

**CALENDAR ITEM
C71**

A 67
S 35

08/14/12
PRC 8237.1
S. Paschall

**RESCISSION AND ISSUANCE OF GENERAL LEASE –
RECREATIONAL AND PROTECTIVE STRUCTURE USE**

APPLICANTS:

Nathan Chen and Jennie Chen, Trustees of the Nathan Chen Family Trust

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in Huntington Harbour, adjacent to 16642 Carousel Lane, city of Huntington Beach, Orange County.

AUTHORIZED USE:

Use and maintenance of an existing boat dock, access ramp, cantilevered deck, and bulkhead protection.

LEASE TERM:

10 years, beginning January 1, 2012.

CONSIDERATION:

Bulkhead Protection: the public use and benefit, 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;

Boat Dock, Access Ramp, and Cantilevered Deck: annual rent in the amount of \$1,941 with the State reserving the right to fix a different rent periodically during the lease term, as provided for in the lease.

SPECIFIC LEASE PROVISIONS:

Insurance:

Combined single-limit liability of no less than \$1,000,000.

Other:

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

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OTHER PERTINENT INFORMATION:

1. Applicants own the upland 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 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 6501.1. The Applicants' upland property is located along the Main Channel of Huntington Harbour.
3. On March 29, 2012, the Commission approved issuance of a General Lease – Recreational and Protective Structure Use to the Applicants, for a period of 10 years, for use and maintenance of an existing boat dock, access ramp, cantilevered deck, and bulkhead protection. Subsequent to this authorization, staff received notice from the Applicants that the dimensions of that portion of the deck which cantilevers waterward of the face of the bulkhead were incorrectly noted in the application. Staff is now recommending rescission and issuance of a new General Lease – Recreational and Protective Structure Use which reflects the correct dimensions.
4. The bulkhead protection mutually benefits the public and the Applicants. The bulkhead will be protected from undermining at no cost to the public.
5. **Rescind General Lease – Recreational and Protective Structure Use:** The staff recommends that the Commission find that the subject rescission of approval 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.

6. **Issuance of New General Lease – Recreational and Protective Structure Use:** 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

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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 California Code of Regulations, Title 14, section 15300 and California Code of Regulations, Title 2, section 2905.

7. 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. Location and Site Map

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Rescind General Lease – Recreational and Protective Structure Use:

Find that the subject rescission 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.

Issuance of New General Lease – Recreational and Protective

Structure Use: 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)

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.

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AUTHORIZATION:

Authorize rescission of the previously approved General Lease and issuance of a new General Lease – Recreational and Protective Structure Use to Nathan Chen and Jennie Chen, Trustees of the Nathan Chen Family Trust, beginning January 1, 2012, for a term of 10 years, for continued use and maintenance of an existing boat dock, access ramp, cantilevered deck, and bulkhead protection as described in Exhibit A and shown on Exhibit B (for reference purpose only) attached and by this reference made a part hereof; consideration for the boat dock, access ramp, and cantilevered deck to be \$1,941 per year; consideration for the bulkhead protections to be the public use and benefit, with the State reserving the right at any time to set a monetary rental if the Commission finds such action to be in the State's best interest; combined single-limit liability insurance coverage of no less than \$1,000,000.

EXHIBIT A

PRC 8237.1

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 140, 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 westerly along the westerly prolongation of the northerly line of said lot 60.00 feet 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 prolongation of the southerly line of said lot; thence easterly 60.00 feet along said westerly prolongation 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 1/17/2012 by the California State Lands Commission Boundary Unit.



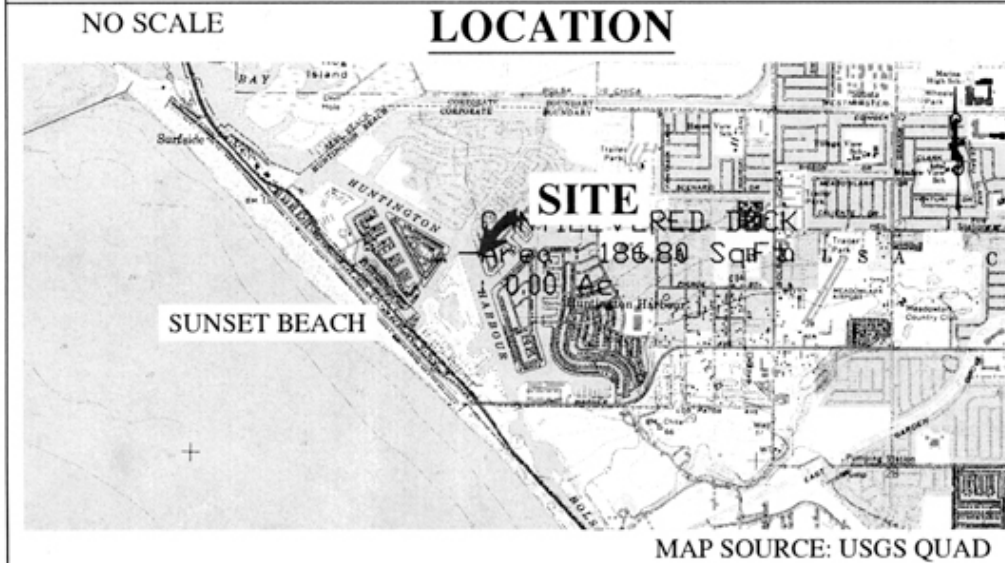
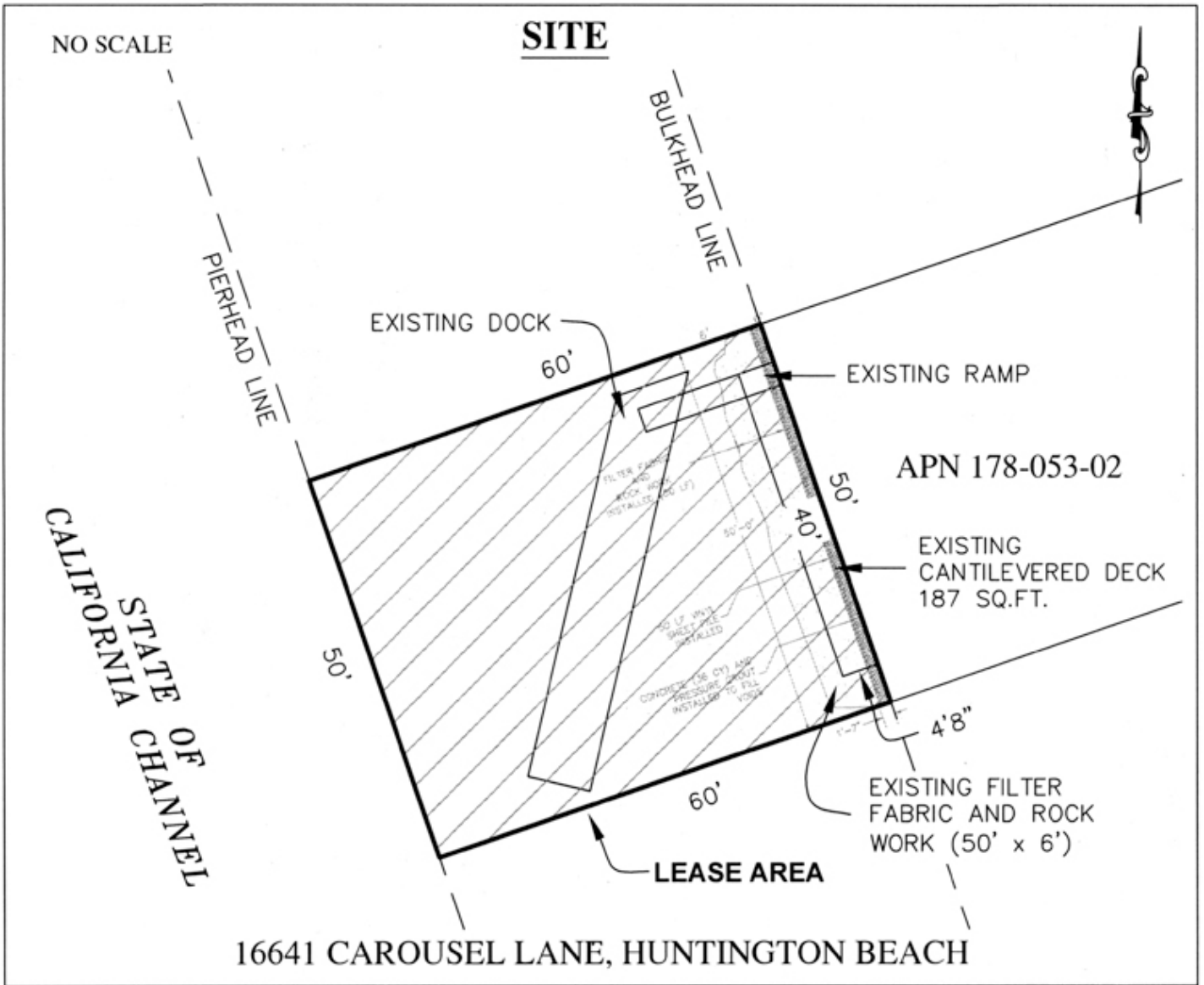


Exhibit B

PRC 8237.1
CHEN
APN 178-053-02
GENERAL LEASE -
RECREATIONAL &
PROTECTIVE STRUCTURE USE
ORANGE COUNTY



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.