

Trade Martin's Beach? Mr. Khosla, you must be kidding

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Trade Martin's Beach? Mr. Khosla, you must be kidding

- Clay Lambert - HALF MOON BAY REVIEW

Remember Martin's Beach? Sure you do. It's the crescent-shaped bit of sand and shore just south of Half Moon Bay that is just about as close to heaven as Californians can get without passing through the pearly gates.

You will remember that the beach was open for years and years, though you had to pass along a private road to get there. For that privilege, the Deeney family charged a nominal sum and everyone was mostly happy for generations. One of the many people who loved the spot, apparently, was a Silicon Valley billionaire named Vinod Khosla. So, in 2008, he bought it. Or, more truthfully, he bought the private property surrounding what had always been a public beach.

The trouble started because he didn't see much distinction between buying the beach and the land surrounding it. A couple years later, he closed the gate the public had always used to access the beach. All sorts of good theater followed. Surfers made sport of jumping the fence and riding the suddenly forbidden waves. Former U.S. Rep. Pete McCloskey held a photo opportunity at the gate that attracted media from across the state. Two lawsuits were filed, won and subsequently appealed.

Somewhere along the way, San Mateo County authorities announced they would not enforce trespassing claims on the land, and so the beach has remained functionally open to visitors willing to subvert the new owner's wishes.

Now there is a deadline fast approaching that might bring the access matter to a head.

In 2014, Gov. Jerry Brown signed state Sen. Jerry Hill's bill requiring the State Lands Commission to negotiate some right of way with the land owner. The bill gave the parties until Jan. 1, 2016, to hammer out some agreement that would assure public access into perpetuity. That is 15 days from today. And what if no settlement is reached? Hill's bill specifically enables the State Lands Commission to take property deemed necessary for public access through eminent domain.

With that in mind, the State Lands Commission has proposed an easement across little more than six acres that would allow Khosla's limited liability corporation that owns the land to control the land the cabins are on, bluff tops and the rest of what is a beautiful property. Khosla's company hasn't responded to that proposal, according to a staff report included with an agenda for Friday's State Lands Commission meeting in Sacramento.

Instead, there is reference to a novel idea from the Khosla brain trust: Let's trade.

"Martins Beach LLC has proposed the concept of a land exchange involving ... the entire Martin's Beach property for another coastal property with a private beach that the state either already owns or, presumably, would acquire," the staff report reads. It was not immediately clear whether such a parcel exists, but, as the report points out, that wasn't the charge outlined in a bill specifically designed to return access to Martin's Beach.

This costly, seemingly never-ending charade is an insult to Californians from Eureka to Chula Vista. We're not trading one beach you can't privatize for another. Stop kicking the can down the road to Martin's Beach. Open the gate, Mr. Khosla. Enough already.

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(3) comments

[Vince](#) Dec 17, 2015 12:35pm

Mr. Khosla is known as a hard ball negotiator. Being rich affords one the luxury of hiding and stalling behind lawyers and shell corporations or popping out from behind them to taunt one's opponents in eleventh hour negotiations with impossible counteroffers.

Happy holidays, Scrooge.

It's looking like Jerry Hill's grand compromise is a failure, after wasting a year. The CCC has not made good on their fine threats. The public is looking at another ten years of court appeals over the existing court cases or eminent domain action by CA State Lands Commission over whether a billionaire has the right to convert a public beach and part of the Pacific Ocean to their personal use.

How many citizens will be denied the right to visit Martin's Beach over one billionaire's attempt at appropriation of a public resource?

[y_p_ww](#) Dec 17, 2015 4:41pm

SB968 kicks into the eminent domain phase on January 1. However, I'd note that I'd been confused as to the various court rulings and how they fit in to the narrative of public access. It's kind of complicated because of all the various efforts to gain public access to the beach. I had another look at the Buchwald ruling, and it does appear that said judge ruled that the entire sandy beach (including submerged tidelands) was private property. Of course that ruling is under appeal and some feel it stands a good chance of being overturned, with the rationale that the judge misinterpreted where the property lines were at least for the beach. Then there was the Mallach ruling that said that the gate must be open to the extent that it was before being closed in 2008, along with a ruling that the public could access the beach. Then SB968 allows the state to buy land and/or a public easement, although it's unclear whether or not that means just the road or the road and the beach. Add on top of that the prescriptive easement study from the Coastal Commission that theoretically could make all of this unnecessary.

From a practical point of view, Martins Beach is now a de facto public beach. The Mallach ruling essentially says that the public has a right to access the beach pending a coastal development permit to close the gate/beach. The San Mateo County Sheriff's Office has stated that they won't arrest or cite anyone for trespassing on the road or beach given that there is no legal certainty as to whether or not it is trespassing. So I'd say right now nobody is really denied access to the beach.

[Vince](#) Dec 17, 2015 6:39pm

y_p_ww writes:

"SB968 kicks into the eminent domain phase on January 1."

Assuming the CA State Lands Commission actually goes the eminent domain route, what's to keep Khosla or one of his shell corporations from suing and getting injunctive relief to keep the access road gate closed under the plaintiff's alleged rights under the Treaty of Hidalgo Rivera (which predates the California State Constitution and any current State agency's authority)? That's the fiction SMC Superior Judge Buchwald bought from Khosla's attorneys in his ruling. Until, Buchwald's ruling is invalidated by an appellate court, it stands. In the other existing case, Judge Mallach ruling to keep access open has not been honored by Khosla or his representatives. So, the prevailing jurisprudence in SMC Superior Court is to show deference to billionaire Khosla.

y_p_ww writes:

"However, I'd note that I'd been confused as to the various court rulings and how they fit in to the narrative of public access."

y_p_ww still is.

y_p_ww writes:

"It's kind of complicated because of all the various efforts to gain public access to the beach. I had another look at the Buchwald ruling, and it does appear that said judge ruled that the entire sandy beach (including submerged tidelands) was private property. Of course that ruling is under appeal and some feel it stands a good chance of being overturned, with the rationale that the judge misinterpreted where the property lines were at least for the beach."

y_p_ww should try reading Judge Buchwald's ruling.

y_p_ww writes:

"Then there was the Mallach ruling that said that the gate must be open to the extent that it was before being closed in 2008, along with a ruling that the public could access the beach." Judge Mallach hasn't enforced her ruling.

y_p_wv writes:

"Then SB968 allows the state to buy land and/or a public easement, although it's unclear whether or not that means just the road or the beach and the beach."

The beach, the tidelands and the Pacific Ocean don't belong to Khosla or any of his holding companies except in Judge Buchwald's ruling. Once that is thrown out, the only issue is access to the beach, tidelands and ocean over Khosla's land. Why should CA State Lands Commission use state funds to buy something that most legal experts believe already belongs to the public?

y_p_wv writes:

"Add on top of that the prescriptive easement study from the Coastal Commission that theoretically could make all of this unnecessary."

Maybe maybe not. Studying and enforcing it in court are two very different things. All the CCC has done to date is write letters.

y_p_wv writes:

"From a practical point of view, Martins Beach is now a de facto public beach."

That's may be true, if one can climb over the gate and doesn't mind being hassled by Khosla's fee gatherers, if they are present on the day that one visits. What of the disabled? What of those that prefer to drive down to the beach with their group or gear?

y_p_wv writes:

"The Mallach ruling essentially says that the public has a right to access the beach pending a coastal development permit to close the gate/beach."

Is Mallach enforcing her ruling? Why is the gate closed? Why can't the public drive down to the beach?

y_p_wv writes:

"The San Mateo County Sheriff's Office has stated that they won't arrest or cite anyone for trespassing on the road or beach given that there is no legal certainty as to whether or not it is trespassing."

The one agency in this whole mess that actually took a stand. Probably because the SMC DA opined he couldn't get a jury conviction for trespassing in SMC, based on what a typical SMC jury would think of this mess.

y_p_wv writes:

"So I'd say right now nobody is really denied access to the beach."

Again, people with disabilities are and people that would prefer to drive their group or gear down to the beach are.

A rather lame attempt at confusing the issues, minimizing the impact on the public and spinning in favor of Khosla.

[Billionaire Vinod Khosla Must Let The Public Access His Private ...](#)

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24 Sep 2014 ... Billionaire venture capitalist Vinod Khosla must open the gate to the access ... Billionaire Vinod Khosla Must Appear in Court Over Martin's Beach Lawsuit, Judge. ...

"They have been taking an extreme view and don't want to ...

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[Pacifica.city@... Building Better Neighborhoods!](#)

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<https://secure.www.mercurynews.com/>

[Billionaire Vinod Khosla Must Appear in Court Over Martins Beach ...](#)

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9 May 2014 ... Billionaire Vinod Khosla Must Appear in Court Over Martins Beach ... venture capitalist Vinod Khosla must allow public access to a beach near ...

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[http://www.forbes.com/sites/ellenhuet/\[...\]ver-martins-beach-lawsuit-judge-rules/](http://www.forbes.com/sites/ellenhuet/[...]ver-martins-beach-lawsuit-judge-rules/)

[Breaking News - ContraCostaTimes.com](#)

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In-depth coverage of breaking news from the Contra Costa Times and other outlets. Breaking news articles, photos, videos for Walnut Creek, nationwide and more.

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<http://www.contracostatimes.com/breaking-news>

[Vinod Khosla Loses Beach Suit - Business Insider](#)

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24 Sep 2014 ... San Mateo County Court Judge Barbara Mallach has ruled against Silicon Valley billionaire Vinod Khosla in a lawsuit over public access to ...

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<http://www.businessinsider.com/vinod-khosla-loses-beach-suit-2014-9>

[News - San Jose Mercury News](#)

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News coverage from the San Jose Mercury News

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<http://www.mercurynews.com/news>

[The Beach That Venture Capital Couldn't Buy - Pacific Standard](#)

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7 Jan 2015 ... Tech billionaire Vinod Khosla claims he just wants to preserve Martins Beach. ... Vinod Khosla bought Martins Beach in 2008, and closed it to the public in 2010. ... Over the last half of 2014, a judge ordered Khosla to open the beach, ... Californians take their beaches seriously: Where local governments in ...

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[http://www.psmag.com/nature-and-techno\[...\]capital-couldnt-buy-vinod-khosla-97652](http://www.psmag.com/nature-and-techno[...]capital-couldnt-buy-vinod-khosla-97652)

[Beach Closed, Keep Out: Billionaire Tries to Block Surfers - NBC News](#)

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28 Aug 2014 ... Silicon Valley billionaire Vinod Khosla purchased beachfront property at Martins ... Property owners and the public have clashed over beach access nationwide. "They have been taking an extreme view and don't want to ...

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[http://www.nbcnews.com/news/investigat\[...\]billionaire-tries-block-surfers-n191441](http://www.nbcnews.com/news/investigat[...]billionaire-tries-block-surfers-n191441)

[Valleywag - Sorry to disrupt.](#)

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Sorry to disrupt. ... After Reddit's surrender to white supremacy this week, users and observers alike have been trying to figure out how exactly we got to this nadir.

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<http://valleywag.gawker.com/>

[Martins Beach: Judge rules against mogul Vinod Khosla, orders ...](#)

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24 Sep 2014 ... Dec 15: Half Moon Bay: Billionaire Vinod Khosla proposes trade of Martins ... battle gets personal as public submits moving stories about the beach ... The Surfrider case is one of four fronts in the battle over Martins Beach.

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[http://www.mercurynews.com/san-mateo-c\[...\]judge-rules-against-khosla-orders-gate](http://www.mercurynews.com/san-mateo-c[...]judge-rules-against-khosla-orders-gate)

[Climateer Investing](#)

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From FINalternatives: Nearly sixty percent of global institutional investors believe the U.S. Federal Reserve will hike interest rates three or more times over the ...

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<http://climateerinvest.blogspot.com/>

[Vinod Khosla, Silicon Valley Billionaire, Loses Legal Battle to Keep ...](#)

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24 Sep 2014 ... Vinod Khosla, Silicon Valley Billionaire, Loses Legal Battle to Keep ... in the legal fight over Khosla closing public access to Martin's Beach in San ... Watch NBC News' report on the battle over Martin's Beach. But I'm afraid because of his money he will sue and sue and sue until he gets what he wants.

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[http://www.nbcbayarea.com/news/local/S\[...\]ch-Access-Illegal-Judge-277005061.html](http://www.nbcbayarea.com/news/local/S[...]ch-Access-Illegal-Judge-277005061.html)

[Billionaire who barred access to Martin's Beach takes stand - LA Times](#)

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12 May 2014 ... Silicon Valley venture capitalist Vinod Khosla took the stand Monday ... Civil trial over public access to beloved Martin's Beach gets underway.

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<http://www.latimes.com/local/la-me-martins-beach-20140513-story.html>

[Billionaire broke law by barring access to Martin's Beach, judge rules](#)

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24 Sep 2014 ... Judge tentatively rules that Vinod Khosla wrongly denied public ... Vinod Khosla, shown in 2009, was sued over access to Martin's Beach, ...

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<http://www.latimes.com/local/la-me-martins-beach-20140925-story.html>