

**CALENDAR ITEM
C35**

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08/14/12
PRC 4694.1
N. Lee

GENERAL LEASE - RECREATIONAL USE

APPLICANT:

Star Harbor Association
P.O. Box 1740
Tahoe City, CA 96145

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 2350 Star Harbor Court, near Tahoe City, Placer County.

AUTHORIZED USE:

Continued use and maintenance of an existing pier and 15 mooring buoys.

LEASE TERM:

10 years, beginning February 1, 2012.

CONSIDERATION:

\$692 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 in the amount of no less than \$2,000,000.

Other:

Buoy Allotment Program: The use of the buoy field will be made available to all members of Star Harbor Association (Association) in a fair and equitable manner. A buoy allotment program must be maintained during the lease term that will identify how the buoys will be managed, maintained, and distributed for use by the Association's members.

OTHER PERTINENT INFORMATION:

1. Applicant owns the upland adjoining the lease premises.

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2. On September 17, 2001, the Commission authorized a General Lease – Recreational Use with Star Harbor Association (Association) for a pier and 15 mooring buoys. That lease expired on January 31, 2011. The Applicant, a condominium owners association consisting of 30 member units, is now applying for a new General Lease – Recreational Use.
3. 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 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.

Because the application and fees were submitted to the Commission prior to March 31, 2011, the lease meets the statutory requirements for an exception to recently-enacted changes to Section 6503.5 of the Public Resources Code for the term of this lease. Therefore, of the Association’s 30 member units, 28 (93%) qualify for rent-free status and the annual rent for the pier and mooring buoys has been prorated according to the qualifying members.

4. After the prior lease expired, the Applicant continued to pay the annual rent in effect during the term of that lease. Pursuant to the expired lease, the annual rent in effect during any holding-over shall be increased by 25 percent. Staff is recommending that the Commission accept the additional 25 percent of holdover rent in the amount of \$100.25 for the period beginning February 1, 2011 through January 31, 2012.
5. 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).

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

6. 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.

EXHIBITS:

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

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that the activity is exempt from the requirements of CEQA pursuant to California Code of Regulations, Title 14, section 15061 as categorically exempt project, Class 1, Existing Facilities; California Code of Regulations, Title 2, section 2905, subdivision (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 section 6370 et seq.

AUTHORIZATION:

1. Authorize acceptance of additional holdover rent in the amount of \$100.25 for the period of February 1, 2011 through January 31, 2012.
2. Authorize issuance of a General Lease – Recreational Use to Star Harbor Association, beginning February 1, 2012, for a term of 10 years, for the continued use and maintenance of an existing pier and 15 mooring buoys as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; annual rent in the amount of \$692, with the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease; and liability insurance with coverage of no less than \$2,000,000.

EXHIBIT A

PRC 4694.1

LAND DESCRIPTION

Two parcels of submerged lands lying adjacent to Section 5, Township 15 North, Range 17 East, M.D.B. & M., as shown on official U.S. Government Township Plat approved on November 9, 1866, Placer County, State of California, described as follows:

PARCEL 1 - PIER

A strip of land of variable width BEGINNING at the intersection of the 6223 feet Lake Tahoe Datum contour line with the West side of an existing pier lying adjacent to that certain parcel of land described in Exhibit A of Grant Deed recorded in Book 1664, Page 538, Official Records of said County, said strip being 36 feet in width, lying 10 feet westerly and 26 feet easterly, measured at right angles, of the following course; thence southerly along the West side of said pier 276 feet to the southwesterly corner thereof to the beginning of a strip being 30 feet in width, lying 20 northerly and 10 feet southerly, measured at right angles, of the following course; thence easterly along the South side of said pier, or the prolongation thereof, 56 feet to the TERMINOUS of said strip.

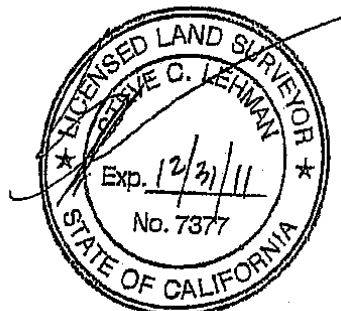
The sidelines of said strip shall be prolonged or shortened so as to commence at the 6223 feet Lake Tahoe Datum contour line, and terminate at a point lying 10 feet easterly, measured at right angles, of the end of said pier.

PARCEL 2 - BUOYS

COMMENCING at the southwesterly corner of an existing pier lying adjacent to that certain parcel of land described in Exhibit A of Grant Deed recorded in Book 1664, Page 538, Official Records of said County; thence N 49°54'24" W 72 feet to the POINT OF BEGINNING; thence S 76°24'42" W 325 feet; thence S 13°35'18" E 370 feet; thence N 76°24'42" E 325 feet; thence N 13°35'18" W 370 feet to the POINT OF BEGINNING.

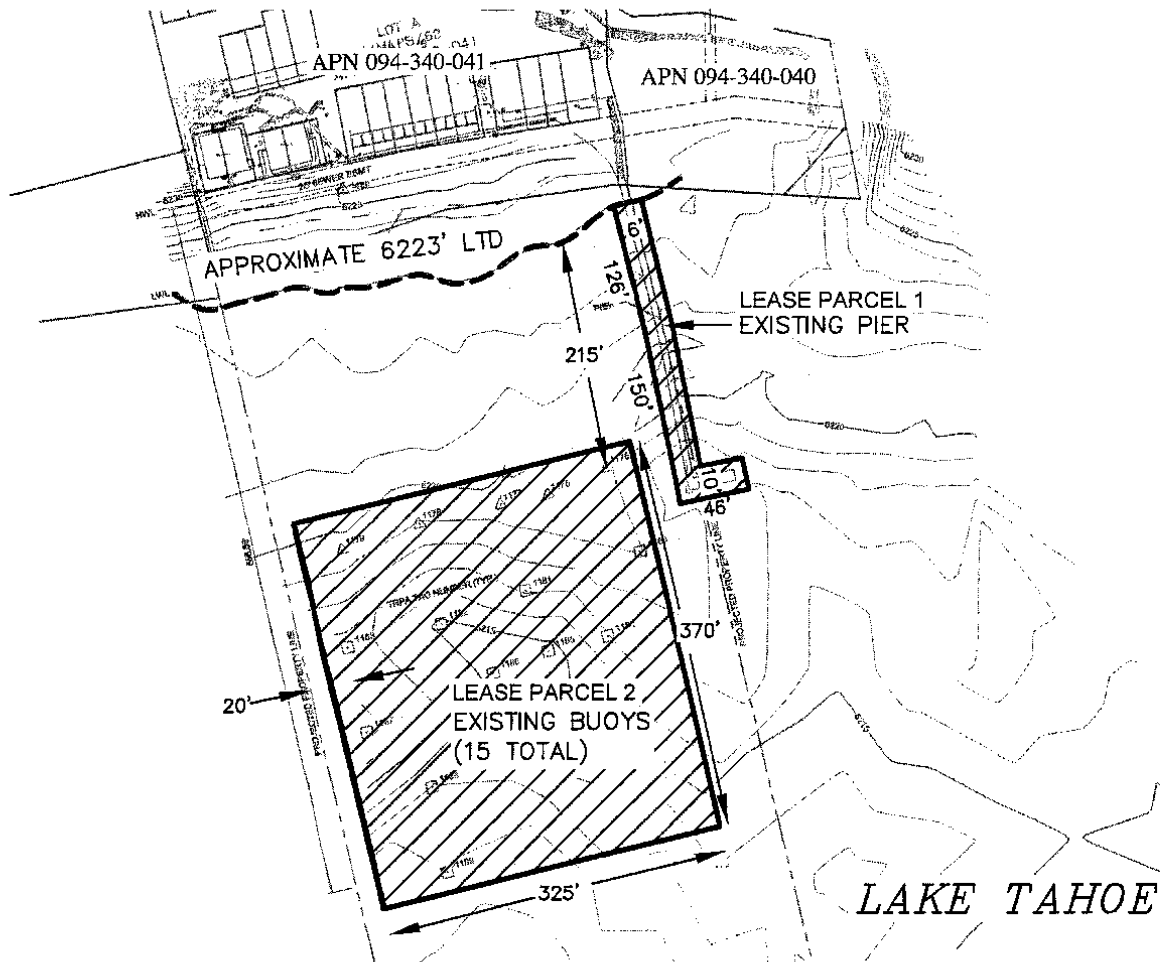
END OF DESCRIPTION

Prepared 5/2/2011 by the California State Lands Commission Boundary Unit.



NO SCALE

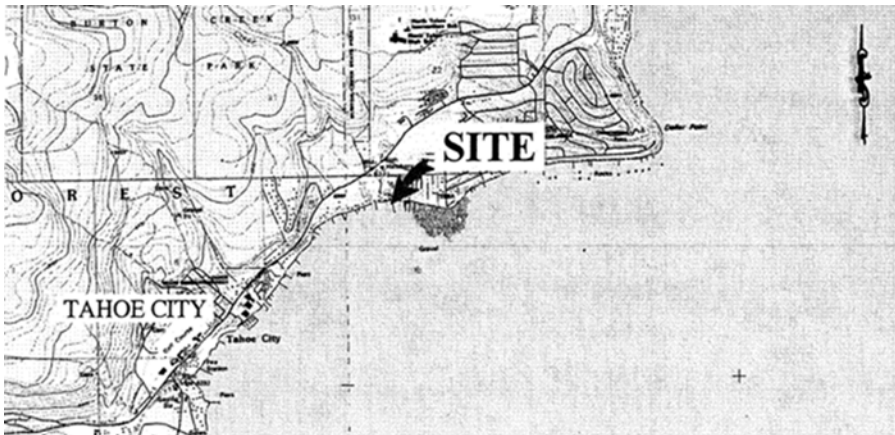
SITE



2350 STAR HARBOR COURT, TAHOE CITY

NO SCALE

LOCATION

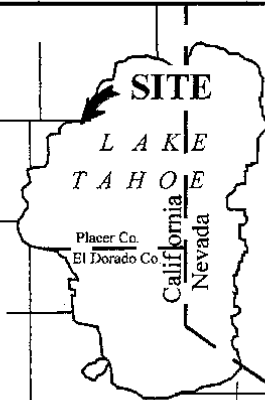


MAP SOURCE: USGS QUAD

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.

Exhibit B

PRC 4694.1
 STAR HARBOR ASSOCIATION
 APN 094-340-040 & 094-340-041
 GENERAL LEASE -
 RECREATIONAL USE
 PLACER COUNTY



DJF 07/10/12