

**STAFF REPORT
C82**

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R. Boggiano

D. Frink

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CONSIDER APPROVAL OF A RECORD OF SURVEY DEPICTING THE LOCATION AND EXTENT OF FILLED TIDELANDS AS THEY EXISTED AROUND FEBRUARY 22, 1980, AT AND ADJACENT TO POINT RICHMOND, IN THE CITY OF RICHMOND, CONTRA COSTA COUNTY

GRANTEE:

City of Richmond

LOCATION:

Granted and ungranted sovereign tide and submerged lands located in the city of Richmond, Contra Costa County.

BACKGROUND:

The City of Richmond (City) is trustee of sovereign tide and submerged lands granted to it by the Legislature pursuant to Chapter 317, Statutes of 1913 and as amended, with no minerals reserved to the State (statutory trust grant). The City holds certain land at and adjacent to Point Richmond in trust pursuant to its statutory trust grant. There are also portions of ungranted sovereign tide and submerged lands adjacent to Point Richmond and any remaining State interest in these lands is retained by the State, acting by and through the Commission.

Portions of the tide and submerged lands in the City were sold into private ownership by the State through its then Board of Tide Land Commissioners. These private lots are often referred to as BTLC lots. The majority of the City's waterfront was divided into BTLC lots and sold to private parties in the mid to late 1800s, including the area in and around Point Richmond. Over time, but prior to 1980, portions of Point Richmond were filled or partially filled, including partially filled and sold BTLC Lots 6 and 7, in section 216; and filled and sold BTLC Lots 26½ and 27, section 23, Township 1 North, Range 5 West MDM as shown on Map No. 1 of Salt Marsh and Tide Lands Situated in Contra Costa County, 1872.

The Commission's jurisdiction regarding BTLC lots was clarified in 1980 by the California Supreme court in the case, *City of Berkeley v. Superior Court* (1980) 26 Cal.3d 515 (Berkeley Decision). The court stated that BTLC lots filled prior to

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February 22, 1980, to the extent they are not subject to tidal action, are no longer subject to the common law Public Trust Doctrine and any lands that remained submerged or subject to tidal action as of February 22, 1980, are subject to a Public Trust easement retained by the State or its legislative grantee.

There is a proposed development at Point Richmond that is known as the Terminal One project. The City has entered into a Land Disposition and Development Agreement with Terminal One Development, LLC (Developer), for the Terminal One project site located at 1500 Dornan Drive at Point Richmond. The project will include a 1.9-acre public park, construction of the Bay Trail Loop, a public waterfront park, the repurposing of the Terminal One Pier, and residential housing.

The proposed project is partly located on filled and partially filled BTLC lots. The proposed project also extends onto a portion of the land the City holds in trust under its statutory trust grant. Because of the complicated title history at this location, the City and Commission staff would like to formally depict the filled tidelands at and near Point Richmond, as of February 22, 1980, through a record of survey. A record of survey is an official map that represents a survey made on the ground and is reviewed by the County Surveyor's Office and then recorded with the County Recorder's Office. The Developer also supports this effort.

STAFF ANALYSIS:

By application of the Berkeley Decision, the portions of the tide and submerged lands that were sold and filled prior to February 22, 1980, and are not currently subject to tidal action, as depicted by the survey, are not impressed with the common law Public Trust Doctrine. The tidelands and submerged BTLC lots at Point Richmond are subject to the Public Trust easement retained by the State. The record of survey is not intended to represent a fixed boundary line or title settlement agreement between the State, City, and adjacent landowners.

Portions of the land that the City holds under its statutory trust grant at Point Richmond have been filled. The City holds the lands that were described in the statutory trust grant, whether they are filled or submerged, in fee, subject to the restrictions in its granting statute and the common law Public Trust Doctrine.

Staff has reviewed the record of survey prepared by BKF Engineers and Surveyors and believes that the record of survey depicts the extent of filled tidelands that were not subject to tidal action as of February 22, 1980. The City

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has reviewed the record of survey and does not have any objections to it. The record of survey will be recorded after approval by the Commission.

OTHER PERTINENT INFORMATION:

1. This action is consistent with Strategy 1.2 of the Commission's Strategic Plan to provide that the current and future management of ungranted sovereign land and resources and granted lands are consistent with evolving Public Trust principles and values, particularly amid challenges relating to climate change, sea-level rise, public access, and complex land use planning and marine freight transportation systems.
2. Approval of the record of survey is not a project as defined by the California Environmental Quality Act because it is an administrative action that will not result in direct or indirect physical changes in the environment.

Authority: Public Resources Code section 21065 and California Code of Regulations, title 14, section 15378, subdivision (b)(5).

EXHIBIT:

- A. Location and Site Map

RECOMMENDED ACTION:

It is recommended that the Commission:

AUTHORIZATION:

Approve the record of survey, substantially in the form on file at the Commission's Sacramento Office, depicting the location and extent of filled tidelands as they existed around February 22, 1980, at and adjacent to Point Richmond in the city of Richmond, Contra Costa County.

NO SCALE

SITE



SAN FRANCISCO BAY

SAN FRANCISCO BAY, POINT RICHMOND

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit A

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TERMINAL ONE
PROJECT
POINT RICHMOND
CONTRA COSTA
COUNTY



SITE

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.