

**CALENDAR ITEM
C43**

A 67
S 35

04/06/11
WP 7996.9
D. Simpkin

GENERAL LEASE – RECREATIONAL AND PROTECTIVE STRUCTURE USE

APPLICANTS:

Frank B. DeGelas and Donna L. DeGelas, as Trustees of the Frank and Donna DeGelas Trust, Dated February 27, 2003.

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Huntington Harbour, adjacent to 3622 Venture Drive, city of Huntington Beach, Orange County.

AUTHORIZED USE:

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

LEASE TERM:

10 years, beginning April 6, 2011.

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 \$979, with the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease.

Rock Slope Protection: The public health and safety with the State reserving the right at any time to set a monetary rent if the Commission finds such action to be in the State's best interest.

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.

CALENDAR ITEM NO. **C43** (CONT'D)

OTHER PERTINENT INFORMATION:

1. Applicants own the uplands adjoining the lease premises.
2. 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 sections 6501, et seq. The Applicants' upland property is located along the Main Channel of Huntington Harbour.
3. On November 7, 1997, the Commission authorized the issuance of a Recreational Pier Lease, Lease No. PRC 7996.9, to Frank B. and Donna L. DeGelas, for a 10-year term, effective October 1, 1997. The lease was for a boat dock and access ramp. On April 4, 2003, the upland property was transferred to Frank B. DeGelas and Donna L. DeGelas, as Trustees of the Frank and Donna DeGelas Trust, Dated February 27, 2003. The lease expired September 30, 2007.
4. Subsequent to the issuance of the Recreational Pier Lease, the Commission authorized a General Lease – Protective Structure Use, Lease No. PRC 8280.9, to the same lessees. The lease authorized the repair of an existing bulkhead which included all or some of the following: (1) existing pile repair; (2) placement of sheet piles; (3) installation of rock slope protection. The 10-year lease expired March 31, 2011.
5. After various delays, the California Coastal Commission approved Coastal Development Permit (CDP) # 5-06-437 on December 12, 2006 for the applicants' bulkhead repair project. The installation of rock slope protection was completed on February 12, 2008.
6. In order to accommodate the existing improvements, the Applicants are now applying for a new General Lease – Recreational and Protective Structure Use. The proposed new lease will provide for the boat dock, access ramp, and the rock slope protection previously authorized by the Commission, and for the retention of an existing cantilevered deck, not previously authorized by the Commission. A five-foot portion of the cantilevered deck extends over the State's fee ownership on the Main Channel of Huntington Harbour.
7. The existing boat dock and access ramp qualify for rent-free status as the Applicant is a natural person who owns the littoral land improved with a single-family dwelling pursuant to Public Resources Code section 6503.5.

CALENDAR ITEM NO. **C43** (CONT'D)

8. 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 Public Resources Code section 6503.5.

9. **Existing Boat Dock and Access Ramp:** Pursuant to the Commission's delegation of authority and State CEQA Guidelines (Title 14, California Code of Regulations, section 15061), 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.

10. **Cantilevered Deck:** Pursuant to the Commission's delegation of authority and State CEQA Guidelines (Title 14, California Code of Regulations, section 15061), staff has determined that this activity is exempt from the requirements of CEQA as a categorically exempt project. The project is exempt under Class 3, New Construction or Conversion 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 15303 and Title 2, California Code of Regulations, section 15300.

11. **Rock Slope Protection:** On December 12, 2006, the California Coastal Commission granted CDP # 5-06-437 for this project under its certified regulatory program [Title 14, California Code of Regulations, section 15251 (c)]. Staff has reviewed the document and determined that the conditions, as specified in Title 14, California Code of Regulations, section 15253 (b), have been met for the Commission to use the environmental analysis document certified by the CCC as a Negative Declaration equivalent in order to comply with the requirements of CEQA.

12. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code sections 6370, et seq. but such activity will not affect those significant lands. 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.

CALENDAR ITEM NO. **C43** (CONT'D)

EXHIBITS:

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

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

EXISTING BOAT DOCK AND ACCESS RAMP: 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).

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 3, New Construction or Conversion of Small Structures; Title 14, California Code of Regulations, section 15303.

ROCK SLOPE PROTECTION: On December 12, 2006, the California Coastal Commission (CCC) granted Permit # 5-06-437 for this Project under its certified regulatory program [Title 14, California Code of Regulations, section 15251 (c)], and that the California State Lands Commission has reviewed and considered the information therein and concurs with the CCC's determination.

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:

Authorize issuance of a General Lease – Recreational and Protective Structure Use to Frank B. DeGelas and Donna L. DeGelas, as Trustees of the Frank and Donna DeGelas Trust, Dated February 27, 2003, beginning April 6, 2011, for a term of 10 years, for the continued use and maintenance of an existing boat dock, access ramp, and rock slope protection, and the retention, use, and maintenance of an existing cantilevered deck, as shown on Exhibit A attached (for reference purposes only) and as 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

CALENDAR ITEM NO. **C43** (CONT'D)

6503.5; consideration for the rock slope protection: the public health and safety, with the State reserving the right at any time to set a monetary rent if the Commission finds such action to be in the State's best interest; consideration for the cantilevered deck: annual rent in the amount of \$979, 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.