

**CALENDAR ITEM
C57**

A 67
S 35

05/24/12
PRC 5702.1
S. Paschall

GENERAL LEASE – RECREATIONAL USE

APPLICANTS:

Robert M. Stephen and Jennifer H. Stephen.

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in the Main Channel of Huntington Harbour, adjacent to 16712 Coral Cay Lane, city of Huntington Beach, Orange County.

AUTHORIZED USE:

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

LEASE TERM:

10 years, beginning August 10, 2009.

CONSIDERATION:

Cantilevered Deck: Annual rent in the amount of \$1,242, with the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease;

Boat Dock and Access Ramp: Rent-free pursuant to Public Resources Code section 6503.5 (b)(2).

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.

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

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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 obtaining 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 June 14, 1999, the Commission authorized the issuance of Recreational Pier Lease No. PRC 5702.9 to William Rosenberg and Ruth Rosenberg, for a 10-year term, beginning August 23, 1999. The lease was for an existing recreational boat dock and access ramp. The access ramp was not specifically noted in the prior calendar item or lease, but was depicted on the exhibits and is therefore considered to have been authorized. That lease expired on August 22, 2009. The subject property was deeded to the Applicants, as recorded on August 10, 2009. The Applicants are now applying for a new lease. The cantilevered deck, which extends over the State's fee owned land in the Main Channel of Huntington Harbour, was not previously authorized by the Commission. Since the cantilevered deck is existing, staff is recommending that it be included in the lease.
4. The proposed new lease will commence on August 10, 2009, which is the date the Applicants acquired the upland property. Because the Applicants have enjoyed use of the cantilevered deck since that time but have not paid rent, staff is recommending payment of back rent for those periods beginning with the commencement of the proposed lease.
5. On October 8, 2011, Chapter 585, Statutes of 2011 became law. The law became 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

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- B. A lease for which the lease application and application fees were submitted to the Commission prior to March 31, 2011.

This lease meets the statutory requirements for an exception to the recently-enacted changes to section 6503.5 of the Public Resources Code because the lease application and fees were received prior to March 31, 2011. Therefore, the only facility subject to rent is the cantilevered deck for the term of the lease.

6. 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.

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:

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).

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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:

Authorize issuance of a General Lease - Recreational Use to Robert M. Stephen and Jennifer H. Stephen, beginning August 10, 2009, for a term of 10 years, for the use and maintenance of an existing boat dock, access ramp, and 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 for the cantilevered deck to be annual rent in the amount of \$1,242, beginning on August 10, 2009; combined single-limit liability insurance coverage in the amount of no less than \$1,000,000.

EXHIBIT A**LAND DESCRIPTION**

A parcel of submerged land situate in Huntington Harbour, in the City of Huntington Beach, Orange County, California, described as follows:

BEGINNING at the most easterly corner of Lot 48, 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 northeasterly prolongation of the southeasterly line of said lot 65.00 feet; thence northwesterly and parallel with the northeasterly line of said lot 60.00 feet to the northeasterly prolongation of the northwesterly line of said lot; thence southwesterly along said northeasterly prolongation 65.00 feet to the most northerly corner of said lot; thence southeasterly along said northeasterly line of said lot to the point of beginning.

END OF DESCRIPTION

Prepared 04/26/2012 by the California State Lands Commission Boundary Unit



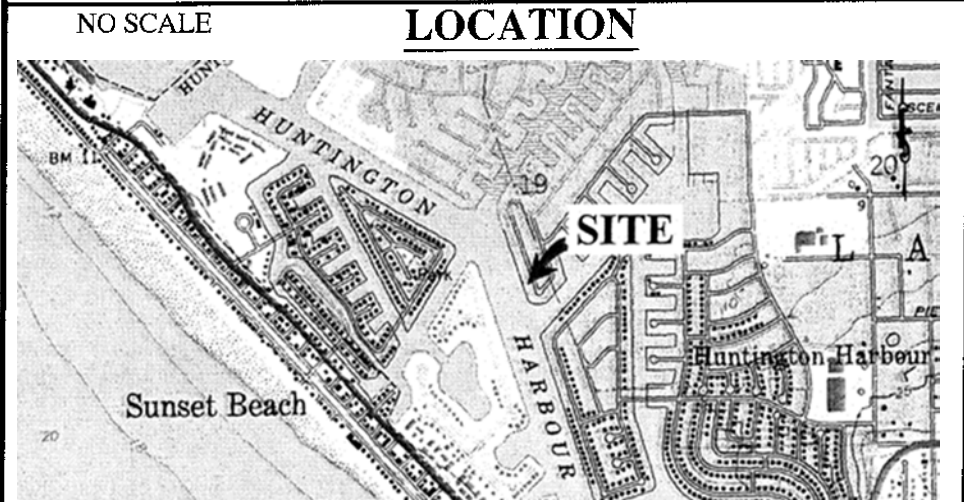
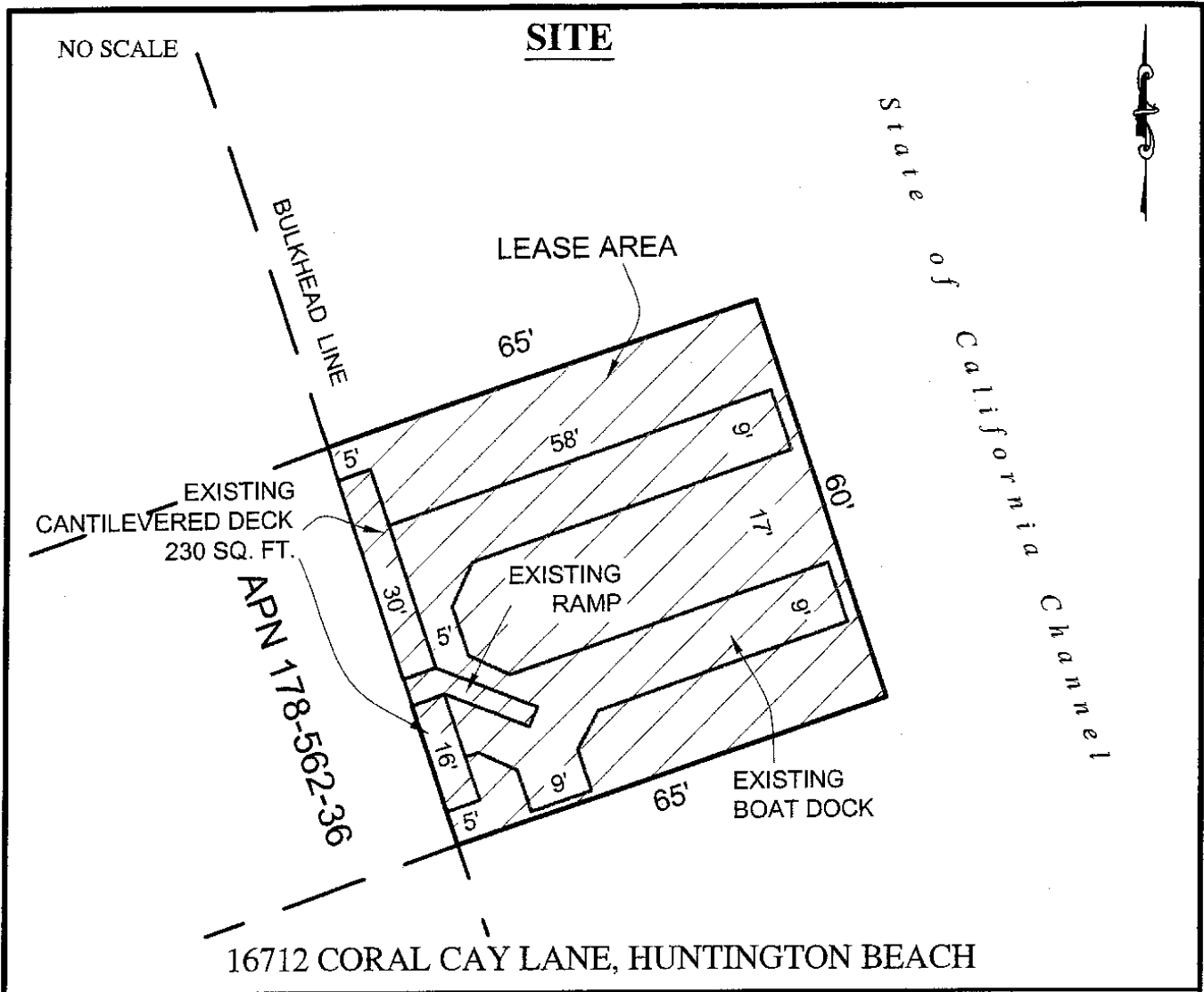
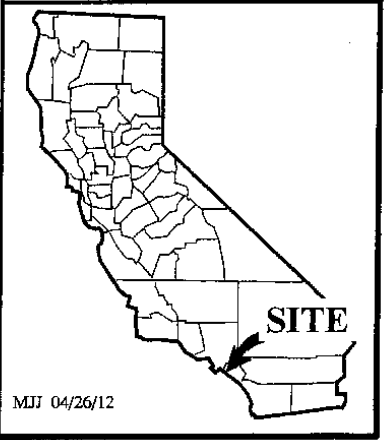


Exhibit B

PRC 5702.1
 STEPHEN
 APN 178-562-36
 GENERAL LEASE -
 RECREATIONAL 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.