

**CALENDAR ITEM
C75**

A 67
S 35

08/14/12
PRC 6073.1
S. Paschall

GENERAL LEASE – RECREATIONAL USE

APPLICANT:

Huntington Beach Properties, LLC.

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in the Midway Channel of Huntington Harbour, adjacent to 3581 Courtside Circle, city of Huntington Beach, Orange County.

AUTHORIZED USE:

Use and maintenance of an existing boat dock and access ramp, and reconstruction, use and maintenance of an existing cantilevered deck extending no more than five feet waterward of the bulkhead.

LEASE TERM:

10 years, beginning August 14, 2012.

CONSIDERATION:

Annual rent in the amount of \$1,690, 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:

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. Applicant agrees that any proposed use of the Lease Premises that includes an extension of the actual living quarters constitutes residential use and is prohibited.

OTHER PERTINENT INFORMATION:

1. Applicant owns 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,

CALENDAR ITEM NO. **C75** (CONT'D)

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 obtaining a lease from the Commission pursuant to Public Resources Code section 6501.1. The Applicant's upland property is located along the Midway Channel of Huntington Harbour.

3. On April 24, 2001, the Commission authorized the issuance of Recreational Pier Lease No. PRC 6073.9 to Lawrence W. Zarrilli, Trustee of the Lawrence W. Zarilli 1993 Inter Vivos Trust Agreement, for a 10-year term beginning April 1, 2001. That lease expired on March 31, 2011. The upland property has since been deeded to the Applicant. The Applicant is now applying for a new lease. A portion of a previously existing cantilevered deck extended over the State's fee-owned land in the Midway Channel of Huntington Harbour, and was not previously authorized by the Commission. The Applicant is currently rebuilding the upland property under Coastal Development Permit 5-12-110, which includes a new cantilevered deck of identical size to the previous cantilevered deck. Staff has reviewed this material and is recommending that the proposed cantilevered deck be included in the lease.

4. 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 received on May 15, 2012, the proposed lease does not meet either of the statutory exceptions and is thus subject to rent.

CALENDAR ITEM NO. **C75** (CONT'D)

5. Existing boat dock and access ramp:

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

6. Reconstruction of 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 categorically exempt project. The project is exempt under Class 2, Replacement or Reconstruction; California Code of Regulations, Title 14, section 15302, subdivision (c).

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

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. Site and Location Map

RECOMMENDED ACTIONS:

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 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).

CALENDAR ITEM NO. **C75** (CONT'D)

Reconstruction of cantilevered deck:

Find that the activity is exempt from the requirements of CEQA pursuant to California Code of Regulations, Title 14, section 15302 as a categorically exempt project, Class 2, Replacement or Reconstruction; California Code of Regulations, Title 14, section 15302, subdivision (c).

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 Use to Huntington Beach Properties, LLC, for a term of 10 years beginning August 14, 2012, for use and maintenance of an existing boat dock and access ramp, and reconstruction, use, and maintenance of a cantilevered deck, as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; consideration to be annual rent in the amount of \$1,690; combined single-limit liability insurance coverage in the amount of no less than \$1,000,000.

EXHIBIT A

PRC 6073.1

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 61, as said lot is shown and so designated on that certain map of Tract No. 8040 filed in Book 350, Pages 27 through 37 of Miscellaneous Maps, Official Records of said County; thence along the northwesterly extension of the southwesterly line of said lot 30.00 feet; thence northeasterly and parallel with the northwesterly line of said lot 60.00 feet to the northwesterly extension of the northeasterly line of said lot; thence southeasterly along said extension to the most northerly corner of said lot; thence southwesterly along said northwesterly line of said lot to the point of beginning.

END OF DESCRIPTION

Prepared 06/26/12 by the California State Lands Commission Boundary Unit



NO SCALE

SITE

STATE OF CALIFORNIA 200' CHANNEL

LEASE AREA

EXISTING
BOAT DOCK
54'X8'

PROPOSED
CANTILEVERED
DECK 48' X 4.5'

EXISTING
RAMP 18'X3'

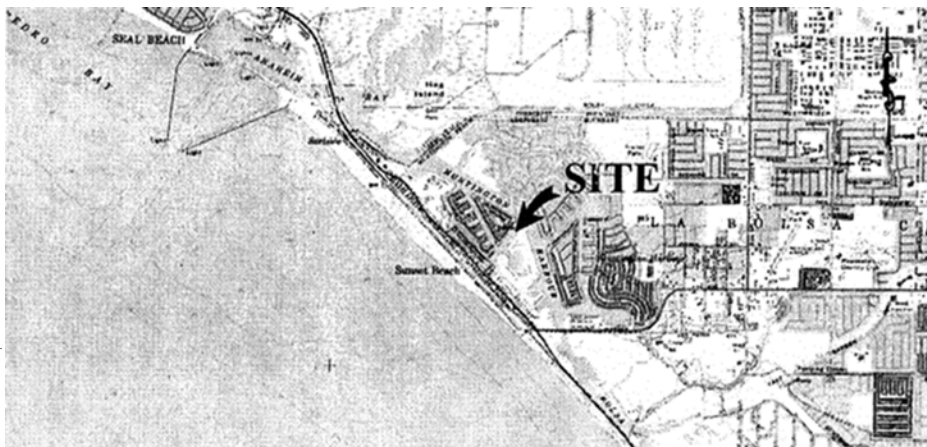
APN 178-652-23

BULKHEAD LINE

3581 COURTSIDE CIRCLE, HUNTINGTON BEACH, CA

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

PRC 6073.1
 HB PROP LLC
 APN 178-652-23
 GENERAL LEASE-
 RECREATIONAL USE
 ORANGE COUNTY



SITE

TS 06/26/12

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.