

**STAFF REPORT
C06**

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11/29/17
PRC 9071.1
M.J. Columbus

**TERMINATION AND ISSUANCE OF A
GENERAL LEASE – RECREATIONAL USE**

LESSEE:

Homewood Villas, LLC, a California Limited Liability Company

APPLICANT:

Homewood Shores Association, a California Nonprofit Mutual Benefit Corporation

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 5138 West Lake Boulevard, near Homewood, Placer County.

AUTHORIZED USE:

Continued use and maintenance of an existing pier with proposed replacement of an existing catwalk with an adjustable catwalk.

LEASE TERM:

10 years beginning June 21, 2017.

CONSIDERATION:

\$780 per year, with an annual Consumer Price Index adjustment.

SPECIFIC LEASE PROVISIONS:

1. Liability insurance in an amount no less than \$1,000,000 per occurrence.

2. Lessee shall not store any personal items or construct any improvements in the Public Trust easement that may impair the public uses of access, navigation, fishing, and lake-related recreational uses.

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STAFF ANALYSIS AND RECOMMENDATION:

Authority:

Public Resources Code sections 6005, 6216, 6301, 6501.1, and 6503.5; California Code of Regulations, title 2, sections 2000 and 2003.

Public Trust and State's Best Interests Analysis:

On June 21, 2013, the Commission authorized a General Lease - Recreational Use for an existing pier to Homewood Villas, LLC, a California Limited Liability Company ([Item C33, June 21, 2013](#)). That lease will expire on June 20, 2023. On September 20, 2013, the Commission authorized an amendment to replace the land description and the site and location map with a revised land description and site and location map ([Item C34, September 20, 2013](#)). On November 12, 2013, the upland was deeded to Homewood Shores Association, a California Nonprofit Mutual Benefit Corporation. The Applicant is applying for a General Lease – Recreational Use for the existing pier with proposed replacement an existing catwalk with an adjustable catwalk.

Staff recommends termination of the existing lease because the Lessee abandoned the lease by selling the upland property and pier without notifying staff and without executing a lease quitclaim deed. Annual rent has been paid up through June 20, 2017; therefore, no compensation is due from the Applicant. Staff recommends that the Commission approve the new lease effective on June 21, 2017.

For the replacement of the catwalk, 15 feet of the south side of the pier and the existing 14-foot-long catwalk will be removed and replaced with a 29-foot-long adjustable catwalk. The proposed project will not result in a change to the overall footprint of the pier. The proposed project will also consist of removing six existing wooden pier pilings and one damaged steel piling from the lakebed. The pilings will be replaced with three tube steel pilings resulting in a net reduction of three pilings driven into the lake bottom. A floating barge will be used for the removal and installation of the pilings, accessing the project site from the lake. All debris and materials will be contained on the floating barge. To minimize adverse impacts to fish habitat, construction is limited to low lake level, dry weather, and confined to the period of October 1 to May 1.

The subject improvements facilitate recreational boating. Recreational boating is a water-dependent use that is generally consistent with the common law Public Trust Doctrine. The California Legislature has identified private recreational boating facilities as an authorized use of Public Trust land (Pub. Resources Code, § 6503.5).

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The subject improvements have been in Lake Tahoe for many years at this location. The pier is built on pilings with the immediate area of the pier being flat with pebbles and sand. The topography and location of upland structures provide access for the pier and allow the public to walk or navigate next to and, at lower water levels, under the pier within the Public Trust easement. In addition, stairs with signs advising of public access are located on each side of the pier allowing the public to pass and re-pass over the pier along the Public Trust easement on either side of the pier.

The proposed lease does not alienate the State's fee simple interest or permanently impair public rights. The lease is limited to a 10-year term, does not grant the lessee exclusive rights to the lease premises, and reserves an easement to the public for Public Trust-consistent uses. Upon termination of the lease, the lessee may be required to remove all improvements from State land.

The proposed lease requires the lessee to insure the lease premises and indemnify the State for any liability incurred as a result of the lessee's activities thereon. The lease also requires the payment of annual rent to compensate the people of the State for the occupation of the public land involved. For all the reasons above, Commission staff believes the issuance of this lease does not substantially interfere with the common law Public Trust Doctrine at this time, for the foreseeable term of the lease, and is in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. This action is consistent with Strategy 1.1 of the Commission's Strategic Plan to deliver the highest levels of public health and safety in the protection, preservation, and responsible economic use of the lands and resources under the Commission's jurisdiction, and Strategy 1.3 to promote, expand, and enhance appropriate public use and access to and along the State's inland and coastal waterways.
2. Termination of the lease is not a project as defined by the California Environmental Quality Act (CEQA) because it is an administrative action that will not result in direct or indirect physical changes in the environment.

Authority: Public Resources Code section 21065 and California Code of Regulations, title 14, section 15378, subdivision (b)(5).

3. Staff recommends that the Commission find that issuance of the lease is exempt from the requirements of CEQA as a categorically exempt project.

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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.

4. 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 staff's consultation with the persons nominating such lands and through the CEQA review process, it is staff's opinion that the project, as proposed, is consistent with its use classification.

APPROVALS OBTAINED:

U.S. Army Corps of Engineers
California Department of Fish and Wildlife
Lahontan Regional Water Quality Control Board

APPROVALS REQUIRED:

Tahoe Regional Planning Agency

EXHIBITS:

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

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that issuance of the lease 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).

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed lease will not substantially impair the public rights to navigation and fishing or substantially interfere with Public Trust needs and values at this location, at this time, and for the foreseeable term of the lease; is consistent with the Public Trust Doctrine; and is in the best interests of the State.

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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 termination, effective June 20, 2017, of Lease No. PRC 9071.1, a General Lease – Recreational Use, issued to Homewood Villas, LLC, a California Limited Liability Company.

2. Authorize issuance of a General Lease – Recreational Use to the Applicant beginning June 21, 2017, for a term of 10 years, for the continued use and maintenance of an existing pier with proposed replacement of an existing catwalk with an adjustable catwalk, 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 \$780, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

PRC 9071.1

LAND DESCRIPTION

One (1) parcels of submerged land situate in the bed of Lake Tahoe, lying adjacent to Lot 5 of fractional Section 1, Township 14 North, Range 16 East, MDM., as shown on Official Government Township Plat approved January 17, 1866 County of Placer, State of California, and more particularly described as follows:

All those lands underlying an existing pier and one (1) proposed adjustable catwalk adjacent to that parcel described in Exhibit "A" of that Grant Deed recorded November 12, 2013 as Document Number 2013-0106419 in Official Records of said County.

TOGETHER WITH any applicable impact area(s).

EXCEPTING THEREFROM any portion(s) lying landward of elevation 6223 feet LTD on the shoreline of said Lake Tahoe.

Accompanying plat is hereby made part of this description.

This description is based on Applicant provided design plans by Sagan Design Group dated October 20, 2016, for a proposed adjustable catwalk, together with any and all appurtenances pertaining thereto, to be built at a later date within the lease time frame. This description is to be updated once final as-built plans are submitted.

END OF DESCRIPTION

Prepared October 27, 2017 by the California State Lands Commission Boundary Unit.





L A K E

APPROXIMATE

136.3'

12'

PROPOSED ADJUSTABLE
CATWALK (4' X 29')
& 9' IMPACT AREA

EXISTING
PIER

6223'± LID

SHORELINE

APRN 097-130-043

T A H O E

EXHIBIT A

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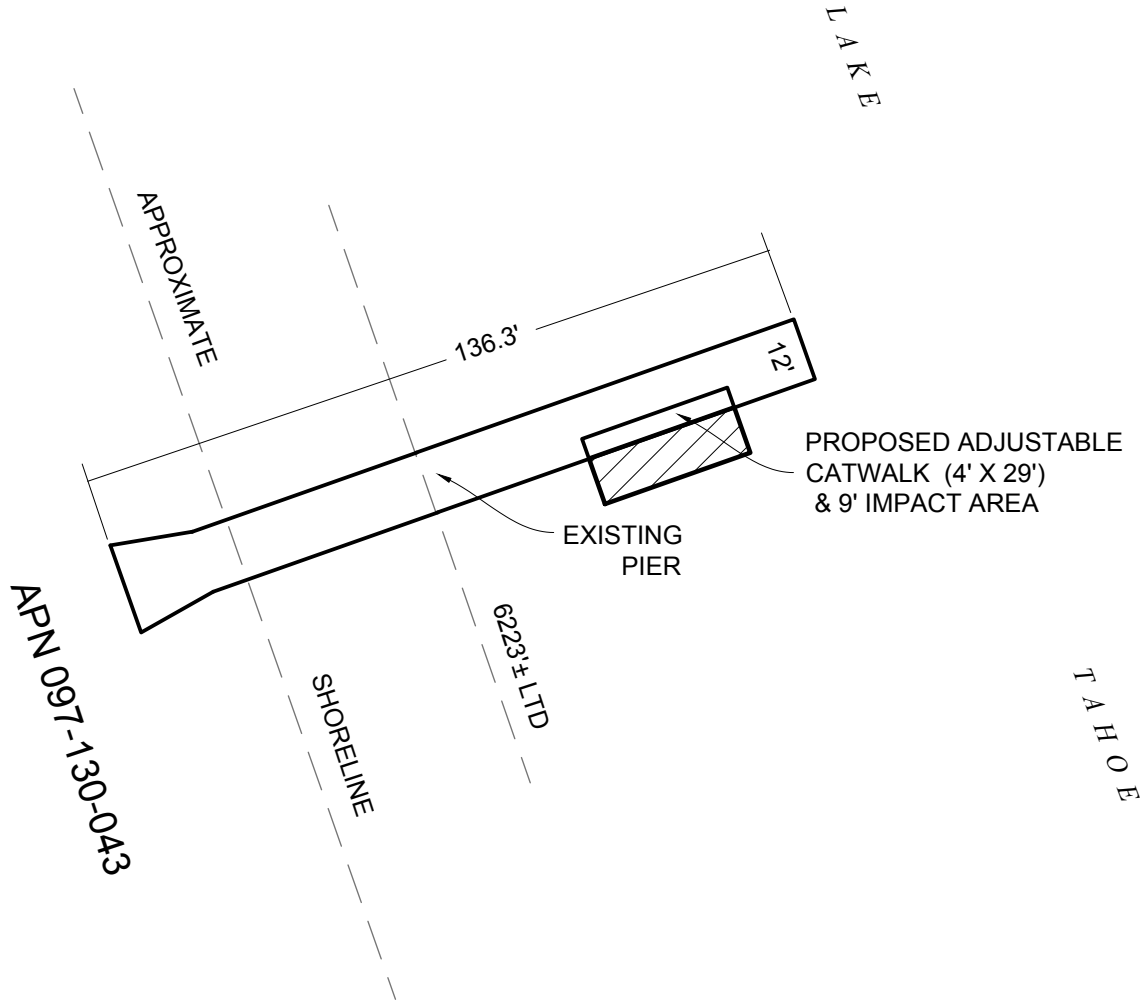
LAND DESCRIPTION PLAT
PRC 9071.1, HOMEWOOD SHORES ASSOC.
PLACER COUNTY

CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

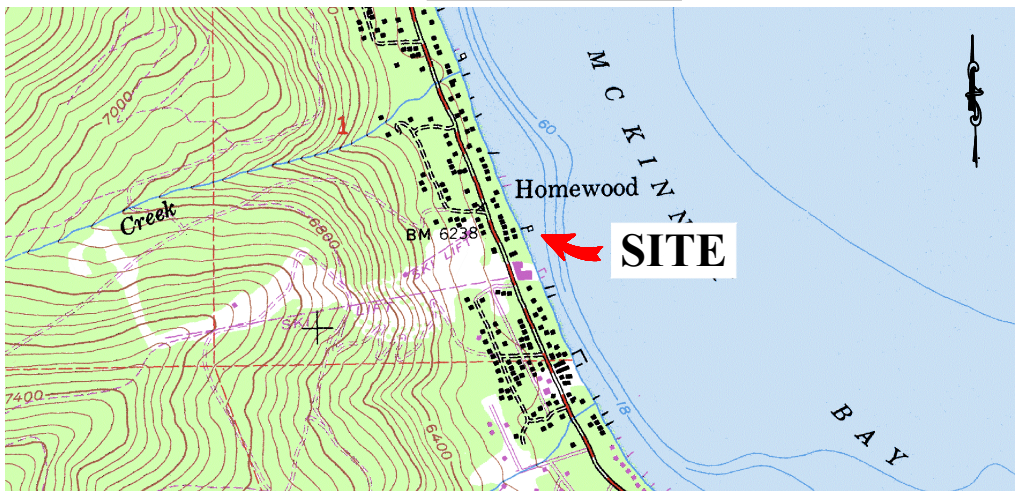
SITE



5138 WEST LAKE BLVD., NEAR HOMEWOOD

NO SCALE

LOCATION

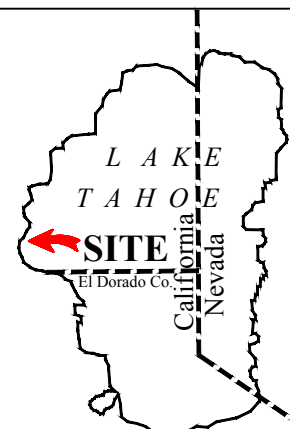


MAP SOURCE: USGS QUAD

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 9071.1
 HOMEWOOD SHORES
 ASSOCIATION
 APN 097-130-043
 GENERAL LEASE -
 RECREATIONAL USE
 PLACER COUNTY



MJJ 10/26/17