

**STAFF REPORT
C10**

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04/05/19
PRC 4362.1
S. Avila

GENERAL LEASE – RECREATIONAL USE

APPLICANT:

Charles Thomas Kaljian; Suzanne K. Cohen, Trustee of the Cohen Family Revocable Trust (Schedule B Assets) Established Under Revocable Trust Agreement dated February 13, 2017; and Gary P. Carlson and Anne K. Carlson as Trustees of the Carlson Family Living Trust dated May 29, 2009

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 6840 West Lake Boulevard, near Tahoma, Placer County

AUTHORIZED USE:

Continued use and maintenance of an existing pier and two mooring buoys.

LEASE TERM:

10 years beginning July 10, 2019.

CONSIDERATION:

\$957 per year, with an annual Consumer Price Index adjustment.

SPECIFIC LEASE PROVISIONS:

- Liability insurance in an amount no less than \$1,000,000 per occurrence.
- Lessee shall provide proof of a Tahoe Regional Planning Agency (TRPA) buoy permit or proof that unpermitted buoys have been removed by October 23, 2020.
- Lessee expressly acknowledges and agrees that issuance of a lease does not substitute for, or provide preference in, obtaining authorizations from TRPA or any other regulatory agency for the improvements authorized by the Commission.
- Lessee shall not store any personal items or construct any

STAFF REPORT NO. C10 (CONT'D)

improvements in the Public Trust easement which may impair the public uses of access, navigation, fishing and lake-related recreational uses.

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

Public Resources Code sections 6005, 6216, 6301, 6501.1, 6503, and 6503.5; California Code of Regulations, title 2, sections 2000 and 2003.

Public Trust and State's Best Interests Analysis:

On April 6, 2010, the Commission authorized a Recreational Pier Lease for the continued use and maintenance of an existing pier and two mooring buoys to Thomas E. Kaljian; and Gary P. Carlson and Anne K. Carlson as Trustees of the Carlson Family Living Trust dated May 29, 2009 ([Item C05, April 6, 2010](#)). The lease will expire on July 9, 2019. The Applicant is applying for a General Lease – Recreational Use, for the continued use and maintenance of the existing pier and two mooring buoys.

The Applicant owns the uplands adjoining the lease premises. The subject facilities are privately owned and maintained. The pier and mooring buoys are used for the docking and mooring of boats. Recreational boating is a water-dependent use that is generally consistent with the common law Public Trust Doctrine. The California Legislature has identified private recreational boating facilities as an authorized use of Public Trust land (Pub. Resources Code, § 6503.5).

The pier and mooring buoys have existed for many years at this location. The pier is built on pilings, providing public access for pedestrians and lake-related activities at varying water levels underneath the pier. The two buoys are located directly lakeward of the upland property and occupy a relatively small area of the lake.

The proposed lease does not alienate the State's fee simple interest or permanently impair public rights. The lease is limited to a 10-year term, does not grant the lessee exclusive rights to the lease premises, and reserves an easement to the public for Public Trust-consistent uses. Upon termination of the lease, the lessee may be required to remove all improvements from State land and restore the lease premises to their original condition.

The proposed lease requires the lessee to insure the lease premises and indemnify the State for any liability incurred as a result of the lessee's

STAFF REPORT NO. C10 (CONT'D)

activities thereon. The lease also requires the payment of annual rent to compensate the people of the State for the occupation of the public land involved.

For all the reasons above, staff believes the issuance of this lease will not substantially interfere with Public Trust needs at this location, at this time, and for the foreseeable term of the proposed lease; is consistent with the Public Trust Doctrine; and is in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. This action is consistent with Strategy 1.1 of the Commission's Strategic Plan to deliver the highest levels of public health and safety in the protection, preservation, and responsible economic use of the lands and resources under the Commission's jurisdiction, and Strategy 1.3 to promote, expand, and enhance appropriate public use and access to land along the State's inland and coastal waterways.
2. On October 24, 2018, the TRPA Governing Board certified a FEIS and adopted Lake Tahoe Shorezone Ordinance Amendments.
3. Staff recommends that the Commission find that this activity is exempt from the requirements of the California Environmental Quality Act (CEQA) as a categorically exempt project. The project is exempt under Class 1, Existing Facilities; California Code of Regulations, title 2, section 2905, subdivision (a)(2).

Authority: Public Resources Code section 21084 and California Code of Regulations, title 14, section 15300 and California Code of Regulations, title 2, section 2905.

EXHIBITS:

- A. Land Description
- B. Site and Location Map

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that the activity is exempt from the requirements of CEQA pursuant to California Code of Regulations, title 14, section 15061 as a categorically exempt project, Class 1, Existing Facilities, California Code of Regulations, title 2, section 2905, subdivision (a)(2).

STAFF REPORT NO. **C10** (CONT'D)

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed lease will not substantially impair the public rights to navigation and fishing or substantially interfere with the Public Trust needs and values at this location, at this time, and for the foreseeable term of the lease; is consistent with the Public Trust Doctrine; and is in the best interests of the State.

AUTHORIZATION:

Authorize issuance of a General Lease – Recreational Use to the Applicant beginning July 10, 2019, for a term of 10 years, for the continued use and maintenance of an existing pier and two mooring buoys, as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; annual rent in the amount of \$957, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

PRC 4362.1

LAND DESCRIPTION

Three parcels of submerged land situate in the bed of Lake Tahoe, lying adjacent to Lot 2 fractional Section 8 Township 14 North, Range 17 East, MDM., as shown on Official Government Township Plat approved July 29, 1880, County of Placer, State of California, and more particularly described as follows:

PARCEL 1 – PIER

All those lands underlying an existing pier and catwalk lying adjacent to that parcel as described in Exhibit “A” of that Individual Grant Deed recorded November 26, 1980 as Volume 2329 Page 40 in Official Records of said County.

ALSO TOGETHER WITH any applicable impact area(s).

EXCEPTING THEREFROM any portion(s) lying landward of elevation 6223 feet LTD on the shoreline of said Lake Tahoe.

PARCELS 2, 3, – 2 BUOYS

Two circular parcels of land, being 50 feet in diameter, underlying two existing buoys lying adjacent to said parcel.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared December 18, 2018 by The California State Lands Commission Boundary Unit.





L A K E

T A H O E

2 EXISTING
BUOYS



75'



90'

EXISTING CATWALK
(2.5' X 28.5') &
9' IMPACT AREA

9.5'

6223'± LTD

EXISTING
PIER

.06

APPROXIMATE

SHORELINE

APN 098-200-005

7'

EXHIBIT A

Page 2 of 2

MJJ 12/18/2018

LAND DESCRIPTION PLAT
PRC 4362.1, KALJIAN ET AL.
PLACER COUNTY

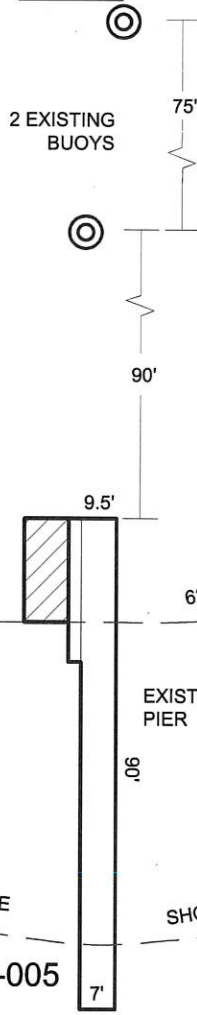
CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

SITE

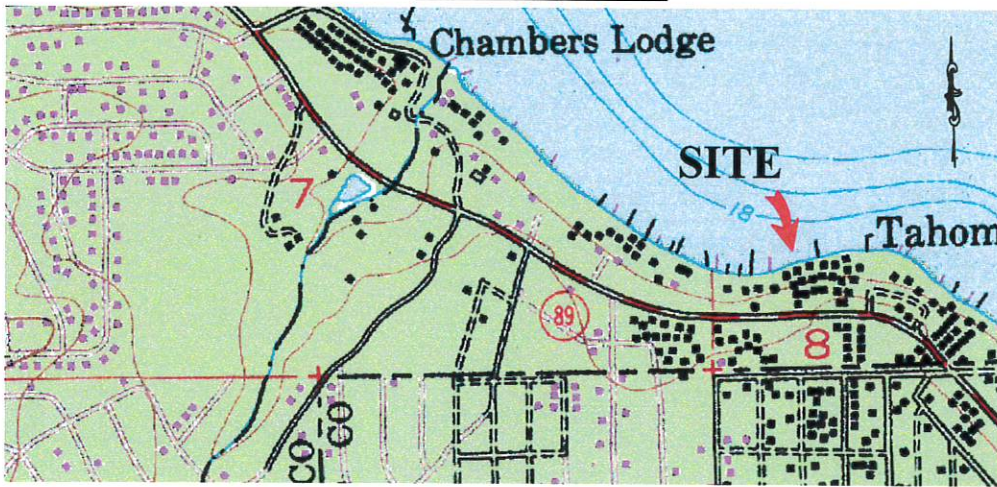
L A K E
T A H O E



6840 WEST LAKE BLVD., NEAR TAHOMA

NO SCALE

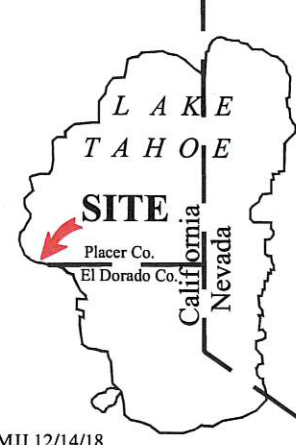
LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

PRC 4362.1
 KALJIAN ET AL.
 APN 098-200-005
 GENERAL LEASE -
 RECREATIONAL USE
 PLACER COUNTY



This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.

MJJ 12/14/18