

**CALENDAR ITEM
C51**

A 67

12/05/12
PRC 3079.1
A. Franzoia

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GENERAL LEASE – RECREATIONAL USE

APPLICANTS:

Gerald and Marilyn Jones Revocable Trust

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in the Midway Channel of Huntington Harbour, adjacent to 3442 Gilbert Drive, Huntington Beach, Orange County.

AUTHORIZED USE:

Continued use and maintenance of a boat dock, access ramp, and cantilevered deck.

LEASE TERM:

10 years, beginning December 5, 2012.

CONSIDERATION:

Dock, Access Ramp and Cantilevered Deck: Annual rent to be \$1,473 for the lease term pursuant to Public Resources Code 6503.5, 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 April 9, 2002, the Commission approved the issuance of Recreational Pier Lease No. PRC 3079.9 to Gerald and Marilyn Jones Revocable Trust, for a period of 10 years, for the use and maintenance of an existing boat dock. That lease expired on October 4, 2012, and is in holdover. The Applicants are now applying for a new lease.
4. A portion of the cantilevered deck encroaches into the State's fee owned land in the Main Channel of Huntington Harbour, and was not previously authorized by the Commission. Since the cantilevered deck is existing, staff is recommending that it be included in the lease.
5. 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.

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The proposed lease application was submitted on September 7, 2012 and does not meet the statutory exceptions to the imposition of rent for the boat dock and access ramp and is thus subject to rent.

6. The staff recommends that the Commission find 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 ACTION:

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).

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 and Protective Structure Use, to Gerald and Marilyn Jones Revocable Trust, beginning December 5, 2012, for a term of 10 years, for the use and maintenance of an existing boat dock, access ramp, and cantilevered deck, as described

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in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; consideration: annual rent in the amount of \$1,473; combined single-limit liability insurance coverage in the amount of no less than \$1,000,000.

EXHIBIT A

PRC 3079.1

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 northerly corner of Lot 20, as said lot is shown and so designated on that certain map of Tract No.4677 filed in Book 168, Pages 14 through 18 of Miscellaneous Maps, Official Records of said County; thence along the southeasterly extension of the northeasterly line of said lot 40.00 feet to a line parallel with the southeasterly line of said lot; thence southwesterly 50 feet to the southeasterly extension of the southwesterly line of said lot; thence northwesterly 40.00 feet along said easterly extension to the most southerly corner of said lot; thence northeasterly along the southeasterly line to the point to beginning.

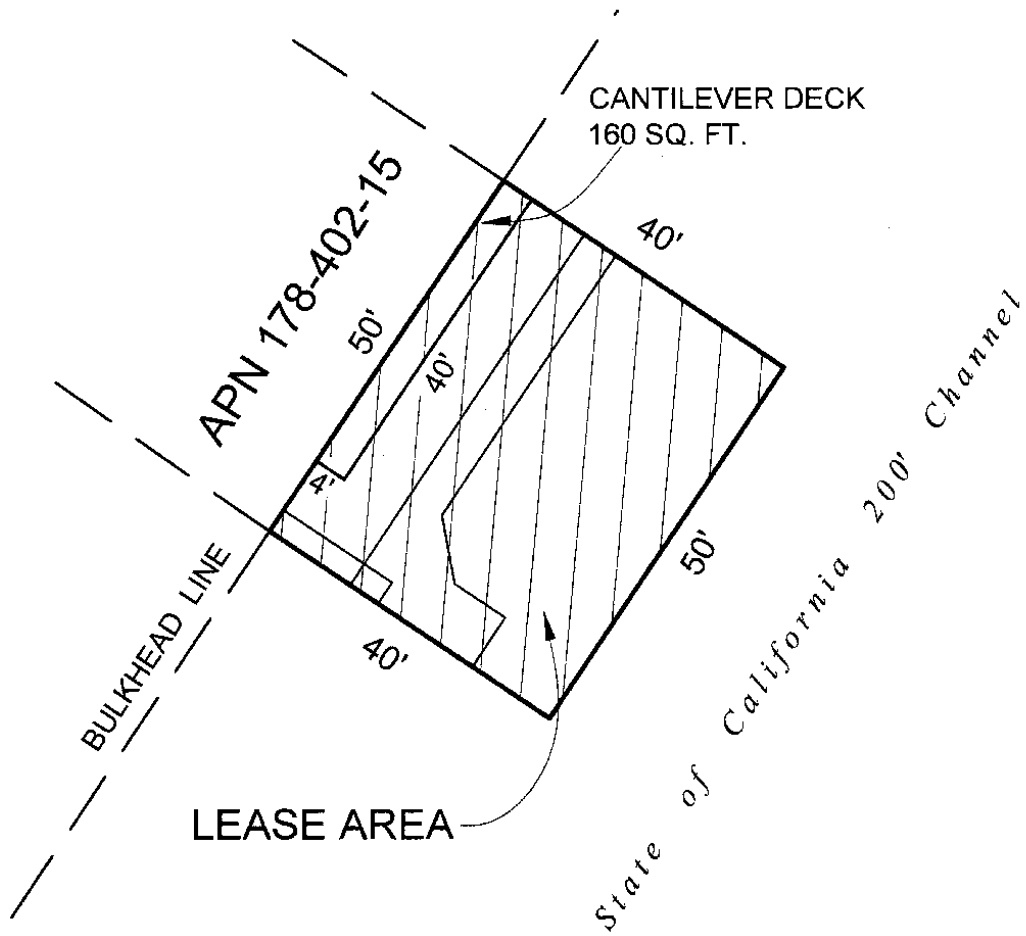
END OF DESCRIPTION

Prepared 10/15/2012 by the California State Lands Commission Boundary Unit



NO SCALE

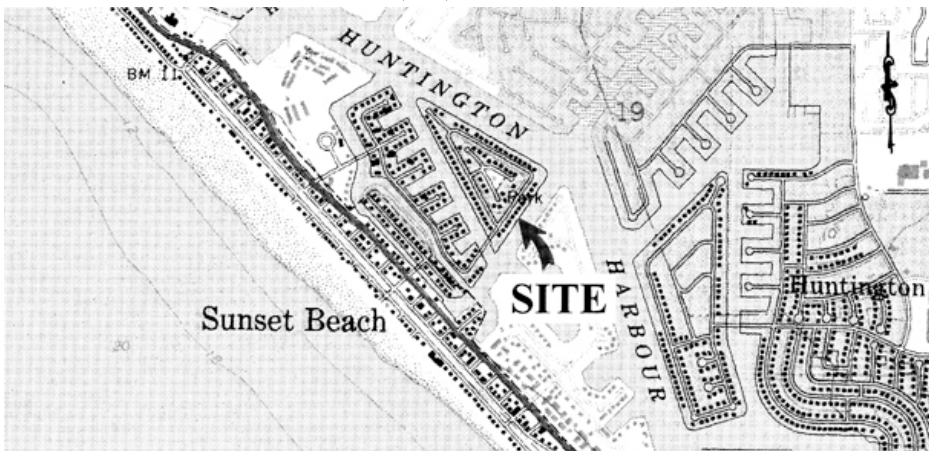
SITE



3442 GILBERT DRIVE, HUNTINGTON BEACH

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

PRC 3079.1
 JONES
 APN 178-402-15
 GENERAL LEASE -
 RECREATIONAL USE
 ORANGE COUNTY



SITE

MJJ 10/29/12

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.