abuts their property or to prevent public use of public property.

9 **Commission Administrative Proceedings**

10 18. On January 5, 2017, the California Coastal Commission exercised its authority
11 under Section 30601 of the Coastal Act to review the project under its “Dual Permit Jurisdiction.”

12 19. The Commission demanded that the Greenes pay for and present to the Commission
13 “a wave uprush study prepared by an appropriately licensed professional, covering whether the
14 site and the proposed development could be subject to erosion, wave attack or wave run-up, the
15 frequency of occurrence, consequences and options for siting or designing the project to avoid or
16 minimize impacts over the life of the structure.”

17 20. The Greenes hired an experienced engineering firm, GeoSoils, Inc., to complete the
18 requested study. On or about January 10, 2017, the Greenes submitted to the Commission the
19 study, which concluded (among other findings): “The proposed development will neither create
20 nor contribute significantly to erosion, geologic instability, or destruction of the site or adjacent
21 area.”

22 21. On or about February 23, 2017, the California Coastal Commission published a
23 staff report on the Greenes’ Coastal Development Permit application, recommending approval
24 with several special conditions, including the Special Conditions 1 and 3 challenged herein. A true
25 and correct copy of the report is attached hereto as “Exhibit 2.”

26 22. Special Condition 1 is a demand that the Greenes increase the setback of their
27 property to no less than five feet from their rear property line.

28 ///

1 23. Special Condition 3 is a demand that the Greenes waive their right to build any
2 shoreline protective device to protect their property against future storms, erosion, or other natural
3 hazards—a right they are granted by Public Resources Code § 30235.

4 24. The staff report contained numerous material misrepresentations including a claim
5 that “the normally required rear yard setback for a structure on the subject site is 15 feet.” Exhibit
6 2 at 14. In actual fact, the City’s ordinances provide for a one-foot setback from the seaward
7 property line in this area and both the City and the Commission have previously approved
8 development projects with a one-foot setback from the seaward property line.

9 25. The staff report speculates about how other private property owners in the area may
10 attempt to restrict public access to the beach to justify its imposition of the Special Conditions, but
11 makes no particular findings about the Greenes’ development. Moreover, the staff report ignores
12 the City’s view that the Greene’s development would not impair any plans or public access related
13 to the adjacent Ocean Front Walk boardwalk that has been proposed by the City since the 1960s.
14 Finally, the staff report ignores the existence of a public access path to the beach located 50 feet
15 south of the Greenes’ property, and, except for a reference to the GeoSoils, Inc., study, ignores the
16 public bike path bisecting the beach 300 feet seaward from the Greenes’ property. Exhibit 2 at 14-
17 15.

18 26. Although the staff report noted the findings of the GeoSoils, Inc., study that the
19 proposed development will neither create nor contribute significantly to erosion, geologic
20 instability, or destruction of the site or adjacent area, it nonetheless speculates that the Greenes’
21 Property may be threatened by sea level rise “if something [apparently not now known or
22 identifiable] were to happen that would cause damage to the beach.” Exhibit 2 at 17.

23 27. During the March 9, 2017, hearing on the Greenes’ CDP application, Commission
24 District Manager Steven Hudson read verbatim the staff report and recommended that the
25 Commission adopt the staff report’s recommendation to approve the CDP with all conditions,
26 including the Special Conditions 1 and 3 at issue in this action.

27 28. The Greenes were represented at the hearing by Don Schmitz, a consultant
28 specializing in coastal development. During his presentation, Mr. Schmitz cited the City

1 ordinances that govern the Greenes' property, noting that the City took legislative action to adopt
2 a one-foot setback for the homes along Ocean Front Walk. Mr. Schmitz also cited the multiple
3 instances over the past 50 years in which the City and the Coastal Commission approved
4 development permits in the area with only a one-foot setback. Mr. Schmitz also explained that the
5 Commission had approved a CDP with only a one-foot setback only thirty months before the
6 March 9, 2017, hearing. Mr. Schmitz further noted the vast distances from the property line to the
7 ocean and to a bike path that has long-served as a point of public access to the beach in the
8 neighborhood.

9 29. Contrary to the staff report findings, the Geo Soils, Inc., study (relying on the
10 Commission's own projections of future sea-level rises) concluded that the Greenes' proposed
11 development was stable and not at risk in any way contemplated by Coastal Act Section 30253.

12 **The Commission's Final Decision and Conditions**

13 30. During the March 9, 2017, hearing, multiple commissioners raised objections to
14 Special Condition 1. Several commissioners who had actual knowledge of the beach adjacent to the
15 Property noted that the ocean is nearly 550 feet from the property line, that the public accesses the
16 beach through a bike path that is located approximately 300 feet from the Property, and that there is
17 no completed boardwalk for the public to use adjacent to the Property.

18 31. Commissioner Erik Howell made a motion to remove Special Condition 1 on the
19 grounds that the demanded five-foot setback was in direct conflict with City ordinances and past
20 practice by the Commission to approve coastal development permit setbacks of one-foot and even
21 less. The motion was seconded by Commissioner Robert Uranga, but rejected by a full vote of seven
22 to four.

23 32. Subsequently, the Commissioners unanimously approved the Greenes' CDP as
24 recommended in the staff report, imposing nine staff-recommended special conditions on the
25 approval of the Greenes' coastal development permit, including the challenged Special Conditions 1
26 and 3.

27 ///

28 ///

1 33. Special Condition 1 requires the Greenes to submit new development plans with a
2 minimum five-foot rear setback. This condition applies to all habitable and non-habitable areas,
3 stories, and foundation of the structure except for ground level patios.

4 34. Special Condition 3 prohibits the construction of any future shoreline protective
5 devices to protect the Property from natural hazards. Special Condition 3 demands that the Greenes
6 waive rights they possess under Public Resources Code § 30235 to a future shoreline protective device.

7 35. Both Special Condition 1 and 3 permanently restrict the use and enjoyment of the
8 Property because Special Condition 9 requires the conditions to be recorded as a deed restriction.

9 **FIRST CAUSE OF ACTION**
10 **(Writ of Administrative Mandate under CCP § 1094.5)**
11 **(Special Condition 1)**

12 36. All of the allegations set forth by the preceding paragraphs are realleged and
13 incorporated as if set forth fully herein.

14 37. The City of Los Angeles granted a CDP approving the Greenes’ plan to expand
15 their Property with a 1.5-foot ground-level setback from Ocean Front Walk.

16 38. Special Condition 1 imposed by the Coastal Commission deprives the Greenes of
17 that right and reads in relevant part:

18 A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the
19 applicants shall submit, for the review and written approval of the Executive Director, two
20 full-size sets of the following revised final plans, modified as required below:

21 1. The rear (seaward side) setback of the structure shall not be less than 5 feet from
22 the property line. This shall apply to all habitable and non-habitable areas,
23 stories and foundation of the structure except for ground level patios.

24 39. By imposing Special Condition 1, the Commission has failed to act in the manner
25 required by law, acted in excess of its jurisdiction, and abused its discretion.

26 **Failure to Proceed in the Manner Required by Law**

27 40. The Commission imposed Special Condition 1 on its approval of the Greenes’ CDP
28 purportedly pursuant to its authority under the Coastal Act.

 41. The Commission has a mandatory and ministerial duty to conform its actions to the
standards and requirements of the law.

///
///

1 42. The legislatively adopted City ordinances permit the Greenses to develop their
2 Property with a one-foot ground-level setback from the east of the rear property line.

3 43. The Greenses' right to use and enjoy their property is protected by the United States
4 and California Constitutions.

5 44. Pursuant to the law of unconstitutional conditions established by *Nollan v.*
6 *California Coastal Commission*, 482 U.S. 825 (1987), *Dolan v. City of Tigard*, 512 U.S. 372
7 (1994), and *Koontz v. St. Johns River Water Management District*, 133 S. Ct. 2586 (2013), an
8 adjudicatory land-use agency such as the Commission may constitutionally impose a condition on
9 property owners' exercise of their property rights only if:

- 10 1. The condition directly mitigates a public impact arising from the property
11 owners' exercise of their property rights.
- 12 2. The condition is roughly proportionate in both nature and extent to the public
13 impact arising from the property owners' exercise of their property rights.

14 45. The Commission has failed to show that there is a nexus or rough proportionality
15 between any public impact of the Greenses' proposed development and the increased setback
16 demanded by Special Condition 1.

17 46. In fact, the Greenses' proposed development bears neither an essential nexus nor
18 rough proportionality to any adverse public impact alleged by the Commission or its staff.

19 47. By imposing Special Condition 1, the Commission failed to proceed in a manner
20 required by law by unconstitutionally conditioning the Greenses' use of their property. *See also San*
21 *Remo Hotel L.P. v. City and Cty. of San Francisco*, 27 Cal. 4th 643 (2002).

22 48. Furthermore, by acting outside the scope of its constitutional authority in imposing
23 Special Condition 1, the Commission acted without, or in excess of, its jurisdiction.

24 **Abuse of Discretion**

25 49. The Commission abused its discretion in imposing Special Condition 1 because its
26 findings do not support the condition.

27 ///

28 ///

1 50. The Commission's findings do not support its decision to impose Special Condition
2 1 because there are no findings concerning adverse impacts on public access to the coast caused
3 by the Greenes' proposed development.

4 51. Further, the findings made by the Commission in support of Special Condition 1
5 are entirely speculative and not supported by substantial evidence.

6 52. There is no substantial evidence in the record, for instance, for the Commission's
7 finding that the pattern of development along Ocean Front Walk has resulted in public access
8 conflicts or a loss of public access to the adjacent beach, or that the Greenes' development will
9 adversely affect public access and recreation.

10 53. The Commission lacks substantial evidence for its finding that future sea level rises
11 require the imposition of Special Condition 1.

12 54. The Commission lacks substantial evidence for the finding that coastal hazards
13 exist that could adversely impact the Greenes' proposed development.

14 55. Because the Commission failed to proceed in a manner required by law and abused
15 its discretion in imposing Special Condition 1, the Greenes are entitled to a writ of mandate,
16 pursuant to Code of Civil Procedure § 1094.5, directing the Commission to remove Special
17 Condition 1 from the approval of Coastal Development Permit No. 5-16-0757.

18 **SECOND CAUSE OF ACTION**
19 **(Writ of Mandate under CCP § 1094.5)**
20 **(Special Condition 3)**

21 56. All of the allegations set forth by the preceding paragraphs are realleged and
22 incorporated as if set forth fully herein.

23 57. Article I, § 1, of the California Constitution establishes a right to protect property,
24 including from natural hazards.

25 58. Public Resources Code § 30235 provides:

26 Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other
27 such construction that alters natural shoreline processes shall be permitted when required to
28 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.

1 59. Public Resources Code § 30253 provides, in part:

2 New development shall do all of the following:

3 (a) Minimize risks to life and property in areas of high geologic, flood, and fire
4 hazard.

5 (b) Assure stability and structural integrity, and neither create nor contribute
6 significantly to erosion, geologic instability, or destruction of the site or
7 surrounding area or in any way require the construction of protective devices that
8 would substantially alter natural landforms along bluffs and cliffs.

9 60. Under the terms of Public Resources Code § 30235, the Greenes have the right to
10 construct shoreline protective devices on the Property if one is required in the future to protect
11 their home from erosion. Public Resources Code § 30253 prohibits only “protective devices that
12 would substantially alter natural landforms along bluffs and cliffs.”

13 61. The Greenes’ Property is neither on nor near a bluff or cliff.

14 62. Special Condition 3 demands that the Greenes waive their right to shoreline
15 protection or else forgo the otherwise permissible development of their Property. Special
16 Condition 3 states, in relevant part:

17 By acceptance of this Permit, the applicants agree, on behalf of themselves and all
18 successors and assigns, that no shoreline protective device(s) shall ever be
19 constructed to protect the development approved pursuant to Coastal Development
20 Permit No. 5-16-0757 including, but not limited to, the resulting proposed
21 development of a 3,600 sq. ft., 37 ft.-high duplex, including in the event that the
22 development is threatened with damage or destruction from waves, erosion, storm
23 conditions, liquefaction, or other coastal hazards in the future, and as may be
24 exacerbated by sea level rise. By acceptance of this Permit, the applicants hereby
25 waive, on behalf of themselves and all successors and assigns, any right to construct
26 such devices that may exist under applicable law.

27 63. The staff report states that Special Condition 3 is necessary “to put the applicants
28 and future owners on notice that Section 30253 limits their ability to ever construct a protective
device to protect the new development.” Exhibit 2 at 19.

64. In imposing Special Condition 3, the Commission failed to proceed in a manner
required by law, acted in excess of its jurisdiction, and abused its discretion.

///
///

///
///

1 **Failure to Proceed in a Manner Required by Law**

2 65. The Commission failed to proceed in a manner required by law in imposing Special
3 Condition 3 by requiring the waiver of a right expressly granted by Section 30235 of the Coastal
4 Act.

5 66. The Commission failed to proceed in a manner required by law because no waiver
6 of shoreline protection rights is required by the terms of Public Resources Code §30253(b).

7 67. The Commission failed to proceed in a manner required by law because the
8 Commission's determination that Public Resources § 30253(b) limits the Greenes' right to
9 construct a protective device to protect new development is a misapplication of the law.

10 68. Moreover, Special Condition 3 failed to proceed in a manner required by law
11 because it constitutes an unconstitutional condition on the Greenes' use and enjoyment of their
12 property.

13 69. Additionally, by acting outside the scope of its constitutional authority in imposing
14 Special Condition 1, the Commission acted without, or in excess of, its jurisdiction.

15 **Abuse of Discretion**

16 70. The Commission abused its discretion in imposing Special Condition 3 because its
17 findings do not support the condition.

18 71. The Commission's findings do not support its decision to impose Special Condition
19 3 because there is no finding of a nexus between the proposed development and the waiver of the
20 Greenes' rights to a shoreline protective device.

21 72. The Commission's findings do not support its decision to impose Special Condition
22 3 because there is no finding that the Greenes' proposed development will require any substantial
23 alteration to natural landforms along bluffs or cliffs.

24 73. Further, findings made by the Commission in support of Special Condition 3 lack
25 substantial evidence. For instance, the record lacks substantial evidence to support the
26 Commission's finding that a future shoreline protective device will affect public access and
27 recreation.

28 ///

1 74. Because the Commission failed to proceed in a manner required by law and abused
2 its discretion in imposing Special Condition 3, the Greenes are entitled to a writ of mandate,
3 pursuant to Code of Civil Procedure § 1094.5, directing and commanding the Commission to
4 remove Special Condition 3 from the approval of Coastal Development Permit No. 5-16-0757.

5 **THIRD CAUSE OF ACTION**
6 **(Declaratory Judgment & Injunction; CCP § 1060, § 527)**

7 75. All of the allegations set forth by the preceding paragraphs are realleged and
8 incorporated as if set forth fully herein.

9 76. The Greenes and the Commission have a dispute over whether or not interpretations
10 of Public Resources Code § 30235 and § 30253 applied and enforced consistently by the
11 Commission, and against the Greenes in the permit process at issue here, are correct.

12 77. Accordingly, an actual controversy exists among the parties concerning the
13 Commission’s interpretation of Public Resources Code § 30235 and § 30253. The Greenes are
14 therefore entitled to a judicial declaration of the parties’ rights and duties with respect to these
15 provisions of law.

16 78. Public Resources Code § 30235 requires the Commission to permit the
17 development of a shoreline protective device, with certain conditions, by applicants whose
18 structures are in danger from erosion. The Commission contends that § 30235 applies only to
19 structures that were in existence on January 1, 1977. The Greenes contend that § 30235 applies to
20 any structure which is in danger from erosion at the time an application to the Commission is made
21 to protect such structure, whether constructed before or after January 1, 1977.

22 79. The Commission contends that Public Resources Code § 30235 does not apply to
23 structures that were constructed, replaced, or substantially remodeled after January 1, 1977. The
24 Greenes contend that § 30235 applies to any structure which is in danger from erosion at the time
25 an application to the Commission is made to protect such structure, even if such structure became
26 in danger from erosion after January 1, 1977.

27 80. Public Resources Code § 30253(b) requires that permitted “new development” not
28 “require the construction of protective devices that would substantially alter natural landforms

1 along bluffs and cliffs. The Coastal Commission contends that Public Resources Code § 30253(b)
2 abrogates a property owner's right (under Section 30235 or otherwise) to a protective device on
3 any waterfront property in the Coastal Zone of the State of California, whether or not such
4 waterfront property is on or near any bluff or cliff. The Greenes contend that § 30253(b) applies
5 only to a property where the construction of a protective device would substantially alter natural
6 landforms along bluffs and cliffs.

7 81. The differing contentions of the Commission and Petitioners and Plaintiffs as to
8 the lawful interpretation of Public Resources Code § 30235 and § 30253 affect thousands of
9 persons who own property along the shoreline of the State of California.

10 82. The Greenes are informed and believe and thereon allege that the Commission has
11 applied its interpretations of Public Resources Code § 30235 and § 30253 to require hundreds of
12 persons who have obtained permits from the Commission to waive their rights to protect the
13 permitted structures, most often single family residences, in order to obtain a coastal development
14 permit.

15 83. Unless a declaratory judgment as to the meaning of Public Resources Code § 30235
16 and § 30253(b) is issued and the Commission enjoined from enforcing an errant interpretation of
17 those provisions, the Commission will continue to impose a condition similar to Special Condition
18 3 on property owners throughout the Coastal Zone.

19 84. It is of significant importance to a large class of persons who own property along
20 the shoreline of the State of California to have Public Resources Code § 30235 and § 30253
21 properly applied. In the absence of declaratory and injunctive relief, each affected property owner
22 would be required to delay the use of their property for two to five years to individually challenge
23 the improper interpretations by the Commission.

24 85. The Greenes are entitled to a declaratory judgment that Public Resources Code
25 § 30235 applies to all structures, whether constructed, replaced or substantially remodeled before
26 or after January 1, 1977.

27 ///

28 ///

1 86. The Greens are entitled to a declaratory judgment that Public Resources Code
 2 § 30253(b) does not apply to any development that is not on or near a bluff or cliff and does not
 3 limit protective devices on any property that is not on or near a bluff or cliff.

4 **RELIEF REQUESTED**

5 WHEREFORE, the Greens respectfully request relief as follows:

6 1. Issuance of a writ of mandate directing and commanding the Commission to
 7 remove Special Condition 1 from the approval of Coastal Development Permit No. 5-16-0757;

8 2. Issuance of a writ of mandate directing and commanding the Commission to
 9 remove Special Condition 3 from the approval of Coastal Development Permit No. 5-16-0757;

10 3. For a declaratory judgment that Public Resources Code § 30235 applies to all
 11 structures, whether constructed, replaced, or substantially remodeled before or after January 1, 1977;

12 4. For a declaratory judgment that Public Resources Code § 30253(b) limitation on
 13 shoreline protective devices applies only to property where the construction of a protective device
 14 would substantially alter natural landforms along bluffs and cliffs;


15 5. For an injunction enjoining the Commission from enforcing or attempting to
 16 enforce any interpretation of Public Resources Code §§ 30235 and 30253(b) inconsistent with this
 17 Court's declaration concerning those provisions;

18 6. For an award of attorneys' fees pursuant to Code of Civil Procedure § 1021.5 and
 19 costs; and

20 7. For any other relief that the Court determines to be warranted.

21
 22 Dated: May 5, 2017

PACIFIC LEGAL FOUNDATION

23
 24 By: 
 25 Lawrence G. Salzman
 26 Attorney for Petitioners and Plaintiffs

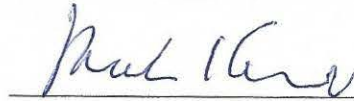
VERIFICATION

I, Mark I. Greene, declare as follows:

1. I am a joint owner of the Property at issue and am authorized to make this verification on its behalf.

2. I have read the foregoing Verified Petition for Writ of Administrative Mandate and Complaint for Declaratory Injunctive Relief and, except for matters stated on information and belief, the facts stated therein are true on my own knowledge. As to those matters stated on information and belief, I believe them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this verification was executed this 1 day of May, 2017.


DR. MARK I. GREENE