

**CALIFORNIA COASTAL COMMISSION**

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April 2, 2013

Steven A. Amerikaner  
Brownstein, Hyatt, Farber & Schreck, LLP  
21 East Carillo Street  
Santa Barbara, CA 93101-2706

RE: Hollister Ranch; Request to Extinguish the Offer to Dedicate

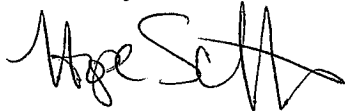
Dear Mr. Amerikaner:

We received your November 20, 2012 letter requesting that the Executive Director of the Commission authorize the extinguishment of the "Irrevocable Offer to Dedicate and Covenant Running with the Land" that the YMCA of Metropolitan Los Angeles ("YMCA-LA") recorded with the Santa Barbara County Recorder's Office in April of 1982 (the "OTD"). I am also familiar with the conversations you had with senior staff counsel Alex Helperin. As you know, the YMCA-LA recorded the OTD in an effort to comply with Special Condition 1 of Coastal Development Permit ("CDP") number 309-05, which the South Coast Regional Commission approved in October of 1980, conditionally authorizing the YMCA-LA's construction of an Ocean Camp and outdoor education facility in unincorporated Santa Barbara County, in two areas of what is now the Hollister Ranch.

Your letter explains the basis for your request as your "belief that the [OTD], even if accepted, would not convey any property interest to the people of the State of California." To our knowledge, when a permittee has recorded an irrevocable offer to dedicate a property interest as required by a CDP condition, the only situation under which the Executive Director has ever allowed such extinguishment is when the CDP requiring the offer has expired. When you made a similar request regarding the same OTD in the 1990s, then-Chief Counsel Ralph Faust wrote to you that the Commission had "consistently adhered to the position that an offer of dedication recorded in satisfaction of a CDP may be extinguished only where the permit is not exercised and, as a result, expires." Letter from Ralph Faust to Steven Amerikaner (Oct. 8, 1999). In that letter, Mr. Faust listed five different categories of development that Commission staff had confirmed had occurred pursuant to authority granted in CDP No. 309-05. As a result, the letter communicated the conclusion that that CDP had been exercised, and thus the Executive Director could not agree to the extinguishment of the OTD. These conclusions remain the same today.

In addition, we have researched the factual and legal underpinnings of your claim that no property interest would be conveyed to the People of the State of California. We are of the opinion that it raises complex issues of both fact and law regarding a permit that was never challenged and exercised long ago. As explained above, it is not Commission practice to allow extinguishment of offers to dedicate recorded in conjunction with the requirements of a valid, exercised permit.

Sincerely,

A handwritten signature in black ink, appearing to read "Hope Schmelzer", with a stylized, cursive script.

HOPE SCHMELTZER  
Chief Counsel

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VOICE AND TDD (415) 904-5200

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JAN 16 2001

CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

October 8, 1999

Steven A. Amerikaner, Esq.  
Hatch & Parent  
21 East Carillo Street  
Santa Barbara, California 93101-2782

Re: COASTAL DEVELOPMENT PERMIT (CDP) NO. 309-05 (YMCA)

Dear Mr. Amerikaner:

I am writing in response to your letter to the Coastal Commission dated October 26, 1998, in which you request the California Coastal Commission to approve a Consent to Extinguishment of the Irrevocable Offer to Dedicate and Covenant Running with the Land ("OTD") recorded pursuant to a condition of approval to CDP No. 309-05. It is understood that you represent both the Hollister Ranch Owners Association ("HROA") and the Hackford Taylor Trust, the YMCA's successors-in-interest with respect to the Upland and Beach Parcels that are the subject of the permit.

The Commission staff has consistently adhered to the position that an offer of dedication recorded in satisfaction of a condition of a CDP may be extinguished only where the permit is not exercised and, as a result, expires. A property owner "exercises" a CDP issued for his or her property by performing development on the property that the CDP authorizes. Development is "authorized" by a particular CDP if it is either described in or is functionally related to development described in that CDP. In applying these standards to the circumstances you describe in your letter we have taken into account the Commission's permit file, the results of an inspection of the site by staff, and the documents that you have submitted.

As you know, in July, 1998, a Commission staff member visited the Upland and Beach Parcels to ascertain whether development under the authority of the permit had occurred on those sites. The staff member observed the following development: 1) approximately 60 wooden support poles (for the apparent purpose of supporting tent cabins), 2) two elevated wood decks (each 30 feet in diameter), 3) approximately 120 wooden utility poles, 4) a water tank, and 5) a junction box for providing electrical power. In the absence of persuasive evidence to the contrary, we have concluded that this development bears a strong functional relationship to the development approved in CDP 309-05 and thus must be presumed to have occurred under its authority.

Based on the foregoing evidence, we have concluded that this CDP has been exercised by the commencement of development authorized by the above-referenced CDP.<sup>1</sup>

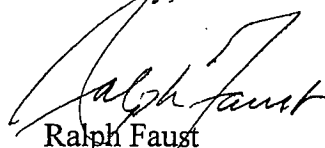
The conditions of the permit were specifically agreed to by the YMCA as evidenced by its execution of the permit acknowledgment and compliance with all conditions. These conditions were integral to the Commission's approval of the permit. The permittee accepted benefits under the permit by constructing development to which there was no legal entitlement in the absence of the permit. This development still remains on the site. As successors in interest to the YMCA, the HROA and/or the Hackford Taylor Trust are bound by all conditions under the permit. All rights under the permit also still presently run to and may be exercised by HROA and/or the Hackford Taylor Trust as the YMCA's successors. These conclusions are not altered by the settlement agreement between HROA and the YMCA.

In addition, you have asserted that the YMCA did not have a sufficient legal interest to convey the easements that were recorded in the Offer to Dedicate. Although we requested that you provide documentation that is necessary to evaluate this issue, we have not received this information. Therefore, in the absence of additional information, we cannot agree with your assertion.

We also note that although it could have done so, the HROA failed to challenge the Commission's approval of the permit with the condition requiring the YMCA to record the offer to dedicate public access easements. Because the permittee accepted the permit conditions and HROA did not challenge approval of the permit, the Commission's approval of the permit became final. HROA may not, at this late date, collaterally attack the validity of the permit condition based on allegations that it could have raised in a timely legal challenge to the Commission's decision to approve the permit. Furthermore, when HROA and/or the Hackford Taylor Trust acquired the property, they were fully aware of the existence of the Irrevocable Offer to Dedicate.

For all of the foregoing reasons, we have concluded that the Offer to Dedicate that was recorded in fulfillment of the conditions to the above-referenced permit remains in effect and we decline to extinguish the easement.

Sincerely,

  
Ralph Faust  
Chief Counsel

Cc: Chuck Damm

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<sup>1</sup> This conclusion replaces the contrary conclusion communicated to you in a letter dated November 18, 1996, from the Commission's Central Coast Office. That office did not have available to it the information on which the conclusions set forth in this letter are based.