

13. (APPLICATION FOR LEASE OF TIDE AND SUBMERGED LANDS, ANTIOCH, CONTRA COSTA COUNTY, JOHN J. RODGERS - W.C. 1136.) An application has been received from Mr. John J. Rodgers of Antioch to lease 4.72 acres of tide and submerged land fronting on his upland and located adjacent to but outside of the city limits of Antioch. Action on this application was deferred at the June 30, 1952, meeting of the Commission.

The problem is complicated by the fact that there are nine squatters claiming 19 purprestures on the area of State land for which application has been received from Mr. Rodgers. Of these at least one, and probably more, is used commercially, the balance being used as residences.

Legally the builders of the purprestures have no rights, as no permission for the occupancy was given by the County Board of Supervisors, the Surveyor General, or the State Lands Commission. It is the understanding of the Staff of the State Lands Commission that no taxes are paid on the structures.

It has not been the policy of the Commission to commence ejectment proceedings against occupants or nominal owners of purprestures, as provided in Section 6302 of the Public Resources Code, but rather to issue a two-year lease from date of notice of unauthorized occupancy, at \$65 a year for noncommercial leases; and for commercial leases to issue a 15-year lease at \$100 per year minimum or 6.6 per cent of the appraised value of the bare land, whichever is greater, with bond requirement in the latter case commensurate with the cost of removal upon lease termination; a noncommercial lease to provide for a ten-year renewal at such reasonable terms and conditions as shall be set by the Commission at the time of renewal. It is the expectation in the case of Antioch that sanitary facilities may be arranged for during the two-year period, and such a satisfactory solution should be a condition at time of renewal.

Pursuant to Commission direction, a conference was held in Richmond on July 1, 1952, with Senator T. H. DeLap, Judge Hamm, Mr. John J. Rodgers, and the Assistant Executive Officer, at which time the following policy of the Commission was outlined:

A 15-year lease could be issued to John J. Rodgers on 4.72 acres of tide and submerged lands in front of his Antioch property under the Commission's policy of \$100 a year or 6.6 per cent of the appraised value of the bare land, whichever is greater, with the proviso in the lease that Mr. Rodgers issue a firm sublease to occupants or nominal owners of purprestures for a two-year period, at a rental to the occupants not in excess of the policy stated above, and with the option in Mr. Rodgers to renew or continue the subleases provided proper sanitary facilities shall have been made available to such purprestures.

Alternatively, the State could issue two-year leases to the occupants or nominal owners of purprestures, at the established rental rates as noted above, subject to approval of such leases by Mr. Rodgers, said leases to provide for a ten-year extension, with consent of Mr. Rodgers, at terms to be set by the Commission at time of renewal, with consideration for renewal being that sanitary facilities would be provided at no expense to the State.

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This Commission policy was not acceptable to Senator DeLap, Judge Hamm, and Mr. Rodgers, for the reason that such leases would possibly make it impossible for Mr. Rodgers either to sell or lease his upland for industrial purposes because of the proposed State leases on the tide and submerged lands. The point was made that the occupants or nominal owners of the purprestures were being given legal status, whereas actually they do not have such status. Mr. Rodgers was quite willing that the occupants or nominal owners be given a lease or sublease for a six-month period, with continued occupancy beyond this period to be at Mr. Rodgers' option.

Having reached this impasse, Senator DeLap requested that the matter be presented to the Commission at its next meeting, said request being formally submitted in his letter of July 2, 1952. Filing fee and expense deposit have been paid.

The following recommendation was submitted by the Staff for consideration:

That the Executive Officer be authorized to issue to John J. Rodgers a 15-year lease on 4.72 acres of tide and submerged lands in front of his Antioch property under the Commission's policy of \$100 per year rental or 6.6 per cent of the appraised value of the bare land, whichever is greater, for the area not occupied by purprestures, plus the rental for purprestures under the Commission's policy, with proviso in the lease that Mr. Rodgers issue a firm sublease to occupants or nominal owners of purprestures for a two-year period, at a rental to the occupants not in excess of the policy stated above, and with the option in Mr. Rodgers to renew or continue the subleases provided proper sanitary facilities shall have been made available to such purprestures.

Senator T. H. DeLap appeared before the Commission on behalf of John J. Rodgers and stated that the State land on which Mr. Rodgers desires a lease is not 4.72 acres in area, but a strip about 100 feet wide by 730 feet long, or about two acres. He protested the recommendation of the Staff on the basis that it would not allow Mr. Rodgers to charge the squatters a sufficiently high rental to cover his costs such as taxes, insurance, attorney's fees, and possible cost of ejectment proceedings, and that the time of the leases was too long and would prevent his client from working out satisfactory leases or developments on the upland which he owns.

Senator DeLap offered the following counter proposal on behalf of Mr. Rodgers:

That Mr. Rodgers be given a lease on the two-acre strip of State land, with the usual covenants and conditions contained in the State's form of lease, at \$100 a year, or whatever is the correct figure under the Commission's policy, and that Mr. Rodgers in turn be allowed to sublease to the squatters who are actually on the property, for a period of at least six months, at a rental of \$130 a year for noncommercial purposes and of \$200 a year for commercial purposes, Mr. Rodgers to pay the State \$65 a year for each residence and \$100 a year for each commercial establishment. If a tenant should vacate during the period of the sublease, there would be no renewal.

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Senator DeLap went on to state that the tenants should furnish their own sanitary facilities, which would be a real problem, as the estimated cost of connecting sewer facilities to those which have been developed by the City of Antioch would run as high as \$100,000, and there is a question as to whether the City of Antioch would consider such a proposal. The only alternative would be individual chemical units, which would cost about \$1 a day per installation. Mr. Rodgers' upland property is in the city limits, and his sanitary problem has been solved.

Senator DeLap stated that his client would be willing to go further and not only have the leases cover a period of at least six months, but until such time as Mr. Rodgers has an industry that wants to develop the upland, or until he has a bona fide plan for development of the property as a harbor or other commercial or industrial enterprise; that after having these definite plans, Mr. Rodgers would give the tenants at least 60 days' notice in addition to the original six months before dispossessing them. Industry is going to be interested in Mr. Rodgers' property if they can be assured of deep-water frontage, as the area in question is at present almost completely surrounded by industrial developments.

The Executive Officer stated that he was advised that this was the first time the State had received such a proposal as that outlined above.

Mr. Deah indicated that it was the State's policy to cooperate with the uplands owners at all times where such cooperation would lead to development of their property, and that if Mr. Rodgers had plans for immediate development or improvement, the State would be willing to eject the squatters at once, but in the absence of such plans the State's interests in rentals should be protected, and also, from a humanitarian angle, the interests of the squatters.

A proposal was made that Mr. Rodgers be given a lease that would become effective six to eight months from the present time, Mr. Rodgers to have the right of possession at that time, and his rentals to commence when the lease was effective, with all squatters being subject to ejection immediately there is any real development under way.

After considerable discussion pro and con, it was the consensus that a further conference should be held by the Staff with Senator DeLap in an effort to work out a policy that will be satisfactory both to Mr. Rodgers and to the State.

UPON MOTION DULY MADE AND UNANIMOUSLY CARRIED, A RESOLUTION WAS ADOPTED DEFERRING ACTION ON MR. JOHN J. RODGERS' APPLICATION FOR A LEASE OF APPROXIMATELY TWO ACRES OF TIDE AND SUBMERGED LAND FRONTING ON HIS UPLAND ANTIOCH PROPERTY, AND RESUBMITTING THE PROBLEM TO THE STAFF FOR FURTHER CONSIDERATION.

14. (APPLICATION FOR LEASE, TIDE AND SUBMERGED LANDS, HUMBOLDT COUNTY, EARL HALLMARK - W.O. 61, P.R.C. 745.6.) On September 20, 1951, the Commission authorized the Executive Officer to request the Attorney General's Office to commence ejection proceedings in three cases, pursuant to Section 6302 of the Public Resources Code, for unauthorized occupancy of tide and submerged lands. One of these cases was Hallmark Fisheries, occupant of tide and submerged lands in Trinidad Bay, Humboldt County. Following the above action, Mr. Hallmark, now operating under the name of "Trinidad Crab Company", paid