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As California attempts a 'managed retreat,' coastal homeowners sue to stay

Mirada Road is a small cul-de-sac that runs right up to the edge of the Pacific Ocean, skirting the rim of a 30-foot bluff. The townhomes on this street, which is located in Half Moon Bay, California, are separated from the sea by nothing but a pedestrian walking trail on a beach that is eroding a few inches every year.

Back in 2016, a storm sent huge waves crashing against the shoreline, destroying most of the bluff overnight and leaving the Mirada Road homes in danger of immediate collapse. The homeowners association rushed to build a rock wall that would protect their homes.

The legal battle that followed was even more turbulent than the storm. The homeowners took their case to the California Coastal Commission, which regulates all construction along the coastline, but after weighing the matter for months, the commission shot down a proposal to make the new rock wall on the bluff permanent. This seemed to be a signal that the commission didn't think the homes on Mirada Road should stay there.

Two years later, the commission approved a land management plan for the city of Half Moon Bay that again suggested Mirada Road's days were numbered. The document said beachfront property owners should start planning to relocate or remove their vulnerable homes. There wasn't a timeline stipulating when they should do so, nor was there any information on who would pay for relocation.

The homeowners' association sued the agency not once but twice, arguing both that the commission was required to protect Mirada Road under state law *and* that Half Moon Bay's plan to relocate homes was unconstitutional. The locals got a favorable preliminary ruling in the first case, convincing a state

court judge that the commission was in the wrong. They are now pressing the agency to settle and allow their proposed sea wall, while also pushing to overturn Half Moon Bay's relocation plan.

The fracas over Mirada Road is just the latest in a series of legal disputes over "[managed retreat](#)," a controversial climate adaptation policy that calls for relocating and removing coastal structures rather than protecting them where they are. Experts say managed retreat is an important last-resort option for adapting to climate change, but California's early attempts to implement the policy have provoked a backlash from homeowners and politicians. The coastal commission [has faced several lawsuits](#) from property owners along the coast seeking to challenge its attempts to limit coastal development. Losing these lawsuits that could set a precedent that limits the commission's ability to manage the coastline.

A 2016 storm eroded the bluff in front of Mirada Road in Half Moon Bay. Homeowners on the road are suing a state agency. *California Coastal Records Project*

Homeowners on the California coast are some of the wealthiest in the country, and they have the money to exploit any legal ambiguities around the state's authority to regulate coastal development, said Charles Lester, a former director of the California Coastal Commission.

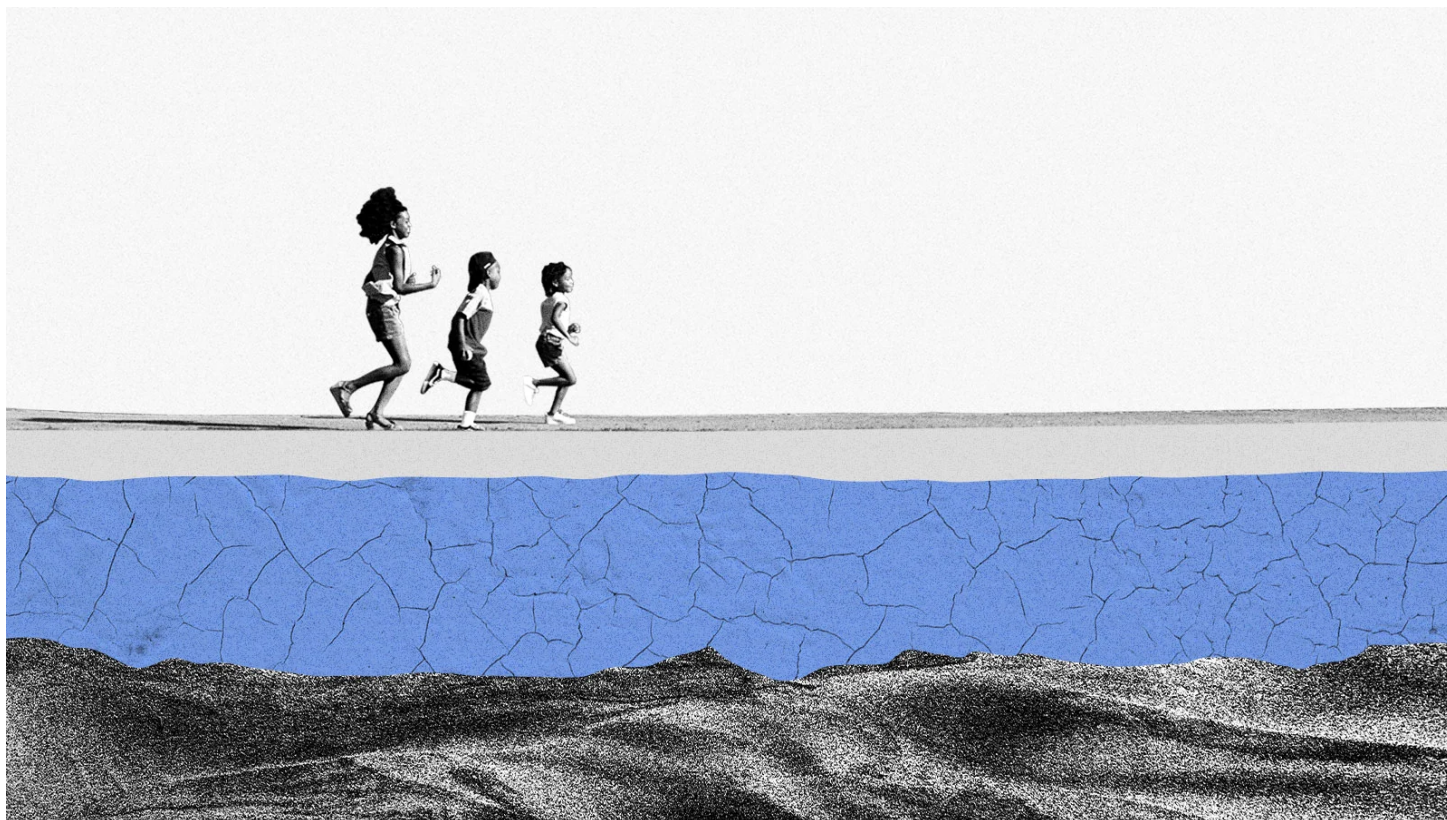
"There's a lot of money involved, and anytime you have a lot of money you have the ability to litigate," Lester told Grist. "Any time there's even a crack of uncertainty about what the law might mean, you're gonna have people with money make those challenges."

The threat of sea-level rise looks different in California than it does on the East Coast, where rising water causes more frequent tidal floods and increases the risk of dangerous storm surge. On the rocky West Coast, the risk is less from flooding than from rapid erosion that can pull homes and highways into the sea.

The California Coastal Commission has broad authority to regulate any and all structures built along the shoreline, and during an ordinary monthly meeting the commission weighs everything from individual home remodelings to massive desalination plants. The commission has sometimes used this discretion to deny seawalls and rock structures that could erode public beaches, but about a decade ago the agency started giving shoreline cities money to update their mandatory coastal management plans, and encouraged these cities to at least consider managed retreat. The state also published a [statewide sea-level-rise policy](#) that endorsed managed retreat as a "framing principle."

“It’s kind of a no-brainer, just from a common sense standpoint,” said Lester. “What can we do if we’re trying to develop along an eroding shoreline? Maybe move back?”

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But the commission’s actions set off a firestorm of criticism and protest, most of it from wealthy beachfront cities around San Francisco and San Diego. Towns like [Del Mar Beach](#) and [Pacifica](#) vowed not to consider managed retreat in their coastal plans after outcry from residents. The California Association of Realtors founded [a lobbying organization](#) to advocate against the policy, giving more than \$1 million to the effort. The Pacific Legal Foundation, a leading conservative legal fund, has funded several lawsuits against the commission’s decisions to [limit shoreline armoring](#); in one case, the foundation managed to overturn a decision denying a sea wall permit for a vulnerable [mobile home park](#) in Orange County.

To be sure, the agency’s managed retreat push faces some practical headwinds. For one, opponents say California law prohibits it. The 1976 bill that created the coastal commission says the body must approve sea walls that “protect existing structures,” but lawyers have been arguing for years about what that means. Does the clause mean all structures that existed when the law was written, as the

commission now maintains, or all structures that exist at any time? If it's the latter, as the court in the Mirada Road case said, then the commission has almost no authority to stop people from staying on the coast.

Furthermore, the California constitution lists "protecting property" as an "inalienable right," and many opponents of managed retreat have argued that the policy infringes on that right by forcing homeowners to let the ocean overwhelm their properties. The Mirada Road plaintiffs also argue that Half Moon Bay's managed retreat plan "requires that homes be demolished or moved without payment of just compensation," and thus violates those property rights.

The California Coastal Commission, the city of Half Moon Bay, and a lawyer for the Mirada Road plaintiffs all declined to comment on the details of the lawsuit, but Kelsey Ducklow, the commission's statewide resilience coordinator, told Grist that the state's policy is not to categorically require managed retreat.

"We're trying to make clear to local governments from our end that it's not managed retreat or nothing — there's a mix of options, but there are hard decisions," said Ducklow.

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But litigation over managed retreat could leave cities on the hook for compensating coastal homeowners, said Paul Grisanti, a real estate agent and a member of the Malibu city council. Grisanti is also the president of Smart Coast, the California Association of Realtors group that opposes managed retreat. He added that even a few lawsuits from coastal homeowners could all but bankrupt his well-resourced city.

“In Malibu, if we lose three good-sized houses, and we lose the litigation on those houses, that’s our whole budget,” said Grisanti. “And most cities don’t have anywhere near the reserves we do, so for them it’s likely to be disastrous a hell of a lot quicker.” For example, the combined value of all the townhomes on Mirada Road could approach \$20 million, [about the same as Half Moon Bay’s annual budget](#).

These legal concerns have landed the coastal commission in a quagmire. Despite the commission’s broad authority to regulate the coastline, it has been unable to convince coastal cities to embrace managed retreat, and its own attempts to limit construction have met frequent litigation. If an appeals court creates a precedent out of the lower state court’s ruling in the Mirada Road lawsuit, the commission will have to keep letting homeowners armor properties that are already there.

A loss for the commission in the Mirada Road case would likely lead to a flood of new lawsuits, and would limit the commission’s attempts to mandate managed retreat, said Lester, the former coastal commission director.

“There’s a danger in opening that door and acquiescing,” Lester told Grist. “There are I don’t know how many blufftop homes in California that would like a new sea wall. And I’m sure there’s lawyers ready to take those cases, because most of those homeowners are pretty wealthy.” A few of the named plaintiffs in the Mirada Road lawsuit are not live-in residents but limited liability companies, suggesting some of the townhomes may be investment properties rather than resident-occupied homes.

It’s likely impossible to protect all structures on the coastline from erosion, but the state government also won’t be able to convince people to move back through brute force, according to Gary Griggs, a professor of earth sciences at the University of California, Santa Cruz, who has studied managed retreat. Instead, the state will have to make retreat seem palatable and worthwhile to the communities that have risen up against it.

“We’re in this dilemma of figuring out, how do you convince the community to move?” said Griggs. “What most people are saying is, ‘Yeah, I’ll move back if you give me \$5 million for my property.’” Griggs argues that the most viable path for large-scale retreat is a voluntary program that could compensate homeowners for giving up their houses, rather than an attempt to prohibit them from protecting their homes with shoreline armoring.

The Federal Emergency Management Agency, or FEMA, has experimented with such voluntary buyout programs along rivers in [North Carolina](#) and Texas, but properties along the California coast are far more expensive; buying them out en masse would cost tens of billions of dollars, about the same as recovery from a major hurricane. The median home sale price in San Mateo County, which encompasses Half Moon Bay, is around \$1.5 million, according to data from the real estate company Redfin.

Even wealthy California would struggle to pay for that: The state legislature passed a bill in the past two legislative sessions that would have created a buyout program allowing the state to purchase properties and rent them back to their original owners, but Governor Gavin Newsom has [vetoed it](#) twice, saying it lacked information about funding.

Still, the cost of managed retreat even in California may pale in comparison to the cost of staying put, said Mandy Sackett, the California policy coordinator for the Surfrider Foundation, an environmental nonprofit that advocates for coastal protection. It would likely be cheaper for cities to negotiate with property owners and relocate public infrastructure before a disaster than to face cleanup costs and litigation as structures fall into the sea.

“We do have to be really careful that it doesn’t turn into a payday for the rich,” she told Grist. “But I think in part we’re seeing [retreat] happen kind of automatically — the coast is becoming a more and more difficult place to develop.” An Orange County city had to [demolish one coastal home](#) this winter after the land it was sitting on became unstable, and another city had to [evacuate a set of cliffside apartments](#) after a landslide. Sackett said that she expects more people to reconsider living on the shoreline after this winter’s devastating storms, which eroded many sections of the state’s beachfront.

It’s in the aftermath of such disasters that the state might have more success building a consensus around moving back from the water.

“We’re going to have to relocate structures, and managed retreat is just a way to do it in a more cost-effective way, and in a planned way,” she said. “Otherwise, it’s just going to be disaster response.”