

**CALENDAR ITEM
C64**

A 67
S 35

01/26/12
WP 3579.1
D. Simpkin

**GENERAL LEASE – RECREATIONAL
AND PROTECTIVE STRUCTURE USE**

APPLICANT:

Oliver E. Clark III and Jean A. Clark, Trustees of the Oliver E. Clark III and Jean A. Clark Family Trust dated October 12, 1983.

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Huntington Harbour, adjacent to 16601 Carousel Lane, in the city of Huntington Beach, Orange County.

AUTHORIZED USE:

The continued use and maintenance of an existing boat dock, rock slope protection, and placement of a sheet pile; the retention of an existing cantilevered deck with glass railing and access ramp; the removal of an existing sunroom; and the construction, use, and maintenance of a glass railing and brick pillars.

LEASE TERM:

10 years, beginning June 24, 2011.

CONSIDERATION:

Boat dock, access ramp and cantilevered deck: Annual rent in the amount of \$1,880, with the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease.

Rock slope protection and placement of a sheet pile: 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:

Liability insurance coverage in the amount of no less than \$1,000,000.

OTHER PERTINENT INFORMATION:

1. Applicants own the upland adjoining the lease premises.

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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 between the Commission and the Huntington Harbour Corporation, recorded as Sovereign Lands Location No. 34 dated December 22, 1960 and recorded on January 31, 1961 in Book 5611, Page 470, Official Records, Orange County, California. Projects, including new development or maintenance of existing facilities, extending into these Channels beyond the bulkhead line require a lease from the Commission pursuant to Public Resources Code section 6501. The Applicants' upland property is located along the Main Channel of Huntington Harbour.
3. On November 27, 2000, the Commission authorized the issuance of Lease No. PRC 8233.9, a General Lease – Protective Structure Use, to Oliver E. Clark III and Jean A. Clark, Trustees of the Oliver E. Clark and Jean A. Clark Family Trust dated October 12, 1983, for a 10-year term, effective November 1, 2000. 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 lease expired October 31, 2010.
4. Following the issuance of the General Lease – Protective Structure Use, the Commission authorized Lease No. PRC 3579.9 a Recreational Pier Lease, to the same lessees. The lease expired on June 23, 2011.
5. In order to consolidate all the existing improvements into one lease, 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, rock slope protection, and placement of a sheet pile previously authorized by the Commission, and the retention of an existing cantilevered deck and access ramp 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.
6. The Applicants have also requested authorization to remove that portion of an existing sunroom that extends onto the cantilevered deck and a two-foot-wide cat walk extending waterward of the sunroom. Upon removal, the Applicants will construct a new glass railing with brick pillars within the footprint of the removed sunroom.
7. On October 8, 2011, Chapter 585, Statutes of 2011 became law. The law is effective January 1, 2012. This new law repeals section 6503.5 of the Public Resources Code, which had allowed rent-free use of State-owned

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land by certain private parties for their recreational piers. It replaced the former section with a new section 6503.5 which provides that the State Lands Commission "shall charge rent for a private recreational pier constructed on state lands." The law provides for two exceptions to the imposition of rent. Those exceptions are for:

- A. A lease in effect on July 1, 2011 through the remaining term of that lease. If a lease in effect on July 1, 2011 expires or is otherwise terminated, any new lease will be subject to rent; and
- B. A lease for which the lease application and application fees were submitted to the Commission prior to March 31, 2011.

The prior Recreational Pier Lease expired on June 11, 2011 and the Applicants submitted their lease application on April 11, 2011. Therefore, the existing boat dock is subject to annual rent.

8. **Boat Dock, Access Ramp, Bulkhead and Cantilevered Deck:** Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (Cal. Code Regs., tit. 14, §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; California Code of Regulations Title 2, section 2905 subdivision (a)(2).

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

9. **Removal of Sunroom and Construction of Glass Railing with Brick Pillars:** Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (Cal. Code Regs., tit. 14, §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 3, New Construction or Conversion of Small Structures; California Code of Regulations, Title 14 section 15303.

10. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 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.

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

APPROVALS OBTAINED:

City of Huntington Beach

APPROVALS REQUIRED:

California Coastal Commission

EXHIBITS:

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

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Boat Dock, Access Ramp, Bulkhead, and Cantilevered Deck: 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).

Removal of Sunroom and Construction of Glass Railing with Brick Pillars: 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 3, New Construction or Conversion of Small Structures, California Code of Regulations, Title 14 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 section 6370 et seq.

AUTHORIZATION:

Authorize issuance of a General Lease – Recreational and Protective Structure Use to Oliver E. Clark III and Jean A. Clark, Trustees of the Oliver E. Clark III and Jean A. Clark Family Trust dated October 12, 1983, beginning June 24, 2011, for a term of 10 years, for the continued use and maintenance of an existing boat dock, rock slope protection, and placement of a sheet pile; the retention of an existing cantilevered deck and access ramp; the removal of an existing sunroom and catwalk; the

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installation, use, and maintenance of a glass railing and brick pillars; and as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof. Consideration for the boat dock, access ramp, and cantilevered deck: annual rent in the amount of \$1,880, with the State reserving the right to fix a different rent periodically during the term of the lease as provided in the lease; consideration for the rock slope protection and placement of a sheet pile: 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; liability insurance coverage in the amount of no less than \$1,000,000.

EXHIBIT A

WP 3579.1

LAND DESCRIPTION

A parcel of submerged land in Huntington Harbour, in the City of Huntington Beach, Orange County, California, described as follows:

Beginning at the most westerly corner of Lot 136, as said lot is shown and so designated on that certain map of Tract No. 5481 filed in Book 215, Pages 11 through 22, Official Records of said County; thence along the westerly extension of the northerly line of said lot 60.00 feet, more or less, to the pierhead line as said pierhead line is described in Resolution No. 5631, passed and adopted January 21, 1986 by the City Council of said City; thence southerly 50.00 feet along said pierhead line to the westerly extension of the southerly line of said lot; thence along said extension 60.00 feet, more or less, to the most southerly corner of said lot; thence northerly along the westerly line of said lot to the point of beginning.

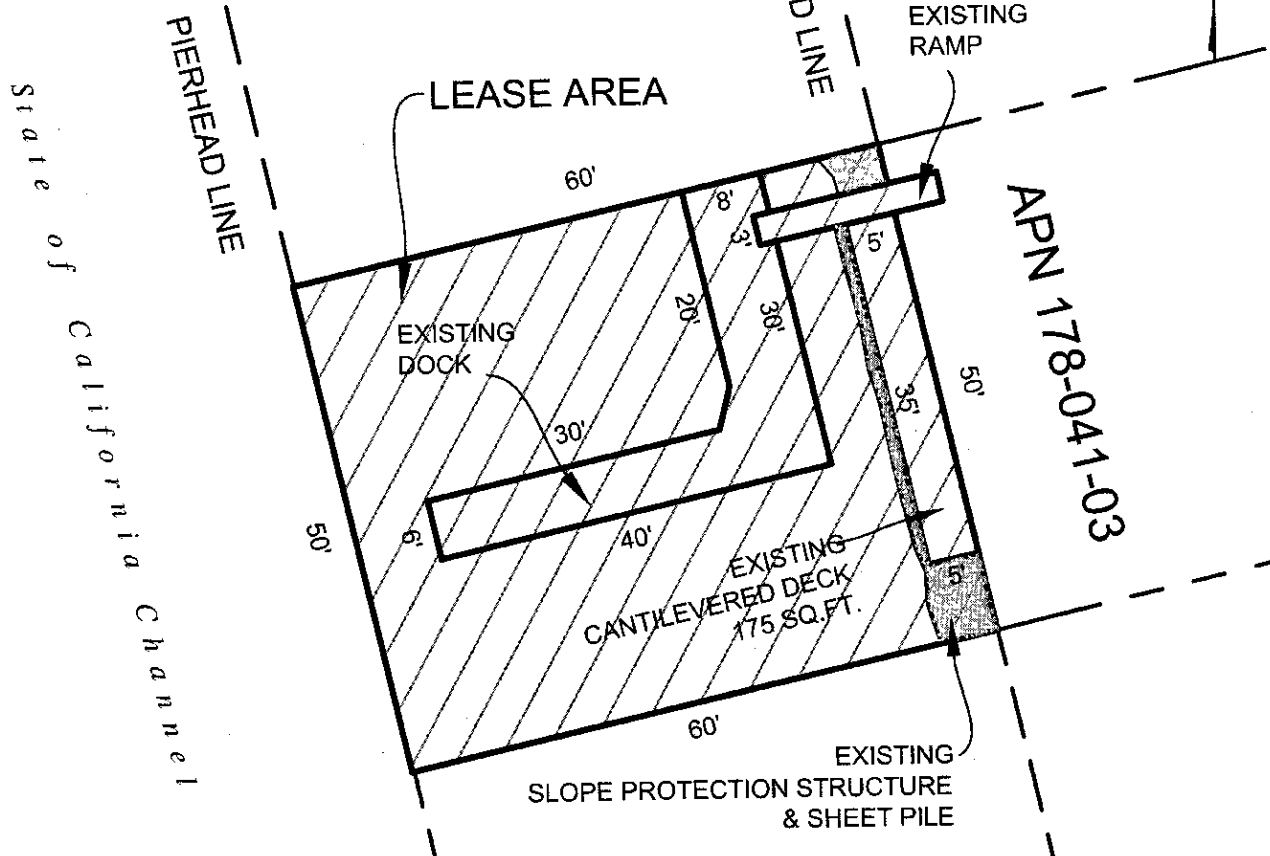
END OF DESCRIPTION

Prepared 10/06/2011 by the California State Lands Commission Boundary Unit



NO SCALE

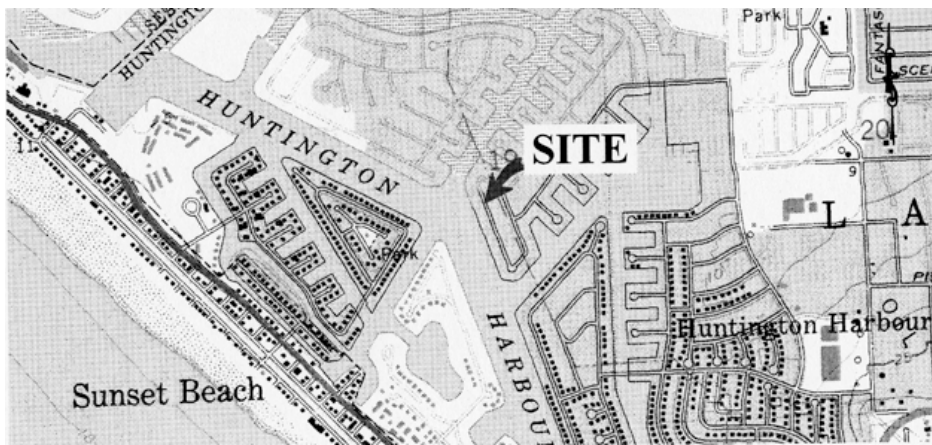
SITE



16601 CAROUSEL LANE, HUNTINGTON BEACH

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

WP 3579.1
 CLARK FAMILY TRUST
 APN 178-041-03
 GENERAL LEASE -
 RECREATIONAL &
 PROTECTIVE STRUCTURE USE
 ORANGE COUNTY



MJJ 10/11

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.