

**CALENDAR ITEM  
C25**

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03/29/12  
M. Hays  
C. Connor

**CONSIDER AUTHORIZATION FOR THE CONTINUATION OF CURRENT RENTAL PRACTICES FOR RECREATIONAL PIERS AND MOORING BUOYS AT LAKE TAHOE, SUBJECT TO COMMISSION RECONSIDERATION OF ITS RENTAL PRACTICES AT A SUBSEQUENT MEETING**

**PARTY:**

California State Lands Commission  
100 Howe Avenue, Suite 100, South  
Sacramento, CA 95825

**LAND TYPE AND LOCATION:**

Sovereign lands in Lake Tahoe, Placer, and El Dorado Counties

**BACKGROUND:**

At the January 26, 2012 Commission meeting, there was an extensive discussion surrounding the methodology of determining annual rent for recreational piers and mooring buoys at Lake Tahoe using the Lake Tahoe benchmark. This discussion was in relation to Calendar Item #22, 2280 Sunnyside, LLC. Mr. Gregory Price (a principal in 2280 Sunnyside, LLC) spoke to the Commission regarding what he determined to be flaws and inconsistencies in the methodology and analyses used to establish a fair rental rate. Growing out of this discussion, the Commissioners asked staff to engage with stakeholders from Lake Tahoe to discuss the benchmark methodology and to report back to the Commission on the dialogue with stakeholders and a recommendation on whether to make changes to the methodology. The Commissioners also directed that if the rent methodology was altered in a way that recalculation of Mr. Price's rent resulted in a lower rent than that using the current benchmark methodology, the annual rent would be modified and Mr. Price would be refunded the difference paid. Ultimately, Calendar Item #22 was approved as recommended by staff. The Commissioners also directed that all leases for recreational piers and/or buoys at Lake Tahoe approved by the Commission at the January meeting would be subject to any reduction in rent as a result of a change in rent methodology at a subsequent meeting.

On February 29, 2012, Commission staff met with Mr. Price and other Lake Tahoe stakeholders. That meeting took place in the Commission's office in Sacramento and was attended in person by eight participants and another seven participants by

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teleconference. At the meeting, staff presented to the stakeholders different options for analyses in revising the benchmark methodology and alternative methods of determining rent. Staff discussed these options with the stakeholders, requested feedback and input on the methodologies presented, and also requested and encouraged stakeholders to provide additional methodologies that staff could consider. The discussion is ongoing and staff is still awaiting feedback from stakeholders. Consequently, at the time of this meeting (March 29), staff does not yet have a recommendation to present to the Commission on the Lake Tahoe benchmark methodology or other rent methodologies. Staff hopes to be able to complete this dialogue with the Lake Tahoe stakeholders, finalize our analysis, and make a recommendation on determining rent to the Commission at the May 24, 2012 meeting.

This March 29, 2012 Commission meeting agenda contains 30 Lake Tahoe items, 15 of which have annual rent based on the current Lake Tahoe benchmark. Until such time as the Commission has made a decision on the rent methodology, staff recommends that all Lake Tahoe calendar items involving rent receive the same treatment afforded to the eight items involving the benchmark at the January 26, 2012 Commission meeting. If, at a future Commission meeting, the Commission decides to revise the rent methodology and that any such change results in a revised rent that favors the Lessee, then staff recommends the Commission delegate to Commission staff (a) the ability to revise that rent and reimburse the Lessee the difference in rent paid and (b) implement the new, lower rent going forward using the new methodology. It is recommended that the Commission also delegate to staff the ability to amend the lease, without bringing it back to the Commission, to reflect the new rental amount going forward using the new methodology. This delegation would apply to the eight calendar items from the January 26, 2012 Commission meeting (shown below) and the 15 items on the current agenda.

- C10 (Nelson)
- C11 (Ghilotti)
- C19 (Tahoe Marina Owners Association)
- C20 (Hill)
- C21 (Rubicon Tahoe Owners Inc.)
- C22 (2280 Sunnyside lane, LLC)
- C27 (Plona Hoffman Trust)
- C28 (Dollar Point Association, Inc.)

If the Commission decides to retain the current Lake Tahoe benchmark methodology, adopts a new benchmark methodology, or adopts a different rent methodology for recreational piers and buoys at Lake Tahoe that does not result in a rent more favorable to the Lessee than the current benchmark methodology, then no increase in rent will

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occur to those parties whose leases were authorized by the Commission at the January 2012 meeting and who have signed their leases.

**OTHER PERTINENT INFORMATION:**

The staff recommends that the Commission find that the subject continuation of rental practices for recreational piers and mooring buoys, until adoption of different rental practices, does not have a potential for resulting in either a direct or a reasonably foreseeable indirect physical change in the environment, and is, therefore, not a project in accordance with the California Environmental Quality Act (CEQA).

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

**RECOMMENDED ACTION:**

It is recommended that the Commission:

**CEQA FINDING:**

Find that the subject continuation of rental practices for recreational piers and mooring buoys until adoption of different rental practices is not subject to the requirements of CEQA pursuant to California Code of Regulations, Title 14, section 15060, subdivision (c)(3), because the subject activity is not a project as defined by Public Resources Code section 21065 and California Code of Regulations, Title 14, section 15378.

**AUTHORIZATION:**

1. Authorize staff of the Commission to continue current rental practices using the Lake Tahoe Benchmark for recreational piers and mooring buoys on sovereign lands in Lake Tahoe, Placer and El Dorado counties until the May 24, 2012 meeting, at which time staff will bring to the Commission a summary of alternatives to the current benchmark methodology and a recommendation for a methodology to be used in the 2012 Lake Tahoe Benchmark.
2. In the event the Commission adopts a change in the methodology for determining rent for recreational piers and mooring buoys in Lake Tahoe and that methodology results in a lower rent, authorize staff to amend the applicable leases at Lake Tahoe authorized since January 26, 2012 to reflect the new rent.
3. Authorize the tolling of the statute of limitations for challenges to the methodology used to determine the amount of rent applying to Lake

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Tahoe leases for recreational piers and buoys authorized at the January 26, 2012 and March 29, 2012 meeting, until the Commission completes its reconsideration of the methodology of determining rent at a subsequent meeting.