

## TJ Marshall

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**From:** TJ - Surfrider Miami [tjsurfrider@bellsouth.net]  
**Sent:** Thursday, December 07, 2006 10:08 AM  
**To:** 'Celora.A.Jackson@dep.state.fl.us'; 'MARK.TAYNTON@DEP.STATE.FL.US';  
'MICHAEL.BARNETT@DEP.STATE.FL.US'; 'TONY.MCNEAL@DEP.STATE.FL.US'  
**Subject:** Public Record Request: Bal Harbour Beach Access Closure

Last month we forwarded your office a certified letter describing alleged violations of FL Statute 161.55(5) that are occurring at the One Bal Harbour Project in Miami-Dade County. In that letter, which we note being received by you on November 20, 2006, we requested investigation and remediation for the matter. To this date we have received no formal reply from your office. As the agency responsible for enforcement of the State's environmental laws, we hereby Public Record Request from your office all correspondence such as but not limited to, letters, faxes and emails that have occurred with Bal Harbour Village, WCI Communities or other State personnel regarding the violations we brought to your attention.

Should your office have no such records we would need a formal response stating such.

Sincerely,  
TJ Marshall  
Surfrider -- South Florida Chapter  
'Protecting our oceans, waves and beaches'  
305.586.1961

12/19/2006

**TJ Marshall**

**From:** South Florida Surfrider [miami@surfrider.org]  
**Sent:** Thursday, December 14, 2006 2:36 PM  
**To:** 'MICHAEL.BARNETT@DEP.STATE.FL.US'; 'TONY.MCNEAL@DEP.STATE.FL.US'; 'Celora.A.Jackson@dep.state.fl.us'; 'MARK.TAYNTON@DEP.STATE.FL.US'  
**Cc:** 'william.wilson@myfloridahouse.gov'; 'rubio.marco@myfloridahouse.com'; 'pruitt.ken.web@flsenate.gov'; 'lira.carrie@flsenate.gov'; 'transition@crstttransition.com'  
**Subject:** FDOT provides better State land protection than FL-DEP  
**Attachments:** FDOT Investigation Announcement.pdf; DEP Notice of Violation-Michael Barnett.rtf

**RE: Illegal Closure of Bal Harbour Beach Access by WCI Communities**

The Surfrider Foundation's South Florida Chapter recently received the attached letter from Florida Department of Transportation District Six Secretary, John Martinez, wherein he states:

"Let me assure you that these [Surfrider's] allegations are being investigated fully and that the Department has already met with officials from the "Village" to address your concerns and to ensure that the Department's property is put to its intended use.

Furthermore, The Department has demanded that public access to the beach and parking be made available immediately, and that no charge should be assessed to the public for such parking in that area."

Surfrider sent a certified letter to your office (copy attached) with allegations concerning the illegal closure of a public beach accessway that is in direct violation of FL Statute 161.55(5). To this date, the developer has not created a beach accessway of "substantially similar convenience" because they have failed to provide public parking at a temporary access site. Furthermore, WCI and The Village have not honestly attempted to acquire parking at the temporary beach access site and can show no proof of dollar value offers made to the property owner in order to acquire space for the public to park. WCI even confessed, in a letter to Bal Harbour Village, "the development agreement never considered the public inconvenience created by the closure". It was only through Surfrider's efforts that a temporary beach accessway was constructed 4 months after the original accessway closed. To this date, the public still has not received an official announcement that the temporary beach accessway is open.

**Clearly, WCI and the Village of Bal Harbour need State guidance on how to appropriately protect the public's right to access Florida's beaches. That the Florida Department of Transportation recognizes and acts upon the beach access issues under its jurisdiction while the Florida Department of Environmental Protection, the agency charged with enforcing the State's environmental laws, fails to even respond to certified letters describing the existing problems, is truly appalling and an embarrassment to the agency's mission: More Protection, Less Process.**

Surfrider asserts that the permit for the One Bal Harbour project should be immediately revoked. In addition, WCI should be required to pay damages and fines for violating FL Statute 161.55(5) by blocking the general public's access to the beach since July 5, 2006. WCI should not receive authorization to resume construction until fines are paid and either the original beach accessway is re-opened or parking for the general public is acquired at the temporary beach access location.

Regards,  
 TJ Marshall  
 Surfrider – South Florida Chapter  
 'Protecting our oceans, waves and beaches'  
 305.586.1961

12/19/2006