

**CALENDAR ITEM
C20**

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12/17/09
WP 4272.1
N. Lee

GENERAL LEASE - RECREATIONAL USE

APPLICANTS:

William R. Shepherd, Jr. and Mary Jo Shepherd, Trustees of the William R. Shepherd, Jr. Homewood Qualified Personal Residence Trust, dated December 31, 2008, and William R. Shepherd, Jr. and Mary Jo Shepherd, Trustees of the Mary Jo Shepherd Homewood Qualified Personal Residence Trust, dated December 31, 2008

AREA, LAND TYPE, AND LOCATION:

Sovereign lands in Lake Tahoe, adjacent to 6210 West Lake Boulevard, near Homewood, Placer County.

AUTHORIZED USE:

Continued use and maintenance of an existing pier, boat house, sundeck with stairs, and two mooring buoys and the retention of two existing boat lifts in the boat house as shown on the attached Exhibit A.

LEASE TERM:

Ten years, beginning January 20, 2009.

CONSIDERATION:

Pier, Boat House, Two Boat Lifts, and Two Mooring Buoys: No monetary consideration pursuant to Public Resources Code section 6503.5.

Sundeck with Stairs: \$443 per year, with the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease.

SPECIFIC LEASE PROVISIONS:

Insurance:

Liability insurance with coverage of no less than \$1,000,000.

Other:

The lease contains provisions that the existing sundeck with stairs, as shown on the attached Exhibit A, cannot be expanded, and if repairs to any portion of the existing sundeck cost more than 50% of the base value

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of the sundeck, then the sundeck must be removed from the lease premises.

OTHER PERTINENT INFORMATION:

1. Applicants own the uplands adjoining the lease premises.
2. On February 27, 1998, the Commission authorized a Recreational Pier Lease with William R. Shepherd, Jr. and Mary Jo Shepherd, Trustees of the William R. and Mary Jo Shepherd Revocable Trust dated February 24, 1986, as amended April 2, 1990. That lease expired October 31, 2007. On January 20, 2009, the ownership of the upland property was transferred to William R. Shepherd, Jr. and Mary Jo Shepherd, Trustees of the William R. Shepherd, Jr. Homewood Qualified Personal Residence Trust, dated December 31, 2008, and William R. Shepherd, Jr. and Mary Jo Shepherd, Trustees of the Mary Jo Shepherd Homewood Qualified Personal Residence Trust, dated December 31, 2008. Applicants are now applying for a new General Lease – Recreational Use.
3. The adjoining upland property consists of two Assessor parcels divided by Highway 89. According to a representative of the California Department of Transportation, State Highway 89 in this area is an easement. The easement separates the littoral parcel (APN 098-041-002) from the property that is improved with a single family residence (APN 098-042-002). The littoral parcel is too small to be separately developed with a single family residence. For these reasons, the parcel that is improved with the house is considered to be littoral.
4. The buoys were permitted by the Tahoe Regional Planning Agency (TRPA) on September 22, 2009. The two boat lifts have not been previously authorized, but have been in the boat house for many years and were permitted by TRPA on October 9, 2009.
5. Applicants are natural persons who own the littoral land that is improved with a single-family dwelling. The existing pier, boat house, two boat lifts, and two mooring buoys are exempt from consideration pursuant to Public Resources Code section 6503.5. The sundeck with stairs does not qualify for rent-free status because it is not constructed for the docking or mooring of boats.
6. Staff is recommending that the Commission consider accepting rent in the amount of \$517 for the period from November 1, 2007, the date after the prior lease expiration, through January 19, 2009, the date prior to the

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ownership transfer to the new trust, and waive any penalty and interest that may have occurred.

7. **Pier, Boat House, Sundeck with Stairs, and Two Mooring Buoys:** Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (Title 14, California Code of Regulations, section 15061), the staff has determined that this activity is exempt from the requirements of the CEQA as a categorically exempt project. The project is exempt under Class 1, Existing Facilities; Title 2, California Code of Regulations, section 2905 (a)(2).

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

8. **Two Boat Lifts:** Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (Title 14, California Code of Regulations, section 15061), the staff has determined that this activity is exempt from the requirements of the CEQA as a categorically exempt project. The project is exempt under Class 3, New Construction of Small Structures; Title 14, California Code of Regulations, section 15303.

Authority: Public Resources Code section 21084 and Title 14, California Code of Regulations, section 15300.

9. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code sections 6370, et seq. Based upon the staff's consultation with the persons nominating such lands and through the CEQA review process, it is the staff's opinion that the project, as proposed, is consistent with its use classification.

EXHIBIT:

- A. Site and Location Map

RECOMMENDED ACTION:

IT IS RECOMMENDED THAT THE COMMISSION:

CEQA FINDING:

PIER, BOAT HOUSE, SUNDECK WITH STAIRS, AND TWO MOORING BUOYS: FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15061 AS A CATEGORICALLY EXEMPT PROJECT, CLASS 1, EXISTING

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FACILITIES; TITLE 2, CALIFORNIA CODE OF REGULATIONS, SECTION 2905 (a)(2).

TWO BOAT LIFTS: FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15061 AS A CATEGORICALLY EXEMPT PROJECT, CLASS 3, NEW CONSTRUCTION OF SMALL STRUCTURES; TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15303.

SIGNIFICANT LANDS INVENTORY FINDING:

FIND THAT THIS ACTIVITY IS CONSISTENT WITH THE USE CLASSIFICATION DESIGNATED BY THE COMMISSION FOR THE LAND PURSUANT TO PUBLIC RESOURCES CODE SECTIONS 6370, ET SEQ.

AUTHORIZATION:

1. AUTHORIZE ACCEPTANCE OF RENT IN THE AMOUNT OF \$517 FOR THE PERIOD OF NOVEMBER 1, 2007 THROUGH JANUARY 19, 2009, AND WAIVE ANY PENALTY AND INTEREST THAT MAY HAVE ACCRUED.
2. AUTHORIZE ISSUANCE OF A GENERAL LEASE – RECREATIONAL USE TO WILLIAM R. SHEPHERD, JR. AND MARY JO SHEPHERD, TRUSTEES OF THE WILLIAM R. SHEPHERD, JR. HOMEWOOD QUALIFIED PERSONAL RESIDENCE TRUST, DATED DECEMBER 31, 2008, AND WILLIAM R. SHEPHERD, JR. AND MARY JO SHEPHERD, TRUSTEES OF THE MARY JO SHEPHERD HOMEWOOD QUALIFIED PERSONAL RESIDENCE TRUST, DATED DECEMBER 31, 2008, BEGINNING JANUARY 20, 2009, FOR A TERM OF TEN YEARS, FOR THE CONTINUED USE AND MAINTENANCE OF AN EXISTING PIER, BOAT HOUSE, SUNDECK WITH STAIRS, AND TWO MOORING BUOYS AND THE RETENTION OF TWO EXISTING BOAT LIFTS IN THE BOAT HOUSE AS SHOWN ON EXHIBIT A ATTACHED AND BY THIS REFERENCE MADE A PART HEREOF; ANNUAL RENT IN THE AMOUNT OF \$443 FOR THE SUNDECK WITH STAIRS, WITH THE STATE RESERVING THE RIGHT TO FIX A DIFFERENT RENT PERIODICALLY DURING THE LEASE TERM, AS PROVIDED IN THE LEASE; NO MONETARY CONSIDERATION PURSUANT TO PUBLIC RESOURCES CODE SECTION 6503.5 FOR THE PIER, BOAT HOUSE, TWO BOAT LIFTS, AND TWO MOORING BUOYS; AND LIABILITY INSURANCE WITH

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COVERAGE OF NO LESS THAN \$1,000,000.