

2014-036852 CONF

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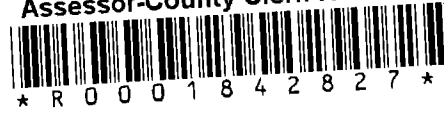
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**SUMMARY JUDGMENT, SUMMARY ADJUDICATION, and
JUDGMENT QUIETING TITLE**

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FILED
CLERK OF SUPERIOR COURT
SAN MATEO COUNTY

APR 9 0 2014

Clerk of the Superior Court
By: Patricia Deena
DEPUTY CLERK

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN MATEO

FRIENDS OF MARTIN'S BEACH, a
California unincorporated association
organized and existing under Corporation
Code sections 21000 et seq.,

Plaintiff,

v.

MARTINS BEACH 1, LLC; MARTINS
BEACH 2, LLC; all persons unknown,
claiming any legal or equitable right title,
estate, lien or interest in the property
described in the complaint adverse to
plaintiffs' title or any cloud on plaintiffs'
title thereto; and DOES 1 to 100, inclusive,

Defendants.

CASE NO. CIV 517634

**SUMMARY JUDGMENT, SUMMARY
ADJUDICATION, and JUDGMENT
QUIETING TITLE**

AND RELATED CROSS-ACTION.

This Court having now confirmed by Memorandum Decision and Order, also filed this date, its earlier rulings herein made on October 24, 2013, by which this Court:

Granted Defendants Martins Beach 1, LLC and Martins Beach 2, LLC's ("Defendants") motion for summary judgment (and alternate motion for summary adjudication) made under Code of Civil Procedure Section 437c on the grounds that, based on the undisputed facts, the first

1 through seventh causes of action in Plaintiffs First Amended Verified Complaint have no merit as
2 a matter of law for the reasons stated in the Court's Memorandum of Decision and Order;

3 Granted said Defendants' motion for summary adjudication made under Code of Civil
4 Procedure Section 437c on the grounds that, based on the undisputed facts, there is no defense to
5 the first and second causes of action in Defendants' Verified First Amended Cross-Complaint as a
6 matter of law, for the reasons stated in the Court's Memorandum of Decision and Order; and

7 Denied Plaintiff's cross-motion for summary adjudication on the second cause of action in
8 Plaintiffs First Amended Verified Complaint on the grounds that, based on the undisputed facts,
9 the second cause of action has no merit as a matter of law for the reasons stated in the
10 Memorandum of Decision and Order;

11 And said Defendants having voluntarily dismissed, without prejudice, the third cause of
12 action for injunctive relief in their Verified First Amended Cross-Complaint, rendering all causes
13 of action alleged in both Plaintiff's First Amended Verified Complaint and Defendants' Verified
14 First Amended Cross-Complaint fully resolved.

15 **IT IS HEREBY ORDERED ADJUDGED AND DECREED that:**

16 1. The Plaintiff Friends of Martins Beach's First Amended Verified Complaint is hereby
17 Dismissed With Prejudice, Plaintiff to take nothing and have no recovery against the Defendants
18 Martins Beach 1, LLC and Martins Beach 2, LLC on the seven causes of action therein;

19 2. Summary Adjudication is hereby entered in favor of Defendants Martins Beach 1,
20 LLC and Martins Beach 2, LLC and against Plaintiff Friends of Martins Beach on the first and
21 second causes of action in Defendants' Verified First Amended Cross-Complaint, as follows:

22 On the First Cause of Action for Quiet Title and the Second Cause of Action for
23 Declaratory Relief the Court finds and declares that (a) said Defendants are the fee owners of the
24 Property located at 22325 Cabrillo Highway, including off-shore submerged tidelands, more
25 particularly described in **Exhibit A** (hereinafter the "Property") and that (b) Plaintiff and its
26 successors, assigns, tenants, or agents, and all persons unknown, claiming any legal or equitable
27 right, title, estate, lien, or interest in the Property adverse to Defendants' title, or any cloud on
28 Defendants' title have no interest in the Property, including but not limited to, any right of public

1 access or easement for the public to use or access the Property for any purpose whatsoever. This
2 Summary Adjudication shall run with the land.

3 3. As above-stated, Plaintiff Friends of Martin's Beach's second cause of action in its
4 First Amended Verified Complaint is hereby Dismissed With Prejudice, Plaintiff's cross-motion
5 for Summary Adjudication on that second cause of action having been Denied.

6 4. Defendants Martins Beach 1, LLC and Martins Beach 2, LLC to have and recover
7 their costs of suit herein subject to Application by filing of a Memorandum of Costs .

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9 **IT IS SO ORDERED.**

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11 Dated: APR 30 2014

/s/ GERALD J. BUCHWALD
JUDGE OF THE SUPERIOR COURT

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PARCEL NO. 1:

Beginning at a point on the edge of the Coast or Ocean Bank, said point of beginning being the Southwest corner of the N.H. Martin tract of land and also being the Northwest corner of the lands of M. Gargan as described in that certain deed recorded on December 17, 1895 in Book 73 of Deeds at Page 480; thence from said point of beginning North 72° 30' East 11.13 chains along the Southerly line of said Martin tract to a point 15 feet Easterly from the fence that bounds the Westerly side of the public road that leads to Spanishtown or Half Moon Bay; thence along said road 15 feet Easterly from said fence as follows, to-wit:

North 25° East 4.74 chains;

North 32° East 1.53 chains;

North 44° 30' East 2.88 chains;

North 11° 30' East 0.47 chains;

North 30° West 7.42 chains;

North 8° East 3.44 chains;

North 10° 30' West 1.18 chains;

North 29° 30' West 2.74 chains;

North 13° 30' West 1.06 chains;

North 4° West 4.24 chains;

Thence South 88° 30' West 10.52 chains to fence; thence North 3° 15' West 6.27 chains along said fence to a station; thence North 69° West 2.75 chains to the Center of the Lobitas Creek; thence down said creek 11.84 chains to its mouth; thence along the high water mark of the ocean Southerly 27.75 chains; thence South 37° East 3.50 chains to the point of beginning, and being the same real property formerly owned by L.M. Benjamin and Mary Benjamin described in Book 42 of Deeds Page 588 as recorded on October 1, 1887.

Excepting therefrom any portion that lies within the lands conveyed to the State of California in the Deed recorded on March 25, 1942, in Book 1013 of Official Records at Page 185, San Mateo County Records.

Further excepting therefrom any portion that lies within the lands described in paragraph 3 of that certain Deed from Angelina Brazil Azevedo, et al, to Edward M. Deeney, et al, as recorded on May 14, 1954 in Book 2583 of Official Records at Page 243, San Mateo County Records.

Also Excepting therefrom any portion that may lie within Parcel "A" as said parcel is shown on that certain Map entitled "Parcel Map for the Merging of Lands Described in Deeds, et al" being recorded on July 16, 1980 in Book 49 of Parcel Maps at Pages 94 to 95.

PENGAO 800-631-6989

EXHIBIT

A

Also excepting therefrom any portion that may lie within the lands of Double K Corporation (7822 P.R. 407) as said lands are shown on that certain Map entitled "Parcel Map for the Merging of lands described in Deeds, et" being recorded on July 16, 1980 in Volume 49 of Parcel Maps at Pages 94 to 95. As shown on the Plat attached hereto and made a part hereof.

APN: 066-330-170 (Ptn.)

PARCEL NO. 2:

A portion of the 175.8-acre tract as described in that certain deed dated November 27, 1896 from Murty Gargan to Catherine Gargan recorded on December 17, 1896 in Book 73 of Deeds Page 480 being more particularly described as follows:

Beginning on the bank of the Pacific Ocean at the Northwest corner of the land now or formerly owned by Calvin Putnam; thence from said point of beginning along said ocean bank North 30°30' West 3.90 chains; thence North 45°30' West 5.62 chains; thence North 27°30' East 5 chains; thence North 21°30' West 1.89 chains; thence North 3° East 15.77 chains to the Southerly line of the lands of Benjamin, being a 53-acre tract as described in the Deed recorded on October 1, 1887 in Book 42 of Deeds at Page 388; thence along said Southerly line and projection thereof North 72°30' East 41.58 chains; thence North 53° East 16.34 chains; thence South 16°30' East 17.92 chains; thence South 22°30' East to Putnam's Corner; thence South 72°30' West 63.50 chains along the Northerly line of said lands of Putnam, said Northerly line also being the Northerly line of the lands described in that certain Deed from Pety Morrison to California Investment and Novelty Company as recorded on June 28, 1912 in Book 210 of Deeds at Page 425, to the point of beginning.

EXCEPTING THEREFROM all that portion Easterly of the Westerly line of the lands of the State of California as described in that Deed recorded on March 25, 1942, in Book 1013 of Official Records Page 185.

ALSO EXCEPTING THEREFROM any portion that may lie within the old County Road leading from Half Moon Bay to San Gregorio.

APN: 066-330-170 (Ptn.)

PENGAD 800-631-6989

EXHIBIT

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