

Wednesday, December 14, 2005

Last modified Wednesday, December 14, 2005 1:00 AM PST

Coastal panel sued by Solana Beach condo association

By: ADAM KAYE - Staff Writer

SOLANA BEACH ---- The state Coastal Commission has no authority to charge a \$248,000 "loss of recreational benefits fee" as a condition of approving a sea wall, members of Las Brisas Condominium Association and their consultants said Tuesday.

The association filed a lawsuit in Superior Court this week asking that the court overturn the fee, which opponents say is based on data riddled with errors.

At a press conference Tuesday, some residents of the 36-unit complex just south of Fletcher Cove assembled with their advisers at the base of the 80-foot-tall bluff.

The lawsuit and the fee carry statewide implications, said Las Brisas consultant Bob Trettin.

"This is going to impact Encinitas, La Jolla, Point Loma ---- anywhere that people want to protect their property," he said.

Las Brisas received the commission's approval in October to build a 120-foot-long, 35-foot-tall sea wall beneath the complex on South Sierra Avenue.

San Francisco economist Phillip King recommended the \$248,000 fee to compensate the public for the strip of beach that would be lost to the sea wall. That translates as nearly \$7,000 per household for the 36-unit complex.

The commission also ordered Las Brisas homeowners to pay a \$22,000 sand mitigation fee to compensate the public for sand that would have eroded onto the beach if the sea wall were never built.

The lawsuit claims that King's report "is riddled with numerous factual and methodological errors."

The report lacked site-specific analysis, did not consider safety risks if the wall were never built and relied upon inaccurate measurements of the beach's width and square footage, the lawsuit states.

The lawsuit also claims that the report's estimates of beach-users are inflated and that the report itself was not made available to the public in time for adequate review.



Carl and Jane Muller of Arizona walk on the beach near the Las Brisas condominium complex in Solana Beach on Tuesday. The Las Brisas homeowners are suing the California Coastal Commission for imposing a fee to build a sea wall.

J. KAT WORONOWICZ For the North County Times

[Order a copy of this photo](#)

[Visit our Photo Gallery](#)

In a related case, condominium owners in Monterey are suing the commission over a \$5.3 million fee the panel is imposing for construction of a sea wall to protect the 172-unit Ocean Harbor House complex, according to the Monterey Herald. The loss of beachfront in that case is estimated at 1 acre.

The loss in Solana Beach from the Las Brisas wall would total 1,200 square feet, Trettin said.

"The fee is intended to make up for the damage that the sea wall will cause on the public beach," said Teresa Schilling, a spokeswoman for the state attorney general's office, which represents the Coastal Commission.

The commission regulates development and protects public access along the state's 1,100-mile coastline.

Sea walls in Solana Beach are a source of perennial debate and have prompted numerous lawsuits.

In one of them, which is pending, the Surfrider Foundation sued the city for allegedly violating environmental laws when it granted an emergency construction permit for the Las Brisas sea wall, said Todd Cardiff, an attorney and chairman of the environmental group's San Diego chapter.

Contacted Tuesday, Cardiff defended the Coastal Commission's fee and the economic analysis from which it was derived.

"This is mitigation for loss of the beach," Cardiff said. "King never claimed this is a perfect beach. He said it is well below a perfect beach and discounted his analysis significantly."

At Tuesday's press conference, the president of the neighboring SurfSong homeowners association, Mark Haines, blasted the proposed fee.

"It's an abomination what the Coastal Commission has done ... when all we're doing is making the beach safer," he said.

Jim Jaffee, a member of the Solana Beach-based CalBeach Advocates environmental group, said in an interview Tuesday that the fee is a small price to pay. He said "248,000 is nothing when compared to the value of the beach that's lost and the potential impact on waves and coastal views."

Contact staff writer Adam Kaye at (760) 943-2312 or akaye@nctimes.com.