

50. APPLICATION FOR BOUNDARY LINE AGREEMENT, HIDDEN HARBOR MARINA, RYER ISLAND, SOLANO COUNTY; MR. AND MRS. BARTHOLD CLYDE - W.O. 320.534, W.O. 220.19.

During consideration of Calendar Item 46 attached, the Executive Officer reported on the continuing efforts by staff to attempt to arrive at a solution of the problem on the bases recommended by the Commission.

The Chairman raised the question of the possibility of solving the problem without litigation, in the best interests of all concerned.

Mr. George Bayse, Attorney for Mr. and Mrs. Barthold Clyde, emphasized the need for prompt resolution of the problem from the standpoint of his clients, but indicated that he was willing to wait until the January 1969 meeting of the Commission to hear whether or not a lawsuit by the State was considered necessary, or if a boundary agreement could be reached in favor of the Clydes.

The Chairman asked that the record show that the Clydes had not been singled out by the State for action, but had become involved as the result of an application filed by the Clydes with the U. S. Army Corps of Engineers for authority to conduct operations on navigable waters.

UPON MOTION DULY MADE AND CARRIED, THE FOLLOWING RESOLUTION WAS ADOPTED:

THE COMMISSION AUTHORIZES THE STATE LANDS DIVISION TO PROCEED WITH NEGOTIATIONS ON A PROPOSED INTERIM LEASE WITH MR. AND MRS. BARTHOLD CLYDE, AT A RENTAL RATE OF \$150 PER ANNUM FOR THE INTERIM PERIOD, PENDING FINAL RESOLUTION OF THE TITLE DISPUTE IN THE MATTER OF THE HIDDEN HARBOR MARINA, RYER ISLAND, SOLANO COUNTY; PRIORITY CONSIDERATION IS TO BE GIVEN BY THE STATE LANDS DIVISION AND THE OFFICE OF THE ATTORNEY GENERAL TO RESOLVING THE PROBLEM, PREFERABLY WITHOUT LITIGATION; WITH A REPORT TO BE MADE AT THE JANUARY 1969 MEETING OF THE COMMISSION, WITH THE UNDERSTANDING THAT IN THE ABSENCE OF ANY CHANGE IN DATA AT THAT TIME, THE STATE WOULD ENTER INTO AN INTERIM LEASE, SUBJECT TO COMMISSION APPROVAL, AND LATER AMENDMENT IF NECESSARY, AS SOON AS PRACTICABLE AFTER THE JANUARY 1969 MEETING, AND, PROVIDED THAT MUTUALLY ACCEPTABLE TERMS CAN BE FORMULATED, THE LEASE TO CONTINUE AFTER RESOLUTION OF THE DISPUTE IN FAVOR OF THE STATE ON REASONABLE TERMS AND CONDITIONS CONSISTENT WITH OTHER LEASES OF THIS TYPE AND IN ACCORDANCE WITH THE COMMISSION'S RULES AND REGULATIONS, AND, IN THE EVENT OF RESOLUTION OF THE TITLE DISPUTE IN FAVOR OF THE CLYDES, THE LEASE TO TERMINATE AT THE TIME OF SUCH FINAL DETERMINATION; SUBJECT TO THE FURTHER UNDERSTANDING THAT EVERY EFFORT POSSIBLE WILL BE MADE TO RESOLVE THE PROBLEM WITHOUT LITIGATION, BUT THAT IF IT IS DETERMINED THAT LITIGATION IS NECESSARY, A LAWSUIT WILL BE FILED BY THE STATE NOT LATER THAN FEBRUARY 15, 1969.

Attachment

Calendar Item 46 (1 page)

46.

APPLICATION FOR BOUNDARY LINE AGREEMENT, HIDDEN HARBOR MARINA, RYER ISLAND, SOLANO COUNTY; MR. AND MRS. BARTHOLD CLYDE - W.O. 320.534, W.O. 220.19.

By letter dated November 1, 1968, from Mr. George Basye (copy attached as Exhibit "A"), the Clydes have submitted a proposal for an interim lease.

The proposal has been reviewed by the State Lands Division, which now makes the following recommendations:

1. By reason of the title and boundary dispute, an interim lease is a proper solution at this time, pending final resolution of the disputes.
2. On the basis of the representations of the Clydes, the hardship to them appears to justify a reduced rental during the interim period.
3. As the lowest minimum rental for this type lease is \$150 per annum, the Division cannot recommend a rent at less than this yearly amount during the interim.
4. The Division is proceeding with its investigation of the facts in this case, but is not yet sufficiently prepared to go forward with the lawsuit, and cannot recommend approval of a condition requiring the State to bring immediate legal action.
5. Should the dispute be resolved finally in favor of the State by agreement or court decree, the lease should be continued. However, the terms and conditions then should be the same as with all other similar leases.
6. Should the dispute be resolved in favor of the Clydes by agreement or court decree, the lease should terminate, of course, at the time of final determination.

IT IS RECOMMENDED THAT THE COMMISSION AUTHORIZE THE STATE LANDS DIVISION TO PROCEED WITH NEGOTIATIONS ON A PROPOSED INTERIM LEASE WITH MR. AND MRS. BARTHOLD CLYDE, AT A RENTAL RATE OF \$150 PER ANNUM, FOR THE INTERIM PERIOD PENDING FINAL RESOLUTION OF THE TITLE DISPUTE, WITHOUT ANY CONDITION THAT THE STATE BE REQUIRED TO FILE SUIT IMMEDIATELY. THE TERM OF THE LEASE IS TO CONTINUE AFTER RESOLUTION OF THE DISPUTE IN FAVOR OF THE STATE ON REASONABLE TERMS AND CONDITIONS CONSISTENT WITH OTHER LEASES OF THIS TYPE AND IN ACCORDANCE WITH THE COMMISSION RULES AND REGULATIONS. IN THE EVENT OF RESOLUTION OF THE TITLE DISPUTE IN FAVOR OF THE CLYDES, THE LEASE IS TO TERMINATE AT THE TIME OF SUCH FINAL DETERMINATION.