

**CALENDAR ITEM
C52**

A 72

12/17/14
PRC 5550.1

S 34

D. Simpkin
W. Crunk

**SETTLEMENT OF LITIGATION, ISSUANCE OF A GENERAL LEASE –
RECREATIONAL USE, AND ACCEPTANCE OF BACK RENT**

APPLICANTS:

Frank M. Singer and Rona Jane Singer, as Trustees of The Frank and Rona Singer Living Trust as amended and restated on September 30, 1990

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in the Main Channel of Huntington Harbour, adjacent to 3552 Venture Drive, Huntington Beach, Orange County.

AUTHORIZED USE:

The continued 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 October 16, 2014.

CONSIDERATION:

Rent for the entire 10-year term in the amount of \$19,560 due at the commencement of the Lease.

SPECIFIC LEASE PROVISIONS:

Insurance:

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

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. The 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 1962 as a result of a land exchange entered into between the Commission and the Huntington Harbour Corporation, recorded as the Amended Agreement for the Exchange of Lands in the Sunset Beach Area, Orange County, California, and recorded on March 7, 1963, in Book 6457, Page 819, 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. The Commission first authorized improvements adjacent to 3552 Venture Drive in 1978. The Applicants have been under lease with the Commission for the improvements in the Main Channel beginning in 1988. The Commission authorized a lease to the Applicants at the February 1, 2010 Commission meeting (Calendar Item C30). The Applicants executed and returned the lease as authorized, but refused to pay the required \$680 annual rent for the cantilevered deck.
4. At the October 27, 2011 meeting, the Commission found the Applicants in default of Lease No. PRC 5550.1 for nonpayment of rent, terminated the lease, and authorized the Attorney General's Office to file litigation against the Applicants. On January 20, 2012, the Attorney General filed an action for trespass and ejectment, seeking damages and removal of the Applicants' dock and cantilevered deck from the State-owned Main Channel of Huntington Harbour.
5. On August 5, 2013, the Singers' cross complaint against the State was dismissed with prejudice. At the October 16, 2014 Mandatory Settlement Conference, the Singers proposed a settlement to the litigation which includes payment of \$8,617 in back rent, penalty, and interest, and a new 10-year lease which requires prepayment of all 10 years of rent at the commencement of the Lease.
6. The staff recommends that the Commission find that this activity is exempt from the requirements of the California Environmental Quality Act (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).

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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:

1. Authorize settlement of litigation against the Singers on performance of all terms as proposed.
2. Authorize issuance of a General Lease-Recreational Use to Frank M. Singer and Rona Jane Singer, as Trustees of The Frank and Rona Singer Living Trust as amended and restated on September 30, 1990 beginning October 16, 2014, for a term of 10 years, for a boat dock, access ramp, and cantilevered deck as described on Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; compensation in the amount of \$19,560 for full payment of the entire Lease term due at the commencement of the Lease; liability insurance in the amount of no less than \$1,000,000 per occurrence.

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3. Authorize acceptance of back rent, penalties and interest in the amount of \$8,617.

EXHIBIT A

PRC 5550.1

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 southerly corner of Lot 44, as said lot is shown and so designated on that certain map of Tract No. 9335 filed in Book 386, Pages 32 and 33 of Miscellaneous Maps, Official Records of said County; thence along the southwesterly extension of the southeasterly line of said lot 60.00 feet, more or less, to the pierhead line, as said pierhead line is shown on EXHIBIT 'A' of Resolution No. 5503, passed and adopted May 6, 1985 by the City Council of the City of Huntington Beach and recorded May 10, 1985 as Document 85-170510, Official Records of said County; thence northwesterly along said pierhead line to the southwesterly extension of the northwesterly line of said lot; thence along said extension 60.00 feet, more or less, to the most westerly corner of said lot; thence along the southwesterly line of said lot to the point of beginning.

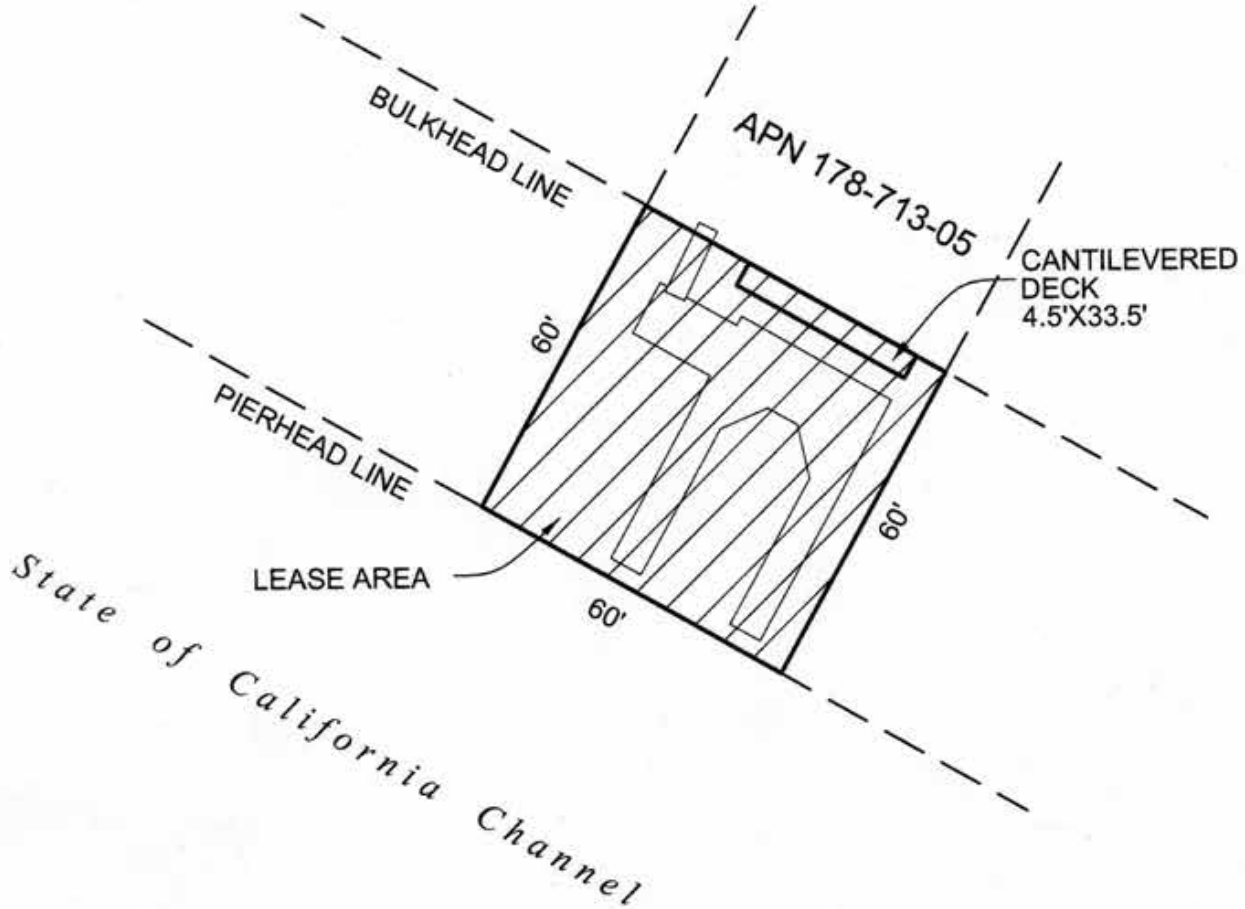
END OF DESCRIPTION

Prepared 01/06/2010 by the California State Lands Commission Boundary Unit



NO SCALE

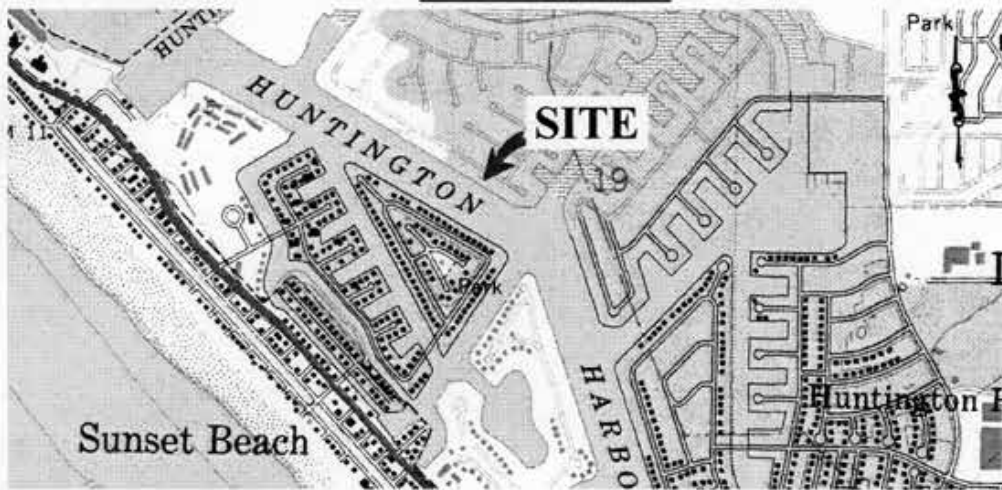
SITE



3552 VENTURE DRIVE, HUNTINGTON BEACH

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

PRC 5550.1
 SINGER
 APN 178-713-05
 GENERAL LEASE -
 RECREATIONAL USE
 ORANGE COUNTY



MJJ 11/13/2014

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.