

**CALIFORNIA COASTAL COMMISSION**

South Coast Area Office  
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(562) 590-5071



July 31, 2014

Laurie Jester, Acting Director of Community Development  
City of Manhattan Beach  
1400 Highland Avenue  
Manhattan Beach, CA 90266-4795

**Re: Manhattan Beach Proposed Pier Safety Regulations - Permit Requirements**

Dear Ms. Jester:

On July 7, 2014 the City of Manhattan Beach communicated with Commission staff, via email, that a shark on a fisherman's line injured a swimmer on Saturday, July 5th and in response to the concern for public safety, the City closed the beach and pier. You further stated that the pier and beach had been reopened but there was still a safety concern due to fishing on the pier and requested Commission staff input on temporary emergency fishing limitations. Commission and City staff discussed these issues, including alternatives to fishing limitations from the pier and a City Council meeting scheduled for July 15 to discuss potential measures, late in the day on July 7<sup>th</sup>. At the conclusion of the conversation it was Commission staff's understanding that the City would be requesting an Emergency Permit from the Coastal Commission. However, on July 8, 2014 the City sent a copy of an Emergency Coastal Development Permit, issued by the City on July 7<sup>th</sup> and revised on July 8<sup>th</sup>, pursuant to Section A.96.190 of the City's Municipal Code (Emergency Coastal Development Permit) prohibiting fishing from the pier for sixty days (until September 7, 2014).

As we discussed, although Section A.96.190 of the City's Municipal Code does allow the City, under defined circumstances, to issue an Emergency Coastal Development Permit, Section A.96.190.B clearly states that the City cannot grant an Emergency Coastal Development Permit for any development that falls within any area where the Commission retains permit authority (e.g., the portion of the pier that extends over the ocean/submerged lands). Only the Commission can issue an Emergency Coastal Development Permit within its retained permit jurisdiction, when circumstances warrant the issuance of such Permit.

In response to Commission staff's position concerning the City's issuance of an Emergency Permit within the Commission's retained jurisdiction, on July 10, 2014 the City requested that the Coastal Commission issue an Emergency Coastal Development Permit, pursuant to Public Resources Code Section 30611, in order to prohibit fishing from the pier for sixty days. We do not agree that an Emergency Coastal Development Permit to prohibit fishing from the pier for sixty days under Section 30611 is appropriate because, as part of the justification for an emergency it must be shown that there is imminent danger to life or property, the City has not demonstrated that public property or life is in imminent danger. The alternative basis for emergency permit isn't satisfied either because the City also hasn't demonstrated that there are public works, utilities, or services affected by any claimed emergency. The shark attack on the swimmer is an isolated incident that does not warrant the complete closure of a popular fishing pier for 60 days during the height of summer season. There are alternative measures that do not restrict coastal access that can be implemented, on an interim basis, to

address this potential nuisance issue by reducing the risks to swimmers and surfers from fisherman who are fishing for sharks. Educational signage that discourages the public from specifically fishing for sharks and the monitoring of fishing activities by City police, County Lifeguards or volunteer monitors/docents are a few alternatives that would reduce the risks to swimmers and other water users. In addition, interpretive and educational signage highlighting the fact that sharks do frequent the near shore areas of the south bay and that sharks are a critical component of healthy ocean ecology.

On July 17, 2014, you forwarded to our office the City's draft proposed Pier Safety Regulations. The City is considering the imposition of new regulations for fishing from the Manhattan Beach Pier because a recent episode involving an injury to a person swimming near the pier which was caused by a shark caught on a fisherman's line. The City asserts that additional regulations are necessary to protect and enhance public safety for all recreational users of the pier, ocean and beach. The draft regulations currently under City consideration apply to fishing only, and include:

1. Baited hooks only.
2. No snag lines.
3. Monofilament line only, no steel/metal/braided leader lines.
4. Limit monofilament line weight.
5. Limit fishing to the end of the Pier (surrounding the Roundhouse).

Also, the City would clarify existing Code regulations to make it clear that chumming and fish cleaning is prohibited on the pier.

Section 30600(a) of the Coastal Act requires that anyone wishing to perform or undertake any development within the coastal zone shall obtain a coastal development permit. Development is broadly defined by Section 30106 of the Coastal Act, which states:

*"Development" means, on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; **change in the intensity of use of water, or of access thereto**; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvesting of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations which are in accordance with a timber harvesting plan submitted pursuant to the provisions of the Z'berg-Nejedly Forest Practice Act of 1973 (commencing with Section 4511).*

In this case, the imposition of restrictions to fishing from the pier will be considered "development" if such restrictions result in any change in the intensity of use of water, or of

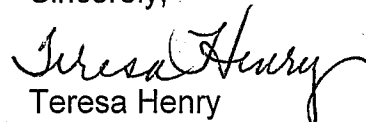
access thereto. Limiting fishing to the end of the Pier surrounding the Roundhouse, as the City has done pursuant to an emergency action, is "development" for which the City must obtain a coastal development permit. Since the subject area (the portion of the pier that extends over the ocean) is within the Commission's retained jurisdiction, the City must apply to the Commission for the necessary coastal development permit, however, as noted below, we do not feel that restricting fishing to the end of the pier is consistent with coastal access and recreation policies of the Coastal Act, and there are preferable alternative measures for addressing this public safety issue that would not result in restriction of coastal access.

The City's coastal development permit application to the Commission should be to implement measures to minimize the risk to public safety, in a manner that maximizes public access and public recreation on the pier as well as the beach. Section 30210 of the Coastal Act requires that access to navigable waters be maximized consistent with Section 4 of Article X of the California Constitution. Section 30213 of the Coastal Act protects lower cost visitor and recreational facilities such as fishing piers. We do not concur with the City's assertion that there is a basis for limiting fishing to the end of the Pier surrounding the Roundhouse, as such a limitation would adversely affect a lower cost recreational activity on the pier and would not maximize public access to the state's navigable waters for the public trust uses such as fishing. We suggest measures such as public education and interpretive signage, and support the proposed clarifications to the existing Code regulations prohibiting chumming and fish cleaning, as well as prohibition on disposal/dropping of refuse on the beach, ocean or land, and extending the surf fishing safety regulations to the pier.

Finally, any new regulations regarding types of fishing line/hooks (items 1 through 4) may need approval from the California Fish and Game Commission. Commission staff stands ready to assist the City in exploring options to resolve this matter in a way that protects public safety and ensures maximum public access and recreational opportunities are afforded to all visitors utilizing the pier, beach and ocean.

Please call me at (562) 590-5071 if you have any questions. If necessary, we can meet with the City to discuss this matter.

Sincerely,

  
Teresa Henry  
District Manager