

Staff Report 05

General Lease – Recreational Use

APPLICANT:

Peter E. Haas Jr., individually and as Trustee of the Peter Haas Trust, established under the Peter and Joanne Haas Family Trust instrument, dated May 3, 2001; Daniel S. Haas, individually and as Trustee of the Daniel S. Haas Trust, dated December 21, 2004; and Bradley J. Haas, individually and as Trustee of the Bradley J. Haas Trust, dated March 17, 2009

PROPOSED ACTION:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 5690 West Lake Boulevard, near Homewood, Placer County.

AUTHORIZED USE:

Continued use and maintenance of an existing pier, boat lift, and two mooring buoys.

TERM:

10 years, beginning August 20, 2020.

CONSIDERATION:

\$1,324 per year, with an annual Consumer Price Index adjustment.

SPECIFIC PROVISIONS:

- Liability insurance in an amount no less than \$1,000,000 per occurrence.
- Lessee shall not store any personal items or construct any improvements in the Public Trust easement that may impair the public uses of access, navigation, fishing, and lake-related recreation.
- Lessee shall provide proof of a Tahoe Regional Planning Agency (TRPA) permit and registration for all moorings, or proof that any unregistered and unpermitted mooring(s) have been removed on or before October 23, 2020.
- Lessee expressly acknowledges and agrees that issuance of a lease does not substitute for, or provide preference in, obtaining authorizations from Tahoe

Regional Planning Agency (TRPA) or any other regulatory agency for the improvements authorized by the Commission.

STAFF ANALYSIS AND RECOMMENDATION:

AUTHORITY:

Public Resources Code sections 6005, 6216, 6301, 6501.1, 6503, and 6503.5; California Code of Regulations, title 2, sections 2000 and 2003.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

On June 28, 2010, the Commission authorized a Recreational Pier Lease for an existing pier, boat lift, and two mooring buoys to Josephine B. Haas, as Trustee of the Peter E. Haas Jr. 2009 Homewood Trust, dated October 12, 2009; Josephine B. Haas, as Trustee of the Jennifer B. Haas 2009 Homewood Trust, dated October 12, 2009; Josephine B. Haas, as Trustee of the Daniel S. Haas 2009 Homewood Trust, dated October 12, 2009; and Josephine B. Haas, as Trustee of the Bradley J. Haas 2009 Homewood Trust, dated October 12, 2009 ([Item C06, June 28, 2010](#)). The lease expired on December 31, 2019.

On November 23, 2011, the upland owners of 5690 West Lake Boulevard entered into the 5690 West Lake Boulevard Tenants-in-Common Agreement (Agreement). It was agreed that ownership would be held by Peter E. Haas Jr., individually and as Trustee of the Peter Haas Trust, established under the Peter and Joanne Haas Family Trust instrument, dated May 3, 2001; Daniel S. Haas, individually and as Trustee of the Daniel S. Haas Trust, dated December 21, 2004; Bradley J. Haas, individually and as Trustee of the Bradley J. Haas Trust, dated March 17, 2009; and Jennifer C. Haas, individually and as Trustee of the Jennifer C. Haas Revocable Trust, dated August 18, 1998, as Tenants-In-Common. On November 13, 2015, the Agreement was amended and restated as a result of the purchase sale agreement transferring the interest held by Jennifer C. Haas, individually and as Trustee of the Jennifer C. Haas Revocable Trust, dated August 18, 1998, to Peter E. Haas Jr., as Trustee of the Peter Haas Trust, established under the Peter and Joanne Haas Family Trust instrument, dated May 3, 2001, one of the owners under the original Agreement.

The Applicant is now applying for a General Lease – Recreational Use for the continued use and maintenance of the existing pier, boat lift, and two mooring buoys. Staff recommends issuance of a new lease beginning August 20, 2020. Staff further recommends the Commission accept compensation from the Applicant for the unauthorized occupation of State land in the amount of \$842 for the period beginning January 1, 2020, the day after the Applicant's lease expired, through August 19, 2020, the day before the proposed lease begins.

The subject facilities are privately owned and maintained, used for the docking and mooring of boats and facilitate recreational boating. Recreational boating is a water-dependent use that is generally consistent with the common law Public Trust Doctrine. The California Legislature has identified private recreational boating facilities as an authorized use of Public Trust land (Pub. Resources Code, § 6503.5).

The subject facilities have existed for many years at this location. The pier is built on pilings, providing public access for pedestrians and for lake-related activities at varying water levels underneath the pier. The immediate area of the existing pier is gently sloped with small rocks. The two buoys are located directly lakeward of the upland property and occupy a relatively small area of the lake.

The proposed lease does not alienate the State's fee simple interest or permanently impair public rights. The lease is limited to a 10-year term, does not grant the lessee exclusive rights to the lease premises, and reserves an easement to the public for Public Trust-consistent uses. Upon termination of the lease, the lessee may be required to remove all improvements from State land and restore the lease premises to their original condition.

The proposed lease requires the lessee to insure the lease premises and indemnify the State for any liability incurred as a result of the lessee's activities thereon. The lease also requires the payment of annual rent to compensate the people of the State for the occupation of the public land involved.

For all the reasons above, staff believes the issuance of this lease will not substantially interfere with Public Trust needs at this location, at this time, and for the foreseeable term of the proposed lease; is consistent with the common law Public Trust Doctrine; and is in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. Approval or denial of the application is a discretionary action by the Commission. Each time the Commission approves or rejects a use of sovereign land, it exercises legislatively delegated authority and responsibility as trustee of the State's Public Trust lands as authorized by law. If the Commission denies the application, the Applicant may be required to remove the pier, boat lift, and two mooring buoys and restore the premises to their original condition. Upon expiration or prior termination of the lease, the lessee also has no right to a new lease or to renewal of any previous lease.
2. This action is consistent with Strategy 1.1 of the Commission's Strategic Plan to deliver the highest levels of public health and safety in the protection, preservation, and responsible economic use of the lands and resources under the Commission's

jurisdiction, and Strategy 1.3 to promote, expand, and enhance appropriate public use and access to and along the State's inland and coastal waterways.

3. On October 24, 2018, the TRPA Governing Board certified a Final Environmental Impact Statement and adopted Lake Tahoe Shorezone Ordinance Amendments.
4. 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).

Authority: Public Resources Code section 21084 and California Code of Regulations, title 14, section 15300 and California Code of Regulations, title 2, section 2905.

EXHIBITS:

1. Land Description
2. 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).

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed lease will not substantially impair the public rights to navigation and fishing or substantially interfere with Public Trust needs and values at this location, at this time, and for the foreseeable term of the lease; is consistent with the common law Public Trust Doctrine; and is in the best interests of the State.

AUTHORIZATION:

1. Authorize acceptance of compensation from the Applicant in the amount of \$842 for unauthorized occupation of State land for the period beginning January 1, 2020 through August 19, 2020.

2. Authorize issuance of a General Lease – Recreational Use to the Applicant beginning August 20, 2020, for a term of 10 years, for the continued use and maintenance of an existing pier, boat lift, and two mooring buoys, as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; annual rent in the amount of \$1,324, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

LEASE 3512

LAND DESCRIPTION

Three (3) parcels of submerged land situate in the bed of Lake Tahoe, lying adjacent to Lot 2 of fractional Section 12, Township 14 North, Range 16 East, MDM., as shown on that Official Government Plat approved January 17, 1866, County of Placer, State of California, and more particularly described as follows:

PARCEL 1 – PIER

All those lands underlying an existing pier with catwalk lying adjacent to those parcels as described in Exhibit "A" of that Grant Deed recorded December 31, 2015 as Document Number 2015-0112383 in Official Records of said County.

TOGETHER WITH any applicable impact area(s).

EXCEPTING THEREFROM any portion(s) lying landward of elevation 6223 feet LTD on the shoreline of said Lake Tahoe.

Parcel 2 & 3 – BUOYS

Two (2) circular parcels of land, being 50 feet in diameter, underlying two (2) existing buoys lying adjacent to said parcels.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared January 22, 2020 by the California State Lands Commission Boundary Unit.



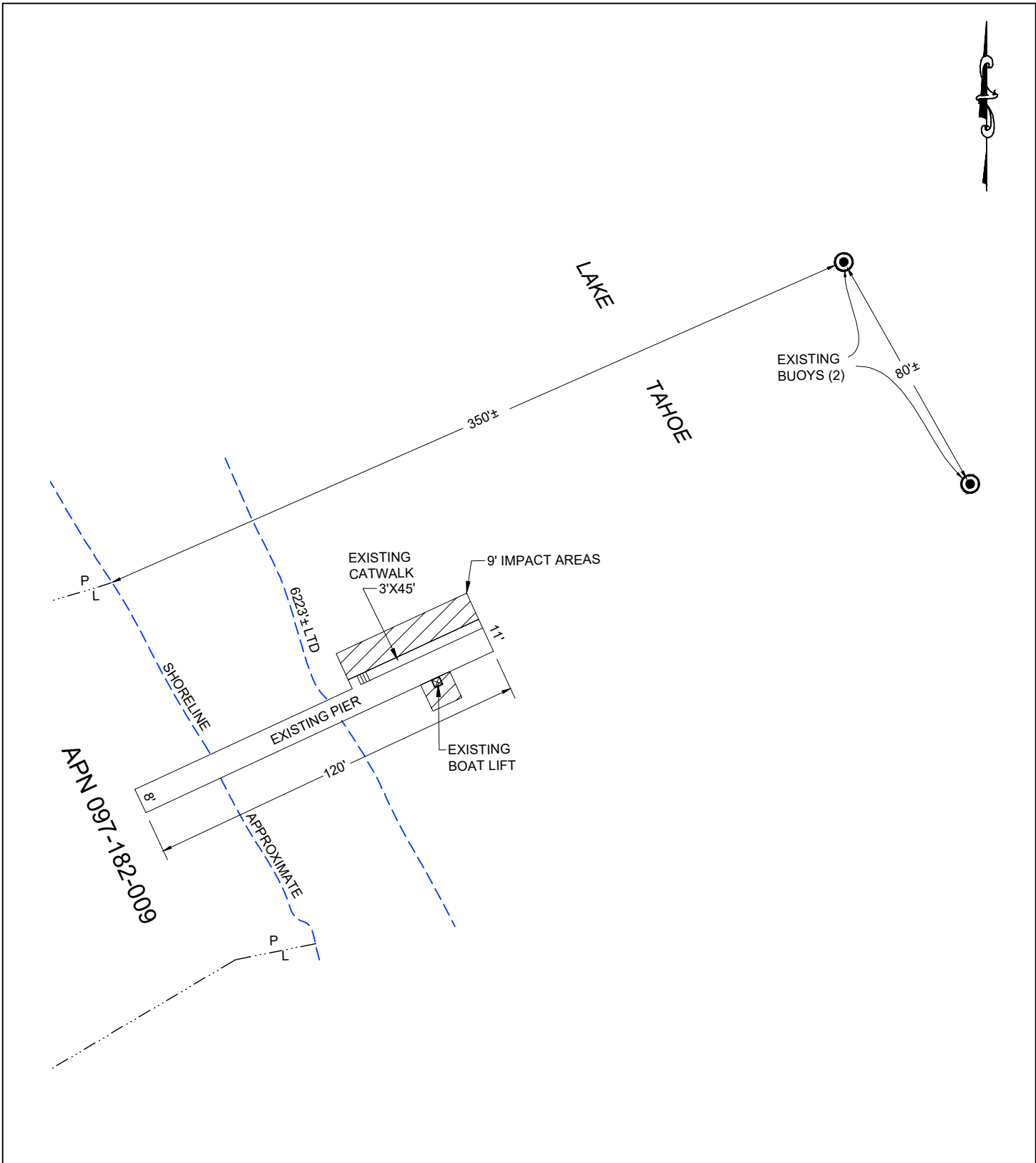


EXHIBIT A

LAND DESCRIPTION PLAT
LEASE 3512, HAAS TRUST
PLACER COUNTY

CALIFORNIA STATE
LANDS COMMISSION



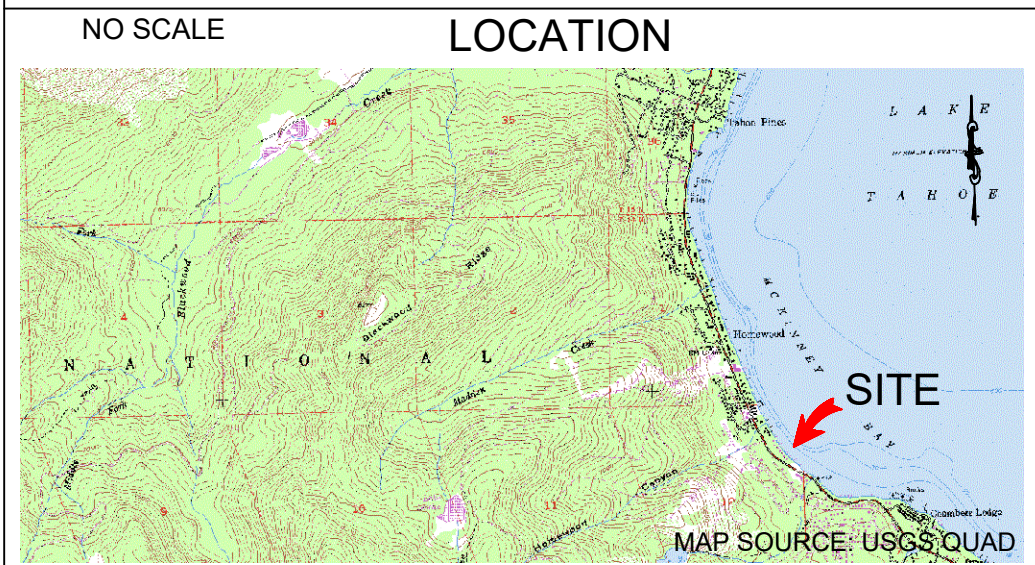
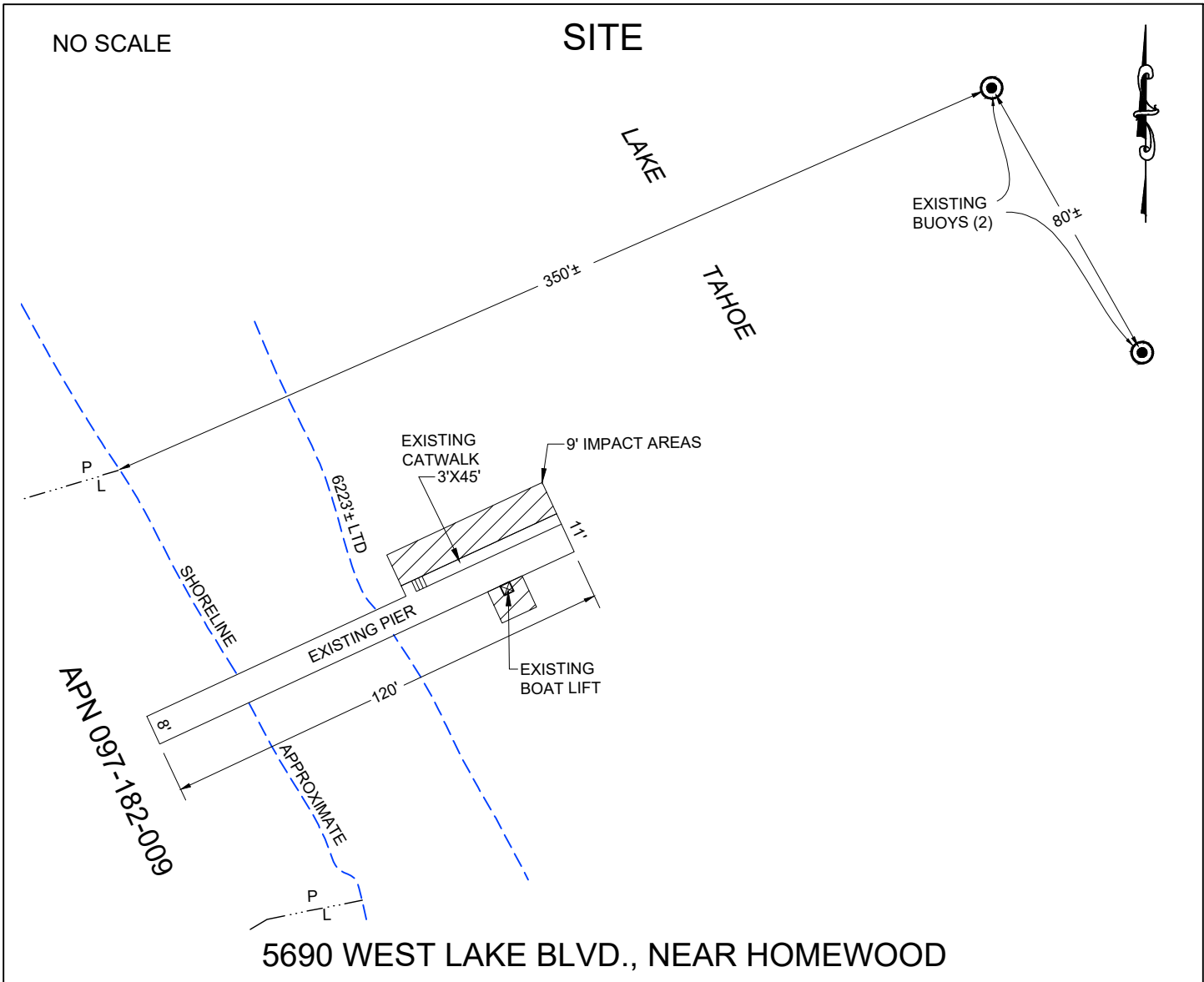
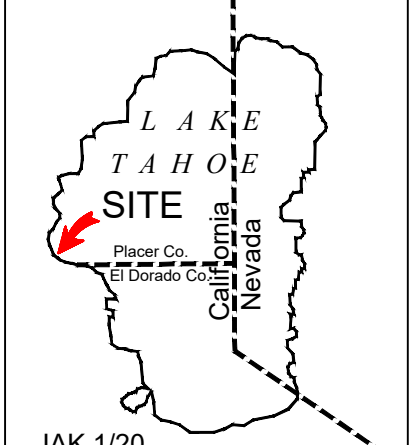


EXHIBIT B

LEASE 3512
HAAS TRUST
APN 097-182-009
GENERAL LEASE -
RECREATIONAL USE
PLACER 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.