



October 26, 2005

John Barisone, City Attorney
City of Santa Cruz
333 Church Street
Santa Cruz, California 95060

Via Certified Mail

Dannettee Shoemaker, Director
City of Santa Cruz Parks & Recreation
323 Church Street
Santa Cruz, California 95060

Via Certified Mail

Dear Mr. Barisone and Ms. Shoemaker:

Re: Lighthouse Field Beach Rescue v. City of Santa Cruz, et al.

In consultation with Ruth Coleman, Director of the California Department of Parks and Recreation ("Department") and Supervising Deputy Attorney General John Davidson, I have had the opportunity to review in detail the opinion of the Court of Appeal in the above-captioned matter. I have also had the opportunity to review relevant portions of the administrative record in the matter. As you may be aware, I was appointed General Counsel to the Department shortly before the appellate decision was issued, but did not assume the duties until shortly thereafter.

The Department has taken the position that the City's 1993 administrative decision to permit off-leash dog use was operational in nature, legally established and in accordance with all applicable statutes and regulations in effect as of that time, including the November 15, 1977 operational agreement for Lighthouse Field State Beach between the City, the County of Santa Cruz and the Department. The appellate court, however, ruled that the directive in the 1984 Lighthouse Field State Beach General Plan ("1984 General Plan") that "[p]ets should be restricted to leashes" represented a policy level determination and that the City's desire to alter that determination would require a level of CEQA analysis the appellate court found lacking with respect to the City's proposed revisions to the 1984 General Plan.

I have also reviewed Public Resources Code section 5008.1, which constitutes legislative policy for the Department with respect to the public's ability to bring pets into state parks. The statute does not expressly preclude off-leash policies in state parks. It is our determination, however, that continued off-leash dog use of Lighthouse Field State Beach cannot be reconciled with the statute's current mandate that any animal brought into a state park must "...be under the immediate control of the visitor or shall be confined...."

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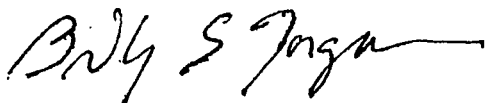
In light of the foregoing, this correspondence shall serve as notice to the City of Santa Cruz that, no later than November 15, 2007, the City shall be required to prohibit members of the public from using Lighthouse Field State Beach, including Lighthouse Field, Lighthouse Point and Its Beach, for off-leash dogs. This notice is provided in recognition of the fact that Lighthouse Field State Beach is owned by the Department and made available to members of the public as part of the State Park System. While the City of Santa Cruz operates the park on behalf of the Department pursuant to the aforementioned operating agreement, Lighthouse Field State Beach remains a state park unit subject to applicable statutes and regulations pertaining to the governance of state park units.

The Department acknowledges that it has generally concurred in the limited off-leash dog use of Lighthouse Field State Beach since the City's administrative decision in 1993 to allow such use. The Department also recognizes that, in at least partial reliance on those actions, many City residents have grown accustomed to using the park for this purpose. In recognition of the fact that this notification represents a substantial departure from that historic use, and in further recognition that the City may wish to consider alternative locations that may allow dog owners to be able to use another City facility for off-leash dogs prior to making Lighthouse Field State Beach unavailable for that use, the Department has agreed to provide the above-referenced grace period through which the park may continue to be used for off-leash dogs, subject to the current limitation on that use.

While we also note that the 1977 operational agreement referenced elsewhere in this correspondence has a thirty (30) year term that will expire on November 15, 2007, this correspondence is not to be construed as an indication by the Department, the City of Santa Cruz or the County of Santa Cruz that the November 15, 1977 operational agreement will or will not be renewed at the end of the term or that the parties will or will not enter into a new operational agreement beyond that date. Any such agreement will be subject to further discussion and negotiation amongst the parties.

Thank you for your attention to this matter. I can be reached at (916) 653-6884 with any questions.

Sincerely,



Bradly S. Torgan, AICP
General Counsel

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cc: Ruth Coleman, Director
✓ Paul Romero, Chief Deputy Director
Ted Jackson, Deputy Director, Park Operations
Lynn Rhodes, Chief, Northern Field Division
Dave Vincent, Superintendent, Santa Cruz District