

**CALENDAR ITEM
C36**

A 67

04/06/10

S 35

WP 3859.1

D. Simpkin

**TERMINATION AND ISSUANCE OF A NEW GENERAL LEASE – RECREATIONAL
USE**

LESSEES:

James Antonowitsch and Kathleen Antonowitsch

APPLICANTS:

Scott S. Brown and Melissa L. Brown

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Huntington Harbour, adjacent to 16801 Bolero Lane, city of Huntington Beach, Orange County.

AUTHORIZED USE:

The continued use and maintenance of an existing boat dock, access ramp, and cantilevered deck extending no more than five feet waterward of the bulkhead.

LEASE TERM:

Ten years, beginning September 16, 2009.

CONSIDERATION:

Boat dock and access ramp: No monetary consideration pursuant to Public Resources Code section 6503.5.

Cantilevered deck: Annual rent in the amount of \$1,110, 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:

Combined single limit liability insurance coverage in the amount of no less than \$1,000,000.

Other:

No permanent roof or other enclosure will be constructed on the Lease Premises. Applicant agrees that any proposed use of the Lease Premises that includes a residential extension of the actual living quarters constitutes residential use and is prohibited.

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OTHER PERTINENT INFORMATION:

1. Applicants own the uplands adjoining the lease premises.
2. On June 20, 2005, the Commission authorized a ten-year General Lease – Recreational Use to James and Kathleen Antonowitsch. The upland property was deeded to the Applicants on September 16, 2009. Applicants are now applying for a General Lease – Recreational Use for the existing boat dock, access ramp, and existing cantilevered deck. The existing lease to James and Kathleen Antonowitsch will be terminated.
3. The State of California acquired fee ownership of the Huntington Harbour Main and Midway Channels in 1961 as a result of a land exchange entered into and recorded as Boundary Line Agreement 18, between the Commission and the Huntington Harbour Corporation. Appurtenances extending into these Channels are subject to lease pursuant to Public Resources Code section 6501, et seq. The Applicant's upland property is located along the Main Channel of Huntington Harbour. A five-foot portion of the cantilevered deck extends over the State's fee ownership in the Main Channel of Huntington Harbour.
4. The existing boat dock and access ramp qualify for rent-free status as the Applicants are natural persons who own the littoral land improved with a single-family dwelling pursuant to Title 2, California Code of Regulations, sections 2002 (f) and 2003 (a)(5).
5. The cantilevered deck does not qualify for rent-free status because it is not used for the mooring of boats. Therefore, that portion of the deck extending over State fee ownership within the Harbour is subject to annual rent pursuant to Title 2, California Code of Regulations, sections 2003 (a)(4) and 2002 (b)(3).
6. **Termination of Lease:** Pursuant to the Commission's delegation of authority and the State CEQA Guidelines [Title 14, California Code of Regulations, section 15060 (c)(3)], the staff has determined that this activity is not subject to the provisions of CEQA because it is not a "project" as defined by CEQA Guidelines.

Authority: Public Resources Code section 21065 and Title 14, California Code of Regulations, sections 15060 (c)(3) and 15378.

7. **Existing Boat Dock, Access Ramp, and Cantilevered Deck:** Pursuant to the Commission's delegation of authority and the State CEQA

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Guidelines (Title 14, California Code of Regulations, section 15061), the staff has determined that this activity is exempt from the requirements of 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. 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 CEQA review process, it is the staff's opinion that the project, as proposed, is consistent with its use classification.

EXHIBITS:

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

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

TERMINATION OF LEASE: Find that the activity is not subject to the requirements of CEQA pursuant to Title 14, California Code of Regulations, section 15060 (c)(3) because the activity is not a project as defined by Public Resources Code section 21065 and Title 14, California Code of Regulations, section 15378.

EXISTING BOAT DOCK, AND ACCESS RAMP AND CANTILEVERED DECK: Find that the activity is exempt from the requirements of CEQA pursuant to Title 14, California Code of Regulations, section 15061 as a categorically exempt project, Class 1, Existing Facilities; Title 2, California Code of Regulations, section 2905 (a)(2).

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.

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AUTHORIZATION:

Authorize termination of Lease No. PRC 3859.1, a General Lease – Recreational Use, effective September 15, 2009, issued to James and Kathleen Antonowitsch.

Authorize issuance of a General Lease Recreational Use to Scott S. Brown and Melissa L. Brown, beginning September 16, 2009, for a term of ten years, for the continued use and maintenance of an existing boat dock, access ramp, and an existing cantilevered deck, as shown on Exhibit A attached (for reference purposes only) and described on Exhibit B attached and by this reference made a part hereof; consideration for the boat dock and access ramp, no monetary consideration pursuant to Public Resources Code section 6503.5; consideration for the cantilevered deck, annual rent in the amount of \$1,110, with the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease; combined single limit liability insurance coverage in the amount of no less than \$1,000,000.