

**CALENDAR ITEM
C55**

A 67
S 35

12/05/12
PRC 3171.1
S. Paschall

REVISION OF RENT

LESSEES:

Samir Mobassaly and Pamela Mobassaly, Trustees of the Mobassaly Family Trust U/D/T Dated August 9, 2000.

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in Huntington Harbour, adjacent to 16602 Somerset Lane, city of Huntington Beach, Orange County.

AUTHORIZED USE:

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

LEASE TERM:

10 years, beginning February 1, 2008.

CONSIDERATION:

This lease provides that the State may modify the rent periodically during the lease term. Pursuant to this provision, staff conducted a review of the rent under this lease and recommends rent be revised from \$759 per year to \$911 per year, effective February 1, 2013.

OTHER PERTINENT INFORMATION

1. 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 Lessees' upland property is located along the Main Channel of Huntington Harbour.

CALENDAR ITEM NO. **C55** (CONT'D)

2. On June 24, 2008, the Commission approved issuance of a General Lease – Recreational Use for a 10-year term, beginning February 1, 2008, to Samir Mobassaly and Pamela Mobassaly, Trustees of the Mobassaly Family Trust U/D/T Dated August 9, 2000, for continued use and maintenance of an existing boat dock and access ramp, and the retention, use, and maintenance of an existing cantilevered deck extending no more than five feet waterward of the bulkhead. The current Lessees are natural persons who own the upland property adjacent to the lease premises.

3. 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 has 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:
 1. 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
 2. 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 for the remaining term of the lease because the lease was in effect on July 1, 2011. Therefore, the only facility subject to a rental consideration is the deck which cantilevers beyond the bulkhead into State property.

4. The staff recommends that the Commission find that the subject revision of rent does not have a potential for resulting in either a direct or a reasonably foreseeable indirect physical change in the environment, and is, therefore, not a project in accordance with the California Environmental Quality Act (CEQA).

Authority: Public Resources Code section 21065 and California Code of Regulations, Title 14, sections 15060, subdivision (c)(3), and 15378.

CALENDAR ITEM NO. **C55** (CONT'D)

EXHIBITS:

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

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that the subject revision of rent is not subject to the requirements of CEQA pursuant to California Code of Regulations, Title 14, section 15060, subdivision (c)(3), because the subject activity is not a project as defined by Public Resources Code section 21065 and California Code of Regulations, Title 14, section 15378.

AUTHORIZATION:

Approve the revision of rent for Lease No. PRC 3171.1 from \$759 per year to \$911 per year, effective February 1, 2013.

EXHIBIT A

PRC 3171.1

LAND DESCRIPTION

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

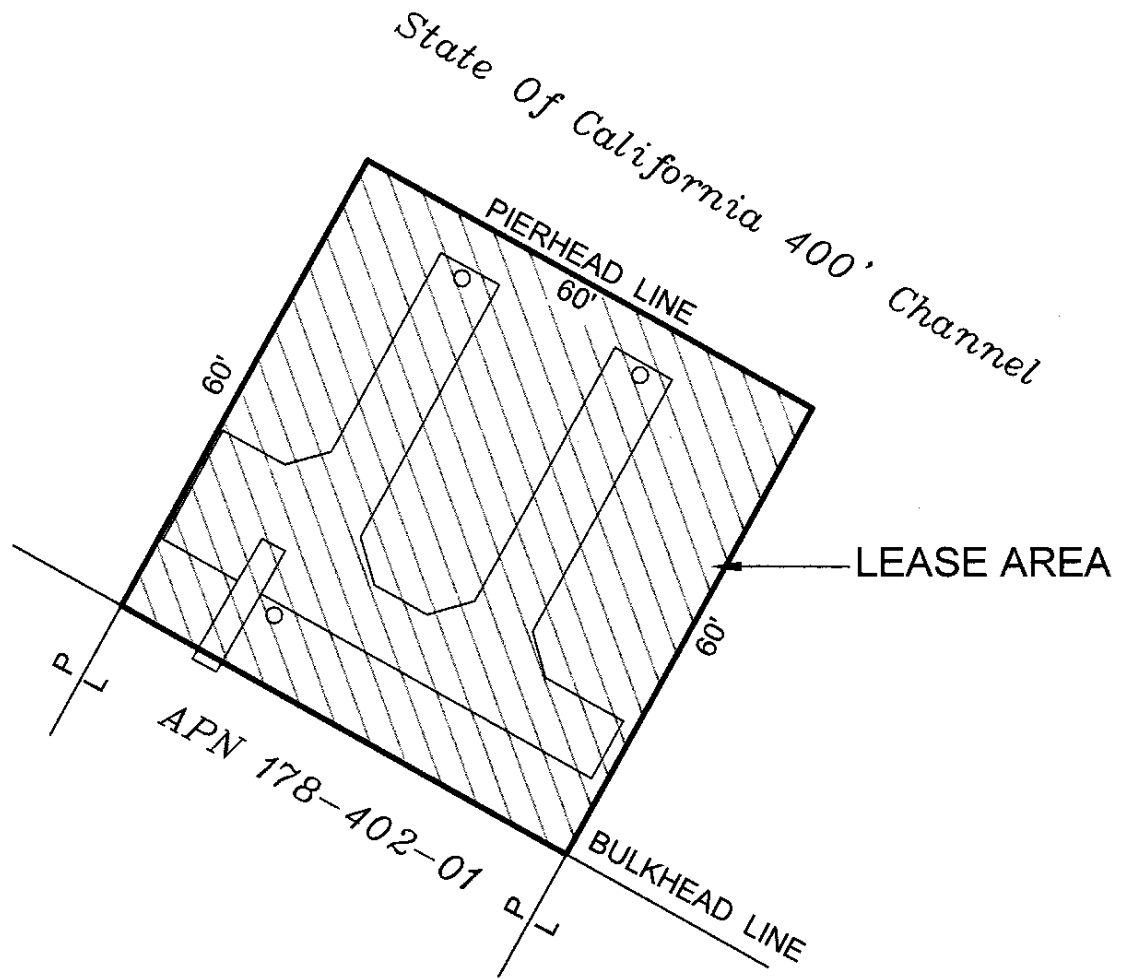
Beginning at the most northerly corner of Lot 33, as said lot is shown and so designated on that certain map of Tract No. 4677 filed in Book 168, Pages 14 through 18 of Official Records of said County; thence along the northeasterly extension of the northwesterly line of said lot 60.00 feet, more or less, to the pierhead line as said pierhead line is described in Resolution No. 5908, passed and adopted August 1, 1988 by the City Council of said City; thence southeasterly along said pierhead line to the northeasterly extension of the southeasterly line of said lot; thence along said extension 60.00 feet, more or less, to the most easterly corner of said lot; thence northwesterly along the northeasterly line of said lot to the point of beginning.

END OF DESCRIPTION

Prepared 05/15/2008 by the California State Lands Commission Boundary Unit

NO SCALE

SITE



16602 SOMERSET LANE, HUNTINGTON HARBOUR

NO SCALE

LOCATION

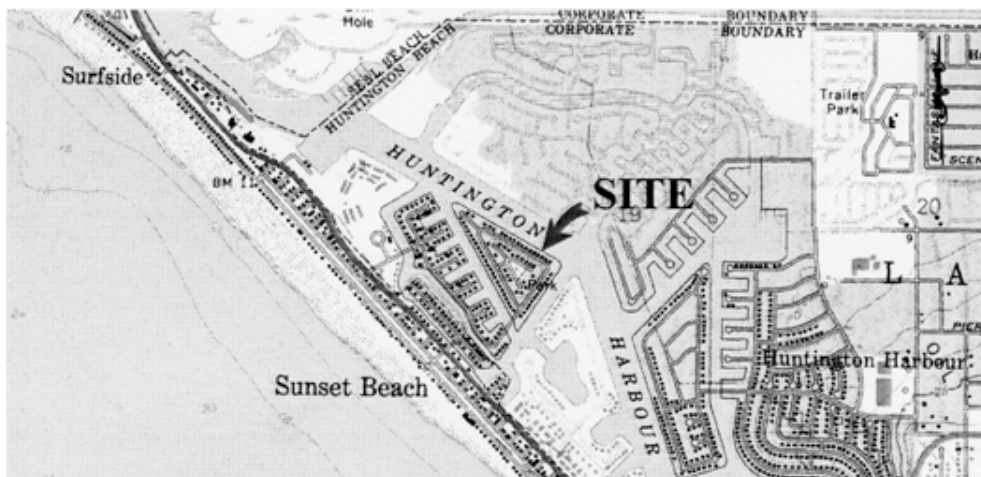


Exhibit B

PRC 3171.1
 MOBASSALY TRUST
 APN 178-402-01
 GENERAL LEASE -
 RECREATIONAL USE
 ORANGE COUNTY



TS 11/06/12

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.