

# SMART COAST REPORT

### CELEBRATING OUR PROGRESS ENGAGING IN COASTAL PROPERTY RIGHTS

As the year winds down, it's time to celebrate the strides we've achieved together in advocating for coastal property rights and intelligent land use policies. Since our inception in 2019, Smart Coast California has tirelessly educated the public about these pivotal issues affecting California's beautiful 1,100-mile coastline.

California's coast attracts people worldwide, emphasizing the need for thoughtful decisions that preserve property rights and accessibility. Your support has been integral in advancing our mission and spreading awareness about these fundamental principles.

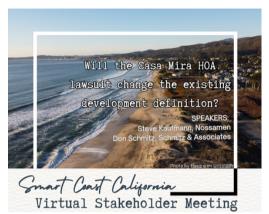
As we reflect on our achievements, we invite you to consider a year-end contribution. Your generosity fuels our efforts to advocate for responsible policies that maintain property rights while safeguarding the beauty and accessibility of our coastline.

Let's continue our journey toward a sustainable coast. <u>Donate now</u> and play a part in preserving coastal property rights.

Thank you for being a beacon of support for Smart Coast California's engagement.

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A recent court case is likely to overturn the California Coastal Commission's view that only structures in place before the Coastal Act went into effect in 1977 can be protected from sea level rise, two experts said at the October Smart Coast California virtual stakeholder meeting.

However, both attorney Steven Kaufmann and Smart Coast consultant Don Schmitz said it will take an appeals court until late 2024 or early 2025 to issue a definitive ruling – and in the meantime, the Coastal Commission will undoubtedly continue to pressure local governments to abide by its viewpoint in formulating plans to accommodate sea level rise.

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The trial court ruled in July that the clear language in the Coastal Act says that existing properties can be protected by seawalls, revetments or other means. This was the second trial court ruling to come to that conclusion, the first being a 2005 case that

Kauffman litigated affecting Pismo Beach.

Ironically, in that case, the Coastal Commission was sued by an environmental group over its policy that existing structures could be protected. That in fact was the commission's view from 1977 until 2015 when its staff issued its initial sea level rise guidance and declared that only structures in place before 1977 could be considered "existing structures."

Kaufmann said the Casa Mira trial court emphatically ruled that the Coastal Commission's new policy was wrong.

"It is clear that the statute supports people protecting their existing structure from the danger of property damage due to subsequent erosion," the court wrote. "It is the commission's position that the Coastal Act should be interpreted such as all seaside homes and buildings constructed after 1976, if endangered by erosion, should be allowed to fall into the sea and be destroyed. The commission takes the position that erosion of seaside cliffs creates beach sand and that continued existence of a sandy beach is the ultimate goal, and private property rights are insignificant."

Schmitz told stakeholders that the commission is also ignoring the staggeringly high costs local governments would face if they prohibit property owners from protecting their homes and businesses. Doing so would constitute a taking and property owners would need to be compensated for their losses.

He pointed out that the current value of parcels that could be threatened by sea level rise is roughly \$40 billion in San Mateo County, \$14 billion in Santa Clara County, \$11 billion in Orange County, and \$10 billion in Marin County.

"This is why a lot of these communities are balking over the concept of instituting managed retreat in their local coastal program amendments because those counties, those cities, will be on the hook for compensating property owners If managed retreat policies result in constitutional takings. This would literally bankrupt even the richest cities in the state," he said.

"Because of the global application of managed retreat, the whole concept of having an appropriate statewide plan to deal with sea level rise is in jeopardy. So we stand shoulder to shoulder with the Coastal Commission on coming up with good planning policies and regulations so that our communities can deal with the issue in a way that takes into account all of the economic factors, because if it's not economically viable, then it's just not going to work. So we're hopeful that this court case will provide more clarity." "It is clear that the statute supports people protecting their existing structure from the danger of property damage due to subsequent erosion"

Casa Mira Homeowners Assn v. CCC ruling (July 2023)

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#### **SMART COAST REPORT**



For more info visit www.smartcoastca.org/events

# **ANNOUNCEMENT** Municipal Collective Be a partner with Smart Coast California

## Smart Coast California can assist with effective decision making in our

coastal communities as we prepare for rising seas in California.



Insight to coastal communities Local Coastal Programs and Sea Level Rise Plans including an engagement list and timeline.

l ticket to the annual Policy Summit and opportunity for municipal recognition at Policy Summit and other events.

Access to Planner Compendium

Partner with us at https://www.smartcoastca.org/partners.html



#### <u>Planning Compendium</u>

- Statewide Status of LCPAs Addressing Sea Level Rise
- Jurisdictional Statuses Explained
- Projections for Sea Level Rise Projections: Sources
- Milliman Key Findings and Evaluating Probabilistic Projections, Phase I and II
- Locally Proposed/Adopted Adaptation Policies
- Nature-Based Solutions
- Tiered Response
- Managed Retreat
- Defining "Existing Structures"
- Provisions for Just Compensation
- Collaborative Local Government Sea Level Rise Working Group Activity
- Neighborhood-Scale Adaptation
- Geologic Hazard Abatement Districts (GHADs)
- Major Remodels
- Coastal Edge Setbacks

### **UPCOMING LCP EFFORTS**

Smart Coast California updates our website with our upcoming Local Coast Program Amendments (LCPA), Sea Level Rise Programs (SLR), and Coastal Hazards about once a month. We are providing this information so you know where your jurisdiction is in the process and the need for critical engagement.

Priority

Item is set for Coastal Commission Agenda (or awaiting scheduling) OR Item scheduled for local hearing with date set, anticipated soon, or in important progress stage

Carlsbad





Item in process with no hearing date set

Imperial Beach Marin County Pismo Beach Avalon Carpinteria Eureka Hermosa Beach Laguna Beach Marina Monterey City Monterey County National City Oceanside San Diego City Pacific Grove Santa Barbara City Ventura County Ventura City

LCP Process

Prepared by local government Adopted by local government Sent back to local government for final approval

Submitted to

ccc

Santa Cruz City



Priority

THREE

#### Item in process with no hearing date anticipated

Goleta Humboldt County Huntington Beach Oxnard Seal Beach Sonoma County Coronado Dana Point Grover Beach Los Angeles - Venice Segment Mendocino County Newport Beach Solana Beach Trinidad

5/-

#### Stay up to date with these plans on smartcoastca.org

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## Website stay informed

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#### CURRENT LCP/SLR EFFORTS

Efforts of local municipalities within California and status of SLR/LCP process.

#### POLICIES

Policies that have been adopted by the Smart Coast California Board of Directors.

#### ARTICLES OF INTEREST

Find articles related to sea level rise, coastline policies, and interesting local news.

#### SIGN UP

Stay on top of what's happening by joining our newsletter and responding to calls for action. Your voice needs to be heard.

#### SOLUTIONS TO MANAGED RETREAT

Read our scientific reports and existing alternatives to managed retreat.

#### **PARTNERS**

We have accomplished a lot, but there's much more to be done to protect property rights. Please contribute today?

