

RENT METHODOLOGY STUDY – LAKE TAHOE



Prepared for:

California State Lands Commission

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Sacramento, CA 95825

February 21, 2020

Ninette Lee, Public Land Manager
California State Lands Commission
100 Howe Avenue, Suite 100-S
Sacramento, CA 95825

Re: Lake Tahoe Self-Contained Rent Methodology Study
File Name: TDG 2019 048 State of CA Agreement # C2018065

Dear Ms. Lee:

Pursuant to your request, I performed an analysis of the benchmark rental rate methodology used by the California State Lands Commission (herein referred to as "Commission" and/or "SLC") to determine rental rates for over 600 leases in the Lake Tahoe area. These leases include private piers and buoys (Category 1); and upland fill area (Category 2). I have completed the analysis and provided recommendations based on the Scope of Work. I have analyzed market data throughout the State of California in order to prepare the following rent methodology study.

This report was prepared for the client, the California State Lands Commission, and authorized representatives, and is intended only for their specified use. The intended use of this appraisal is to assist the Commission in establishing the methodology to determine appropriate rents for those privately-owned piers (berths), buoys, and fill areas on Lake Tahoe. The purpose of the appraisal is to provide recommendations on rent methodology and rates as of July 25, 2019.

This rent methodology study was prepared in conformance with the Uniform Standards of Professional Appraisal Practice (U.S.P.A.P.), and the Code of Professional Ethics and Standards of Professional Conduct of the Appraisal Institute.

I certify that I have no present or contemplated future interest in the property beyond this analysis. The appraiser has not performed any prior services regarding the subject within the previous three years of the study date.

Thank you for the opportunity of submitting this rent methodology study.

Respectfully submitted,

The Doré Group, Inc.



Lance W. Doré, MAI, FRICS
President/CEO | CA-CA-AG002464

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EXECUTIVE SUMMARY

CATEGORY 1

The recommended annual rate per square foot for the piers and per buoy rate are as follows:

ANNUAL PIER RATE PER SF:¹	\$	2.84
ANNUAL PER BUOY RATE:	\$	450

CATEGORY 2

The recommended annual rate per square foot for upland (non-water):

ANNUAL NON-WATER PER SF:	\$	9.18
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¹ Rate per SF based on 792 square feet as previously referenced in Benchmarks and Boating Survey

SCOPE OF WORK

The Scope of Work is to provide consulting services with an emphasis on reviewing the Commission's current methodology of benchmark rents and recommending the best possible methodology for determining market rental rates for over 600 leases in the Lake Tahoe area. These leases include private piers, buoys, marinas, restaurants, and other commercial facilities.

In order to determine the best methodology, I completed the following research and analysis.

- 1) Reviewed the Commission's current methodology and history associated with the development of that methodology, including methodologies previously explored and considered by the Commission;
 - a) I thoroughly reviewed the full history of the Commission's past efforts, reasoning and source for the methods to determine the current policy.
- 2) Conducted in-person interviews with Commission staff associated with the development of the existing methodology;
 - a) All knowledgeable parties were interviewed including management and senior staff and .
- 3) Conducted literature research regarding valuation and leasing of submerged land;
 - a) Each government agency, and entity often have their own individual policy and methods for determining value and leasing submerged land. This is often case-by-case and unique to each agency.
- 4) Conducted research regarding relevant Constitutional, statutory, and codified authority and constraints on the Commission's leasing practices;
 - a) The West Coast has the most relevance considering the Statehood Charters are more recent and reflect the unique riparian water right for natural flow.
- 5) Interviewed agencies or entities, including those in other states, that lease submerged land as to their practices and rates;
 - a) I have identified governing agencies and authorities with the State of California, Washington, Oregon, and Nevada as the primary data set for determining lease submerged rates. In-bound freshwater bodies have also been identified including Shasta Lake, Trinity Lake, Lake Sonoma, Crowley Lake, Lake Oroville, Donner Lake, Big Bear Lake, Lake Mead, and Lake Tahoe (California and Nevada)
- 6) Interviewed lakefront homeowner associations and groups at Lake Tahoe;
 - a) I have identified and interviewed the following agencies or organizations:
 - Tahoe Lakefront Owners Association
 - Tahoe Regional Planning Agency (TRPA)
 - Stakeholders of SB 630
 - State of Nevada – Dept. of Conservation and Natural Resources
- 7) Solicited input from individual lessees and stakeholders at Lake Tahoe;

-
- a) Meeks Bay Vista Property Owners Association
- 8) Researched relevant market data;
- a) I have researched local and statewide market data that would have a bearing on the final recommendation. This includes percentage rates, land capitalization rates, fixed fee rates, rates per square foot of submerged land area, rates per square foot of improved area, rates per buoy, rates per mooring, seasonable and non-seasonal rate structures, pier sales and the Tahoe land and housing market. These were all tested on various methods to determine a supportable rate for piers, buoys and upland fill areas.
- 9) I have reviewed and analyzed all available methods to determine the appropriate methodology for pier, buoy and upland fill rates.;
- a) I have provided detailed analysis and recommendations for the various rent and rate structures for each category.
- 10) I have identified the benefits to upland owner afforded by improvements (pier, buoy, protective structure) on leased land;
- 11) I have attempted to quantify the value enhancement to the upland property added by improvements on leased land (pier, buoy, protective structure) using various identified rent-setting methodologies;
- 12) I have made recommendations to the methods used and concluded rents.

LEGAL CONCEPTS

INTRODUCTION

In California, the use and development of public lands is restricted by the common law “public trust doctrine” (PTD), state statutes, and state constitutions. Public lands can include rivers, coastal zones, and navigable lakes.

CHOICE OF LAWS

State Laws Govern Property Rights of Navigable Bodies of Water

Navigable waters and the banks beneath them are sovereign to the states.² These waters can include: rivers, coastal tidal zones, and lakes (i.e.: Lake Tahoe).³

State Land Commission - Sovereign Lands

Sovereign lands in California encompass approximately four million acres. These lands include the beds of California’s navigable rivers, lakes and streams as well as State tide and submerged lands that extend from the shoreline to three miles offshore along California’s more than 1,130 miles of coastline. In short, the Commission’s jurisdiction over sovereign lands extends to more than 120 rivers and sloughs, 40 lakes, and the State’s bays and coastal waters. Any private improvements on sovereign lands requires a lease from the Commission. Examples of leases include marinas, boat launching facilities, recreational piers, utility lines, industrial wharves, wetlands, open space, marine terminals, restaurants, and hotels. Revenues from these sources in the 2014-15 fiscal year were approximately \$17.2 million. Commission revenues from its leasing activities on sovereign lands are predominately deposited into the State’s General Fund.⁴

THE PUBLIC TRUST DOCTRINE

California has sovereign ownership of its navigable waters. The state holds these lands as a trustee for the public. Thus, it cannot typically transfer, sell, or encumber them. These sovereign lands are subject to the public’s rights of navigation, fishing, commerce, recreation, hunting, bathing, and swimming, etc.⁵

² Illinois Central Railroad v. Illinois, 146 U.S. 387 (1892).

³ Davis v. U.S., 185 F.2d 938 (9th Cir. 1951).

⁴ California State Lands Commission Strategic Plan 2016-2020: Appendix B

⁵ *National Audubon Society v. Superior Court* (1983) 33 Cal.3d 419, 434.

California Public Trust Doctrine

In California, the public trust doctrine (PTD) originates from common law, statute, and the state constitution. At statehood, California acquired the ownership of all tidelands and beds of navigable waters in the state subject to the PTD.⁶

The State exercises a duty “as trustee of a public trust for the benefit of the people.”⁷ Thus, the State’s sovereignty and private property rights, is limited to “protect the people’s common heritage of streams, lakes, marshlands and tidelands, surrendering that right only in rare cases when the abandonment of that right is consistent with the purposes of the trust.”⁸

The Statutory Approach to the California Public Trust Doctrine

The California State Lands Commission has general power over disposing of trust lands.⁹ The SLC “may lease or otherwise dispose of [trusts] lands, as provided by law (generally within the Public Resources Code).” And the SLC has exclusive jurisdiction:

Over all ungranted tidelands and submerged lands owned by the State, and of the beds of navigable rivers, streams, lakes, bays, estuaries, inlets, and straits, including tidelands and submerged lands or any interest therein, whether within or beyond the boundaries of the State...administer and control all such lands, and may lease or otherwise dispose of such lands.¹⁰

However, the SLC must comply with the requirements of the common law trust doctrine and statute when administering trust lands.¹¹ But compliance with statute does not *per se* satisfy the PTD.¹² Through the administration of its Public Trust responsibilities, the SLC enforces the public’s right to enjoy access to and use of California’s waterways for commercial and recreational navigation, fishing,

⁶ *People v. California Fish Co.*, 166 Cal. 576, 584 (1913); *Illinois Central Railroad v. Illinois* (1892) 146 U.S. 387, 452-453.

⁷ *Id.*

⁸ *San Francisco Baykeeper, Inc. v. Cal. State Lands Comm'n*, 242 Cal. App. 4th 202, 234 (Cal. Ct. App. 2015) (quoting *National Audubon Society v. Superior Court* 33 Cal.3d 419, 441 (1983)).

⁹ California Public Resources Code § 6301.

¹⁰ Cal. Pub. Res. Code § 6301.

¹¹ *Citizens for East Shore Parks*, 202 Cal.App.4th 549, 571 (SLC, “acting on behalf of the state, can lease tidelands and submerged lands for such uses consistent with the trust”).

¹² *San Francisco Baykeeper, Inc. v. Cal. State Lands Comm'n*, 242 Cal. App. 4th 202, 242 (Cal. Ct. App. 2015) (CEQA review or compliance with other environmental statutes does not necessarily satisfy the agency’s trust obligations).

swimming and other trust-consistent activities. The trust also promotes the responsible development and protection of ports, harbors, marinas and other water-related facilities for the support of commerce, navigation and fisheries. Trust lands may also be preserved and enhanced for open space, wildlife habitat, environmental protection, and for visitor-serving facilities and other uses consistent with the trust.¹³

LITTORAL (LAKE) BOUNDARIES

Under case law and statute, a private owner of navigable lake property takes to the edge of the lake or stream at low water mark.¹⁴ Per California Civil Code § 830:

Except where the grant under which the land is held indicates a different intent, the owner of the upland, when it borders on tide water, takes to ordinary high-water mark; **when it borders upon a navigable lake or stream, where there is no tide, the owner takes to the edge of the lake or stream, at low-water mark;** when it borders upon any other water, the owner takes to the middle of the lake or stream.

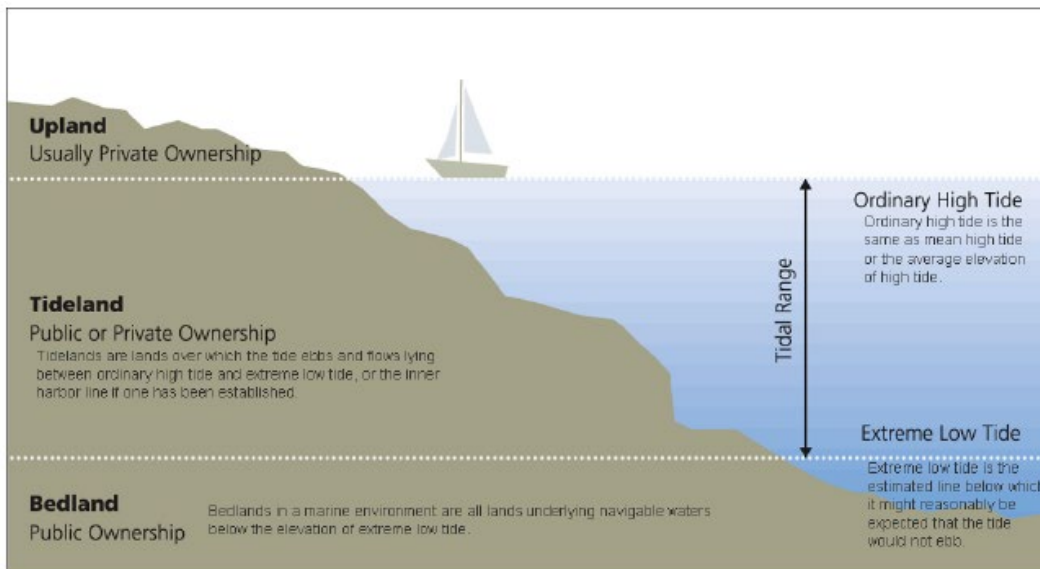
In *Fogerty v. State of California*, the court established Lake Tahoe’s private-public boundary at “current” low water mark at exactly 6,223 feet.

¹³ California State Land Commission Strategic Plan 2016-2020 Appendix A

¹⁴ Cal. Civ. § 830 (“Except where the grant under which the land is held indicates a different intent, the owner of the upland, when it borders on tide water, takes to ordinary high-water mark; when it borders upon a navigable lake or stream, where there is no tide, the owner takes to the edge of the lake or stream, at low-water mark; when it borders upon any other water, the owner takes to the middle of the lake or stream.”); *Fogerty v. State of California*, 187 Cal. App. 3d 224, 233 (Cal. Ct. App. 1986).

.¹⁵ A representation of the high and low water marks is as follows:

Figure 1: Typical Sovereign and Private Rights and Tidal Range



PUBLIC RIGHTS OF ACCESS TO USE CALIFORNIA NAVIGABLE WATERS

California’s enacted laws and judicial decisions establish public rights to access and use the state’s navigable waters. Under these laws, the public is entitled to access and enjoy all state waters “capable of being navigated by oar or motor-propelled small craft.”¹⁶ Owners of lands underlying or adjacent to navigable waters are prohibited from interfering with the public’s right to use such waters.¹⁷

The public’s rights in California do not include a right to cross privately-owned lands to access navigable waters.¹⁸ The government may also limit the public rights to access and use navigable waters through reasonable time, place, and manner restrictions.¹⁹

¹⁵ *Id.* § 6210.5; *see also id.* § 6210.9 (providing California State Lands Commission with authority to “acquire by purchase, lease, gift, exchange, or, if all negotiations fail, by condemnation, a right-of-way or easement across privately owned land or other land that it deems necessary to provide access” to public trust lands).

¹⁶ *Mack*, 19 Cal. App. 3d at 1050.

¹⁷ *See infra* Part III; CAL. CONST. art. X, § 4.

¹⁸ *See infra* Part III.C.6 (“Trespass”); *but see* *People v. Wilkinson*, 248 Cal. App. 2d Supp. 906 (1967).

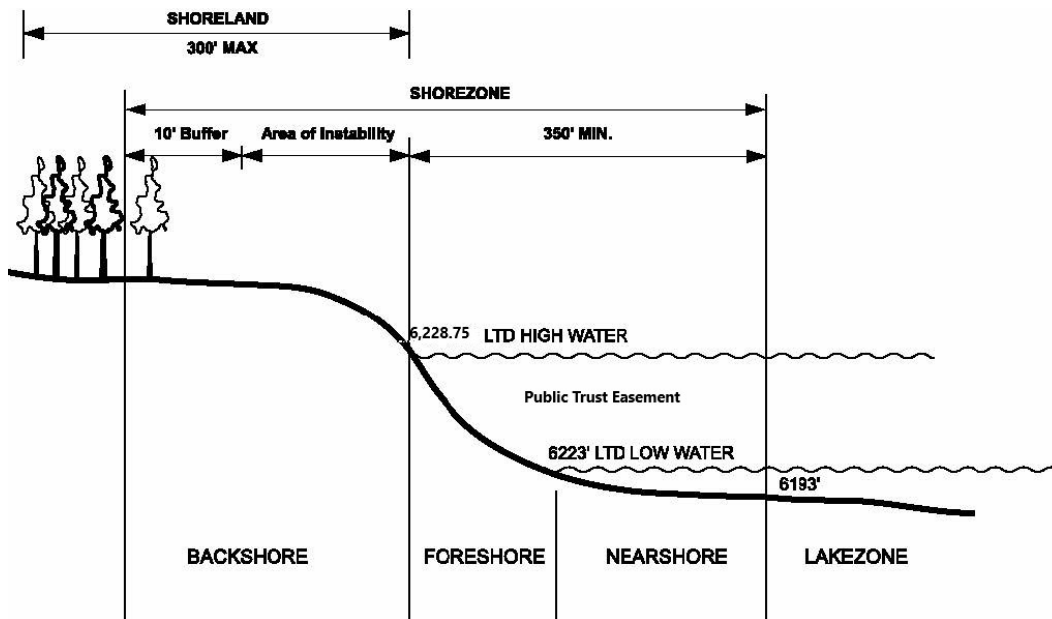
¹⁹ *See infra* Part III.C.3 (“Reasonable Time, Place, and Manner Restrictions”)

There is a provision in the California Constitution which states:

*No individual or partnership, or corporation, claiming or possessing the frontage or tidal lands of a harbor, bay, inlet estuary, or other navigable water in this State, shall be permitted to exclude the right of way to such water whenever it is required for any public purpose, nor to destroy or obstruct the free navigation of such water; and the Legislature shall enact such laws as will give the most liberal construction to this provision, so that access to the navigable waters of this State shall always be attainable for the people thereof.*²⁰

Further protections of sovereign lands are provided where the State has been prohibited from selling lands below the ordinary high-water mark of a navigable waterway.²¹ Furthermore, the state cannot sell lands contiguous to navigable waters unless convenient access to the waters is provided from a public road or roads.²² If a tract of land owned by the state provides the only convenient means of access to a navigable waterway, the state, or its successors in interest, must provide an easement for convenient access to the waterway

Figure 2: Typical Lake Tahoe Sovereign and Private Rights



Municipal governments and local agencies must ensure that all navigable waters within or adjacent to their borders remain open and free to navigation and that waterfronts are accessible from nearby

²⁰ CAL. CONST. art X, § 4.

²¹ CAL. PUB. RES. CODE § 7991.

²² Id. § 6210.4.

public streets and highways.²³ It has been legally determined that the High-Water Mark is 6,228.75 feet and the Low-Water mark is 6,223.²⁴

The land between the ordinary high and ordinary low water marks on navigable, non-tidal waterways is subject to a Public Trust Easement. At Lake Tahoe, the ordinary high-water mark has been legally set at 6228.75 feet elevation and the ordinary low water mark at 6223 feet elevation. Although the owners adjacent to these waterways own to the ordinary low water mark, they may not prevent the public from using portions of their property that are subject to the public trust easement.²⁵ This public trust easement between the high and low water mark are referenced in the Lake Tahoe lease agreements for moorings, buoys and marinas.

Furthermore, the state retains the right to enter upon, possess, and control how those lands are used to ensure the preservation of public trust uses.²⁶ This limits property rights were the state may exercise the easement and *take lawful possession of such property*,²⁷ subject to the fee title owner's right to just compensation for lawful improvements taken by the state.²⁸

Fee owners of these tidal and non-tidal shore lands who have lawfully constructed docks, piers, and other structures on their property in areas where the public trust easement exists may continue to use

²³ CAL. GOV'T CODE § 39933; *see also id.* §§ 39901, 54090–54093; *Lane v. City of Redondo Beach*, 49 Cal. App. 3d 251, 257 (1975)

²⁴ *Ibid*, Lyon Case

²⁵ *Forestier v. Johnson*, 164 Cal. 24, 34 (1912) (“Whenever a navigable channel or navigable water may extend over any tideland granted by the state under these statutes the public right of navigation therein is not destroyed, the purchaser takes subject thereto, and he has no right to enjoin or prevent any citizen from exercising the public rights incident thereto.”).

²⁶ *Summa Corp. v. California ex rel. State Lands Comm’n*, 466 U.S. 198, 205 (1984) (“Through this easement, the State has an overriding power to enter upon the property and possess it, to make physical changes in the property, and to control how the property is used.”); *Marks*, 6 Cal. 3d at 259-260; *Cal. Fish Co.*, 166 Cal. at 598 (“... the patents under which the several defendants claim tidelands are subject to the constitutional restriction, and do not deprive the state of its power as sovereign trustee to adapt and improve these lands for navigation as it may see fit.”).

²⁷ *See Cal. Fish Co.*, 166 Cal. at 599; *see also Newcomb v. City of Newport Beach*, 7 Cal. 2d 393, 403 (1936); *Fogerty*, 29 Cal. 3d at 249 (1981)

²⁸ CAL. PUB. RES. CODE § 6312 (“Neither the state, nor any political subdivision thereof, shall take possession of lawful improvements on validly granted or patented tidelands or submerged lands without the tender of a fair and just compensation for such lawful improvements as may have been made in good faith by the grantee or patentee or his successors in interest pursuant to any express or implied license contained in the grant or patent.”).

those amenities unless the state determines that their use is inconsistent with the public trust.²⁹ The state may make changes and improvements necessary to fulfill public trust purposes even if those actions cause harm to the property.³⁰ However, the state must compensate property owners if it removes any lawfully constructed structures or retakes absolute title to the land.

The public's right of access and use is generally held to be those lands where the State holds in trust "all land below tide water, and below [the] ordinary high-water mark" on tidal lands.³¹ And on non-tidal waters (similar to subject) that meet the federal test for state title, private parties who own land abutting a navigable waterway generally hold title to the ordinary low water mark, and the state holds title to the beds and banks below the low water mark.³² However, as noted, the state retains a public trust easement over the lands lying between the ordinary high and low water marks on waterways that satisfy the title test, and riparian owners may not utilize those lands in any manner that is "incompatible with the public's interest in the property."³³

In summary, so long as members of the public do not trespass on private property, they may lawfully use and enjoy the state's navigable waters below the high-water mark subject to reasonable time, place, and manner restrictions.³⁴

Conversely, the leased area, which is the subject of this analysis pertains to the area extending past the low-water mark (6,223 feet). The leased area would apply to the square footage of the dock, or buoy.

FOGERTY AND LYON, TAHOE SHOREZONE

In *State of California v. Superior Court (Fogerty)* (1981) 29 Cal.3d 240, 172 Cal.Rptr. 713, 625 P.2d 256 (hereafter "Fogerty") the high court held, in this very case, that the public trust enunciated in *Lyon* was applicable to Lake Tahoe. (*Id.*, at pp. 243, 247, 172 Cal.Rptr. 713, 625 P.2d 256.) In this appeal, it was held that, for purposes of determining the boundaries of land along the shore of Lake Tahoe subject to the public trust, the low watermark of the lake is 6223 feet above sea level, Lake Tahoe datum, and the high watermark is 6228.75 feet above sea level, Lake Tahoe datum.

²⁹ *Fogerty*, 29 Cal. 3d at 249; *Coburn v. Ames*, 52 Cal. 385, 397 (1877).

³⁰ *Fogerty*, 29 Cal. 3d at 249; *Colberg, Inc. v. State ex rel. Dep't of Pub. Works*, 67 Cal. 2d 408, 420 (1967); *Cal. Fish Co.*, 166 Cal. at 599

³¹ See CAL. CIV. CODE § 670.

³² See *id.* § 830.

³³ See *State v. Super. Ct. (Lyon)*, 29 Cal. 3d 210, 226, 232 (1981); *Fogerty*, 29 Cal. 3d at 249 (1981); *Marks*, 6 Cal. 3d at 259.

³⁴ See *Marks*, 6 Cal. 3d 251; *Mack*, 19 Cal. App. 3d 1040.

HISTORICAL BENCHMARKS – CA STATE LANDS COMMISSION

A foundation for the Tahoe Rent Methodology Study is reflected in the historical benchmarks and methodology used to determine the various rates. There has been a long history surrounding the historical benchmarks.

In this section I have provided A) Previous Ruling Overview from SLC, B) an Overview of Methodology, C) a Summary of the Rates from 1985 to 2017, D) a Review of the Methodology, and E) Conclusions on the appropriateness of the methods based on market standards.

PREVIOUS RULINGS OVERVIEW FOR SLC BENCHMARKS

At the January 26, 2012 Commission meeting, there was an extensive discussion surrounding the methodology of determining annual rent³⁵ for recreational piers and mooring buoys at Lake Tahoe using the Lake Tahoe benchmark. This discussion was in relation to Calendar Item #22, which involved a lease application for an existing recreational pier and two mooring buoys in Lake Tahoe near Tahoe City in Placer County. Mr. Gregory Price (a principal in the ownership, 2280 Sunnyside, LLC) spoke to the Commission regarding what he considered to be flaws and inconsistencies in the methodology and analyses used to establish a fair rental rate.

In his presentation, Mr. Price stated that there were inconsistencies in the Commission's benchmark methodology, which led to confusion and an inability to understand how Commission staff arrived at the rents. He stated that there was a need for a "common, simple-to-understand approach". After considering this, the Commissioners asked staff to meet with Lake Tahoe stakeholders to discuss the current Lake Tahoe benchmark methodology, and to report back to the Commission with a recommendation on whether or not to make changes to the methodology. The Commissioners amended the staff recommendation to include that if the rent methodology was modified at a subsequent meeting in a way that recalculation of the rent methodology resulted in a lower rent than that utilizing the current benchmark methodology, the annual rents would be adjusted; Mr. Price's lease and other Lake Tahoe leases approved at the January 2012 meeting would be refunded the difference paid. The Commission also agreed to toll any statute of limitations to challenge the Commission's actions until the rent issue had been heard at a subsequent Commission meeting and reconsidered by them. Calendar Item #22 was approved as amended.

Pursuant to the Commissioners' request, Commission staff held a meeting with Lake Tahoe stakeholders in Sacramento on February 29, 2012. Eight people participated in person and another eight people, including Mr. Price, participated by teleconference.

The participants at this meeting were primarily professional consultants, attorneys and property managers that represent a broad swath of Lake Tahoe lakefront property owners and also included some individual lakefront owners. Prior to the meeting, staff developed several alternative methods to

³⁵ PRC 6503.5

the current benchmark methodology for determining rent for Lake Tahoe piers and buoys. At the meeting, staff presented to the stakeholders the following description of the current benchmark methodology and alternative methods of establishing rent:

Private Piers

The Lake Tahoe Benchmark has been used by the Commission since the early to mid-1980s. The current methodology for piers is based on the principle of substitution. The first step in setting the Lake Tahoe Benchmark is surveying local marinas to determine their rental rates. Marinas usually rent their slips on a per lineal foot basis, based on the length of the slip or vessel. For benchmark purposes, the average surveyed rental rate is used. This rate is multiplied by the average or typical berth length as shown by the survey. Based on these inputs, the annual gross income is calculated. The State's rent is based on a 5% rate of return of this annual income. It represents compensation for the use of State-owned submerged land, much like what a property owner would expect to receive for a typical commercial or industrial ground lease of dry land. The State's rent is then converted to a per square foot basis using a table calculated by a Department of Boating and Waterways' publication titled "Layout and Design Guidelines for Marina Berthing Facilities".

Private Buoys

The annual rental rate set for private buoys in 1985 was \$53 per buoy. The methodology utilized for setting that particular rate is not known. What is known is that the current buoy benchmark rate is the result of adjusting the rate by applying a factor based on the percentage increase in the buoy rates from the prior benchmark survey.

ALTERNATIVES

At the meeting, staff discussed the following alternatives to the current benchmark methodology with the stakeholders, requested feedback and input on the methodologies presented, and also requested and encouraged stakeholders to provide additional methodologies that staff could consider in formulating a recommendation for the Commission for the March 29 Commission meeting.

UPDATE AND CONTINUE TO USE CURRENT LAKE TAHOE BENCHMARK METHODOLOGY FOR PIERS AND MOORING BUOYS

Staff has updated the benchmark survey, which provides the market data for the Lake Tahoe Benchmark. The results of the survey indicate that the average slip length has increased to 26 feet (up from 25 feet shown on the 2007 survey), but that the average slip rate has remained the same at \$33.66 per lineal foot (LF). Based on these figures and the current methodology, the 2012 benchmark rate for recreational use has actually decreased from \$0.804 to \$0.79 per square foot.

The decrease is attributed to the rent being spread over a larger water area, i.e. the longer the slip length is, the greater the water area needed to account for the bigger docks and fairways.

The survey shows that Lake Tahoe buoy rents increased an average of 10.9% from the last Benchmark survey in 2007. Applying this rate of increase to the existing buoy rate results in a revised buoy benchmark rate of \$377 (\$340 current benchmark x 1.109).

BUOY RENT BASED ON THE SAME SQUARE FOOTAGE RATE USED FOR PIERS

This alternative is a variation of the current benchmark methodology. It is intended to unify the two existing techniques for setting rent into one method. It is the application of the per square foot rental rate derived from the marina survey to the swing area of a buoy. Applying the 2012 benchmark rental rate of \$0.79 per square foot to a buoy area with a swing radius of 25 feet results in a revised buoy rate of \$1,550 per buoy (25' x 25' x 3.14 = 1,962.5 SF x \$0.79/SF).

RENT BASED ON 9% OF APPRAISED VALUE OF THE LEASED LAND AREA FOR PIERS AND BUOYS

The California Code of Regulations provides for rent based on 9% of appraised land value. This methodology is based on the premise that the highest and best use of the submerged land is to be used in conjunction with the upland property. In most cases, the appraised land value is estimated through the use of the sales comparison approach. Since there is no active real estate market for submerged land, the State-owned submerged land is valued based on analysis of comparable upland sales. If the adjoining upland is a residential property, then the submerged land value can be estimated through use of comparable sales of vacant residential lots or the allocated land value of improved comparables.

The appraisal method could provide for a benchmark land value rate based on upland land values. This rate (price per square foot) may require more than one benchmark land value rate to account for price per square foot differences based on location and physical characteristics (slope of shore, water depth, sandy vs. rocky shore, etc.) of the Lake Tahoe shoreline.

Based on a preliminary analysis of limited market data and discussion with Placer County Assessor's staff, the value of a sample lease area on the West Shore of Lake Tahoe is estimated at \$50 to \$100 per square foot. Based on the low end of this range, the annual rent would be \$4.50 per square foot (\$50 X .09 rate of return = \$4.50), applied to piers. For buoys, the benchmark rental rate would be \$8,831 per buoy, which is the \$4.50/SF rate applied to the 1,962.50- square foot buoy area. Rent for a pier would likewise reflect the \$4.50/SF rate.

RENT BASED ON DIRECT COMPARISON

Buoy Rent Based on Direct Comparison

This alternative for the buoy benchmark rate is also based on the principle of substitution. In this case, the premise is that an upland property owner may either lease a buoy from a marina or purchase the buoy tackle and lease the submerged land from the State. Under this methodology, the benchmark rental rate for buoys is based on direct comparison to seasonal buoy rental rates in marina buoy fields on Lake Tahoe.

Preliminary results from staff’s survey indicate that buoy rental “season” at Lake Tahoe varies from four to seven months, with a typical season of five months.

The average seasonal rate for buoys lake wide is \$2,951. The survey also revealed that seasonal rates for buoys in marinas in Placer County (\$4,182) are significantly higher than marina buoy rentals in El Dorado County (\$1,413). This suggests that separate County benchmarks for buoys based on the direct comparison approach may be appropriate.

To account for the fact that the property owner has to provide for the purchase and placement of the buoy when leasing State land, a deduction to the surveyed buoy rental rate is warranted. Based on information provided by a private buoy placement service, a deduction of \$250 per year is made. This is based on a reported total cost of \$2,500 (for the anchor block, chain, buoy, and installation) spread evenly over a typical 10-year lease term. Staff believes this is reasonable, especially considering that the economic life of the anchor block should be much longer than the lease term. Below is a table showing the potential benchmark rates for buoys under this alternative.

Table 1: Potential Benchmark Rates for Buoys based on Direct Comparison

Location	Average Seasonal Rate	Annualized Cost of Tackle	Net Rent To Land
El Dorado Co.	\$1,413	\$250	\$1,163
Placer Co.	\$4,182	\$250	\$3,932
Average	\$2,951	\$250	\$2,701

Pier Rent Based on the Direct Comparison Analysis for Buoys (4a.)

Like alternative 2, this alternative would provide the same methodology for the benchmark rates for buoys and piers. It is the application of the per square foot rental rate derived from the direct comparison analysis for the buoys (presented in No. 4a). As described in alternative 2, the area occupied by a buoy with a swing radius of 25 feet is 1,962.50 square feet. Dividing the seasonal rates (less the deduction for purchase and placement of the buoy) results in the following per square foot rents, which could then be applied to piers either on an overall basis or by County.

Table 2: Rents per Square Foot based on Direct Comparison

Location	Seasonal Rent	Rent Per SF
El Dorado Co.	\$1,163	\$0.59
Placer Co.	\$3,932	\$2.00
Overall	\$2,701	\$1.38

PAIRED SALES ANALYSIS

In this alternative methodology, the value of the submerged land is estimated through comparison of sales of lakefront properties with piers (most likely improved with single family residences) to sales of

lakefront properties without piers. All other things being equal, the difference in the values should be attributable to the pier and the submerged land beneath it. The depreciated cost of the pier could then be estimated and deducted from the previously arrived at value differential. The remaining value should be attributable to the submerged land. The annual rent would then be based on 9% of that value per the California Code of Regulations.

It should be noted that this is a complex valuation methodology with many variables that need to be considered in the analysis (location, lot size, shape, other site characteristics, size & age of the residence, amenities, etc.). It could be extremely difficult to find paired sales with few enough differences to isolate an accurate value of the price differential provided by the pier and submerged land. Consequently, and due to resource constraints, this alternative has not been fully explored or analyzed by Commission staff. An independent consultant might need to be retained to perform this analysis.

Following the meeting on February 29, California State Lands Commission staff again solicited input from stakeholders multiple times via email. Leading up to the March 29 meeting, staff had only one response from a stakeholder and consequently recommended extending the period for feedback from the stakeholders. At the March 29 meeting, the Commission approved Item #C25 authorizing the following:

- a. Authorize staff of the Commission to continue current rental practices using the Lake Tahoe Benchmark for recreational piers and mooring buoys on sovereign lands in Lake Tahoe, Placer and El Dorado counties until the May 24, 2012 meeting, at which time staff will bring to the Commission a summary of alternatives to the current benchmark methodology and a recommendation for a methodology to be used in the 2012 Lake Tahoe Benchmark.*
- b. In the event the Commission adopts a change in the methodology for determining rent for recreational piers and mooring buoys in Lake Tahoe and that methodology results in a lower rent, authorize staff to amend the applicable leases at Lake Tahoe authorized since January 26, 2012 to reflect the new rent.*
- c. Authorize the tolling of the statute of limitations for challenges to the methodology used to determine the amount of rent applying to Lake Tahoe leases for recreational piers and buoys authorized at the January 26, 2012 and March 29, 2012 meeting, until the Commission completes its reconsideration of the methodology of determining rent at a subsequent meeting.*

Since the March 29, 2012 Commission meeting, staff has reached out several more times to stakeholders asking for feedback. On April 5, 2012, stakeholders were contacted and asked to provide feedback by April 20, 2012. On April 30, 2012, stakeholders were contacted again and the deadline was extended to May 5th. As of the week before this meeting, only two additional stakeholders have provided comments. Of the 14 participants at the February 29, 2012 stakeholder meeting, we have had feedback by three individuals, Curtis Sproul, Attorney for a Lessee, Kevin Agan, Agan Consulting Corporation, and William Threlfall, a lakefront property owner and Lessee.

The following are comments and alternatives submitted by the above stakeholders:

- Mr. Sproul's comments were not directly related to the use of the Lake Tahoe benchmark for piers and buoys, but were more specific to the Commission's practice of determining rent for seasonal swim areas. Mr. Sproul's comments were very thoughtful and substantive. Staff subsequently met with Mr. Sproul and his client, Chambers Landing Homeowners Association, regarding the swim area offshore of their lakefront property. Staff is in the final negotiations on recommending a modified lease area and rent for their swim area. Furthermore, staff has modified its recommendations for rent and other considerations for seasonal swim areas going forward in response to Mr. Sproul's input.
- Mr. Agan's comments recommended considering the cost of replacement of a pier and mooring buoy as a basis for determining rent. He suggests rent based on 9% of the cost of replacing these structures as new. He gave figures of \$35 per square foot for pier structures and \$2,500 for mooring buoys. He recommends updating the cost figures every five years based on the market price increase or decrease. The Commission's practice has been to set rent based on the value of the public's property being used, not the cost of the improvements. The basis for this practice is Section 6503 of the Public Resources Code, which states: "the Commission shall appraise the lands and fix the annual rent or other consideration thereof." Mr. Agan's recommendation, while easy to calculate and understand, is not related in any way to valuation of the public's land.
- Mr. Threlfall provided a range of constructive comments regarding piers and buoys, but did not recommend an alternative rent methodology. He points out that all piers and buoys should be subject to rent (except those exempted by SB152) whether under lease or not. Mr. Threlfall discussed enforcement issues pointing to the inequity of owners of illegally placed buoys avoiding rent. He recommended developing a different classification for non-operational buoys similar to the Certificate of Non- Operation for motor vehicles that provides for a legal non-use period where vehicles are exempt from vehicle registration fees. He asks to consider a non-use provision in regard to buoys that would allow for temporary removal or non-use during the term of the lease and rent would be charged only for the time the buoy is in place and being used.
- Staff has reviewed and analyzed all the alternatives, including those received from the public, to evaluate which are the most supportable from a market data standpoint, easy to understand, and reasonable to the State, as well as applicants and lessees. Taking into account the analysis of all the alternatives, including input from the stakeholders, staff has determined that there is no single methodology that is both easier to understand and reasonable. Consequently, staff recommends continuing with, and updating, the Lake Tahoe benchmark methodology.

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- If the Commission decides to retain the current Lake Tahoe benchmark methodology, adopts a new benchmark methodology, or adopts a different rent methodology for recreational piers and buoys at Lake Tahoe that does not result in a rent more favorable to the Lessee than the current benchmark methodology, then no increase in rent will occur to those parties whose leases were authorized by the Commission since the January 26, 2012 meeting and who have signed their leases.
 - The staff recommends that the Commission find that the consideration of rental practices for recreational piers and mooring buoys at Lake Tahoe 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.

RECOMMENDED ACTION (SLC)

It is recommended that the Commission:

AUTHORIZATION

- Authorize staff of the Commission to continue current rental practices using the Lake Tahoe Benchmark for recreational piers and buoys on sovereign lands in Lake Tahoe, Placer and El Dorado counties.*
- In the event the Commission does not act on recommendation #1 above, authorize the tolling of the statute of limitations for challenges to the methodology used to determine the amount of rent applying to Lake Tahoe leases for recreational piers and buoys authorized at the January 26, 2012, March 29, 2012 and May 24, 2012 Commission meetings until staff completes its reconsideration of the methodology of determining rent at a subsequent meeting.*

OVERVIEW OF BENCHMARKS – THE DORE GROUP

Benchmarks are used by the State Lands Commission to establish uniform rental rates in specific geographic regions where concentrations of similar facilities, mostly private recreational improvements within the Commission’s jurisdiction. (Cal. Code Regs., tit. 2, § 2003, subd. (a)(5).)

Benchmark rental rates are based on an analysis of similar land uses or substitute facilities in the local area and are generally updated every 5 years.

The use of benchmarks improves consistency and transparency throughout a geographic region, improves staff efficiency in setting and adjusting rent for large numbers of leases, and saves time and money for both the applicant and the State.

The Commission has two types of benchmarks for rental rates:

- Category 1, which are generally applied to private docks, piers, and buoys; and
- Category 2, which are generally applied to cantilevered decks, sundecks, or other non-water dependent uses.

CATEGORY 1 BENCHMARK METHODOLOGY

The Lake Tahoe Berths and Buoys Benchmarks have been used by the Commission since the 1980s with proposed rates in 2017 and 2018. See Summary of Rates from 1985 to 2018 on the following pages.

The State Lands Commission has used a survey and rate application to support the current lease rates. See Review of Methodology later in the report.

CATEGORY 2 BENCHMARK METHODOLOGY

A similar methodology is used for Category 2 to establish the fair market rent for non-water dependent use areas extending onto and over sovereign land in Lake Tahoe. Essentially, this method to value is both an Extraction Method (for land value) and a Land Rate Capitalization. See Review of Methodology.

PUBLIC TRUST AND STATE'S BEST INTERESTS ANALYSIS

Consistent with the previous overview of Benchmarks but adhering to the California Constitution that specifically prohibits the Legislature from making or authorizing any gift of public money or thing of value to any individual, municipality, or corporation (Cal. Const., art. XVI, § 6).

A “thing of value” includes the use of State-owned land for private benefit. The Commission has broad discretion in all aspects of leasing state lands, including the method or amount of rent that is most appropriate, and how rent should be adjusted during the term. (Pub. Resources Code, §§ 6501.1, 6503, 6503.5; Cal. Code Regs., tit. 2, §§ 2000, 2003.)

The Benchmark Rents must be in the best interests of the State, and may be based on one or more of the following methods, including, but not limited to: 1) 9% of the appraised value of the leased land; 2) a percentage of annual gross income where the percentage is based on an analysis of the market for like uses and other relevant factors; 3) a comparison to rents for other similar land or facilities; 4) benchmarks for regions with large concentrations of similar facilities with benchmark rental rates to be based on analysis of similar or substitute facilities in the local area; other such methods or information that are based on commonly accepted appraisal practices and principles; and for leases for recreational piers or buoys, rent shall be based on local conditions and local fair annual rental values. (Cal. Code Regs., tit. 2, § 2003; Pub. Resources Code, §§ 6503, 6503.5.)

The Commission may consider the amount of rent the State would receive under various rental methods, and whether relevant, reliable and comparable data are available concerning the value of the

leased land in determining which rent method should apply (Cal. Code Regs., tit. 2, §2003, subd. (d)(1), (2).)

BENCHMARK 1985

Table 3: Benchmark Rental Rates – 1985 – Summary of Findings

Area	Rental Rate	Rental Value/AC	Rental Value/Sq. Ft
San Francisco Bay Area	\$0.080	\$38,720.00	\$0.89
Marin County Area	\$0.120	\$58,080.00	\$1.33
Lake Tahoe (Buoys = \$53/Buoy)	\$0.150	\$72,600.00	\$1.67
Sacramento River Area	\$0.070	\$33,880.00	\$0.78
Delta Area	\$0.070	\$33,880.00	\$0.78
Los Angeles/South California Area	\$0.140	\$67,760.00	\$1.56

Rental Values (AC/SF) were projected by Consultant.

BENCHMARK JULY 30, 1987

Table 4: Benchmark Rental Rates – July 30, 1987 – Summary of Findings

Area	Rental Rate	Rental Value/AC	Rental Value/Sq. Ft
San Francisco Bay Area	\$0.0902	\$43,656.80	\$1.00
Marin County Area	\$0.1440	\$69,696.00	\$1.60
Lake Tahoe (Buoys = \$66/Buoy)	\$0.1990	\$96,316.00	\$2.21
Sacramento River Area	\$0.0950	\$45,980.00	\$1.06
Delta Area	\$0.0730	\$35,332.00	\$0.81
Los Angeles/South California Area	\$0.1510	\$73,084.00	\$1.68

Table 5: Percentage of Increase in Rental Value from 1985 to 1987

San Francisco Bay Area		7.38%
Marin County Area		17.07%
Lake Tahoe	Buoys:	24.53%
	Berths:	35.37%
Sacramento River Area		35.90%
Delta Area		8.96%
Los Angeles/South California Area		4.79%

BENCHMARK OCTOBER 1, 1989

Table 6: Benchmark Rental Rates – October 1, 1989 – Summary of Findings

Area	Rental Rate	Rental Value/AC	Rental Value/Sq. Ft
San Francisco Bay Area	\$0.103	\$49,852.00	\$1.14
Marin County Area	\$0.149	\$72,116.00	\$1.66
Lake Tahoe (Buoys = \$66/Buoy)	\$0.216	\$104,544.00	\$2.40
Sacramento River Area	\$0.112	\$54,208.00	\$1.24
Delta Area	\$0.109	\$52,756.00	\$1.21
Los Angeles/South California Area	\$0.168	\$81,312.00	\$1.87

Table 7: Percentage of Increase in Rental Value from 1987 to 1989

San Francisco Bay Area		7.94%
Marin County Area		3.27%
Lake Tahoe	Buoys:	14.00%
	Berths:	8.65%
Sacramento River Area		16.59%
Delta Area		15.25%
Los Angeles/South California Area		11.29%

BENCHMARK JULY 1, 1992**Table 8: Benchmark Rental Rates – July 1, 1992 – Summary of Findings**

Area	Rental Rate	Rental Value/AC	Rental Value/Sq. Ft
San Francisco Bay Area	\$0.113	\$54,692.00	\$1.26
Marin County Area	\$0.159	\$76,956.00	\$1.77
Lake Tahoe (Buoys = \$66/Buoy)	\$0.216	\$104,544.00	\$2.40
Sacramento River Area	\$0.138	\$66,792.00	\$1.53
Delta Area	\$0.125	\$60,500.00	\$1.39
Los Angeles/South California Area	\$0.197	\$95,348.00	\$2.19

Table 9: Percentage of Increase in Rental Value from 1989 to 1992

San Francisco Bay Area		9.13%
Marin County Area		3.71%
Lake Tahoe	Buoys:	23.67%
	Berths:	4.45%
Sacramento River Area		20.92%
Delta Area		15.76%
Los Angeles/South California Area		17.26%

BENCHMARKS 2007/2012/2017

The reporting analysis from the State Lands Commission changed and was exclusive to Lake Tahoe. A summary of the established rates is as follows:

Table 10: Benchmark Rental Rates – 2007, 2012 and 2017 – Lake Tahoe Only – Statement of Findings

Year	Rental Rate	%/Increase	Rental Value/AC	Rental Value/Sq. Ft
2007	\$0.804		\$389,136.00	\$8.93
2012	\$0.790	-1.74%	\$382,360.00	\$8.78
2017	\$0.417	-47.22%	\$201,828.00	\$4.63
2007 Buoy	\$340			
2012 Buoy	\$377	10.88%		
2017 Buoy	\$194	-48.54%		

A summary of the various Benchmarks and Rates are shown as follows:

Table 11: Benchmark Rental Rates – Comparison 1989 to 2018

Benchmark Date	1985	1987	1989	1992	2007	2012	2017 - Bench 1 Proposed	2018 - Bench 1 Proposed	2017 Bench 2	2018 Bench 2
Berths/Slips						Current	Proposed	Proposed	Non-Water	Non-Water
Average Boat Length Feet		30.00	30.00	30.00	30.00	26.00	27.00	27.00		
Land Area for Berth / SF		792.00	792.00	792.00	628.00	666.00	705.00	705.00		
Submerged Fee Rate		5%	5%	5%	5%	5%	5%	5%	Upland per SF	Upland per SF
Berth Rent per Year		\$157.32	\$171.07	\$171.07	\$504.91	\$525.10	\$712.05	\$294.00	\$10.800	\$10.800
Land Value (Acre)		\$96,140	\$104,544	\$104,544	\$389,136	\$382,360	\$488,840	\$201,838	Sundecs per SF	Sundecs per SF
Rental Rate (Sq. Ft)	\$0.150	\$0.199	\$0.216	\$0.216	\$0.804	\$0.790	\$1.010	\$0.417	\$2.700	\$1.130
Buoys										
Per Mooring Buoy	\$53.00	\$66.00	\$75.00	\$93.00	\$340	\$377	\$516	\$194		
Swing Area SF		30	30	20	25	25	25	25		

Please note the 2012 Benchmark Rates are the currently used and stipulated rates as of 2019.

METHODOLOGY OF BENCHMARKS

Per the State Lands Commission, the analysis and basis for the established Fair Market Rent for the Piers and Buoys were completed internally and: *“It should be noted that this research does not constitute an appraisal as defined by either the Uniform Standards of Professional Appraisal Practice (USPAP) or the Appraisal Institute. Rather, this research represents a correlation of a range of market rents into single annual lease rate to be used as the benchmark for the Lake Tahoe area. The research is intended to be used by CSLC staff in negotiations with lessees.”*

While well intentioned, and not uncommon for agency disclosures, there may be an inherent conflict with the SLC valuation standards (fair market rent) and the disclosure that the analysis does not adhere to USPAP. As a policy of public trust, while only Federally Regulated Transactions are subject to USPAP the implication that SLC (CA State Agency) is not subject to USPAP does not invoke the highest standards. The conflict arises that while agencies do not need to adhere to USPAP (Non-Federally Regulated Transactions) for appraisal assignments, and for that matter do not require internal government employees to be licensed or certified, the State Charter does adhere to the concept of Market Value, which is the underlying foundation for USPAP. USPAP specifically states in the Preamble:

The purpose of the Uniform Standards of Professional Appraisal Practice (USPAP) is to promote and maintain a high level of public trust in appraisal practice by establishing requirements for appraisers. It is essential that appraisers develop and communicate their analysis, opinions, and conclusions to intended users of their services in a manner that is meaningful and not misleading.

Therefore, while SLC establishes market rents, the adherence to USPAP may be undermined by the disclosure that the estimate of rates does not adhere to California State Law.

This does not in and of itself invalidate any of the SLC policies or rates, but subjects SLC to criticism by not adhering to the highest standards to maintain public trust in the process.

SLC METHODOLOGY FOR RENTAL RATES- 2012 BASIS

The State Lands Commission uses traditional methods to establish the fair market rent as follows:

- Identifying marinas and buoy fields in Lake Tahoe and California ;
- Surveying the marinas and buoy fields as to the number and type of mooring (berths/slips/buoys), occupancy rate, mooring sizes, and rates;
- Compiling the survey results into averages for slip and buoy size and rate;

-
- Using the Layout and Design Guidelines for Marina Berthing Facilities publication (July 2005) from the State Department of Boating and Waterways to determine the amount of submerged land area necessary to accommodate a given mooring size;
 - Calculating the annual rental rate(s) using the survey data and State valuation guidelines.

BERTH/SLIP RENT

The survey found that berth sizes on Lake Tahoe ranged from 18 to 100 lineal feet, with most being in the 20 to 40-foot lengths. The average berth size was approximately 26 feet. In comparison, a 30-foot length was used in the 1992 Benchmark Update; however, this length represented a statewide average and was not specific to Lake Tahoe. Please note, that rent for berths are commonly expressed in terms of dollars per lineal foot for coastal marinas.

The benchmark rental rate for berths and slips was calculated by multiplying the average berth length by the average rental rate. The product was then multiplied by 12 months to arrive at the gross annual income.

The gross annual income is multiplied by 5% to get the income attributable to the submerged land. The income attributable to the submerged land is then divided by the amount of submerged land needed to accommodate the average berth length within a marina.

The submerged land area needed to accommodate an average berth was found in a publication entitled "Layout and Design Guidelines for Small Craft and Berthing Facilities" by the State Department of Boating and Waterways. This publication provides formulas and tables for calculating the submerged land area needed to accommodate various sizes and layouts of berths in marinas.

Among other variables, the formulas take into account the berth length, berth layout (single vs. double), and the type of vessel (powerboat vs. sailboat). The submerged land area used in this benchmark analysis is based on a double berth layout (on the premise that it was the most economically efficient for the marina operator) and represented an average of the powerboat and sailboat areas.

Taking all of the inputs into account, the current (2012) benchmark rental rate and land value are calculated as follows:

Table 12: 2012 Benchmark Berth Rental Rate & Land Value Calculation

26' avg. berth size x \$33.66/LF avg. berth rate	\$875.16/berth/month
\$875.16/berth x 12 months	\$10,502/berth/year
\$10,502 x 5% of gross income	\$525.10
\$525.10 / 666 sq. ft.	\$0.788/Sq. Ft.
Benchmark Rental Rate	\$0.79/Sq. Ft.
\$0.79/sq. ft. x 43,560 sq. ft	\$34,412.00
\$34,412/0.09	\$382,356
Benchmark Land Value (rd.)	\$382,360

The indicated benchmark rental rate is \$0.79 per square foot. In comparison, the 2007 benchmark was \$0.804 per square foot.

The current benchmark is based on a submerged land area of 666 square feet, which is in turn based on the 26-foot average berth length derived from the 2012 survey. There have been variations regarding the submerged land area (based on past benchmarks) such as the 1992 benchmark was based on a 30-foot average berth and a submerged land area of 792 square feet³⁶.

There are three primary assumptions in the calculation of Berthing Rent that are subject to further analysis.

- Linear foot (based on survey of other slip rates);
- Estimate of Berthing square feet; and
- Estimate of submerged fee rate (5%).

LINEAR FOOT

In reviewing the SLC base analysis to support the rental rate, 12 marinas were surveyed. The survey included data on the **Average Slip Length, Season in Months, Occupancy, In-Season Rates** and an **Equivalent Rate (\$/LF Mo.)**.

³⁶ It is not known how the 792 square foot figure was calculated. It is not in the tables in the Department of Boating and Waterways publication, which have remained unchanged since 1980. That publication indicates that the submerged land area needed to accommodate a typical 30-foot berth, with a double berth layout and an even mix of power and sailboats, would be about 824 square feet.

The survey reflects a traditional method by which other slip rates are catalogued and compared. However, the fundamental flaw in the analysis is that the Marinas did not rent slips on a linear foot basis, but rather a fixed *In Season Rate*. The 2012 Benchmark showed the fixed season rates ranging from \$1,650 to \$7,500. There is no reference in the survey of a per linear foot rate. As mentioned earlier, Linear Foot Rates are a typical reference for **coastal marinas** where boat lengths and style of boats vary significantly. The Coastal Marina (open ocean) market has a standard for renting slips that is not the same for recreational lakes (inland bound waters). The reasons for this difference may be reflected in the following areas:

- Seasonality – Coastal Marinas are typically rented year-round and a uniform rate for 12 months is required (regardless of berth length);
- Live Aboard – Coastal Marinas also have long term agreements that allow for live aboard that also require uniform rates; and
- Services – Coastal Marinas typically have “off-shore” services to support a year-round user that require a fixed rent to cover expenses (showers, restrooms, shops, cafes, etc.).

This is also supported by this analysis (See Method 5 for survey of inland lake marinas) where all inland Lake marinas reflected rental rates on a daily, weekly, monthly or annual fixed rate basis, regardless of the berth length. Inland lake marinas do not rent on a linear foot basis.

Overall, it can be concluded that the SLC Benchmark 2012 using the Equivalent Rate (\$/LF Mo.) has no basis in the market for inland water rental rates. The market, in fact, uses overall rent, either annually or seasonally, to reflect an appropriate rental rate.

The SLC analysis further compounds the issue in establishing the fair market rent by using the quoted In-Season Rate assuming a monthly rate which may or may not reflect a supportable standard.

Season Months Standard – Assumes No Use for 7 months

Table 13: 2012 Benchmark Berth Equivalent Rate – 5 Months Only

Marina	In Season Rate	Season Months	Average Length	Equivalent Rate
Lakeside	\$1,650	5.00	20.00	\$16.50
Tahoe Keys	\$3,125	5.00	25.00	\$25.00
Meeks	\$2,700	5.00	20.00	\$27.00
Obexer	\$5,509	6.00	30.00	\$30.61
Sunnyside	\$5,040	4.00	24.00	\$52.50
Tahoe City	\$7,500	5.00	32.00	\$46.88
Sierra	\$3,320	4.00	24.00	\$34.58
North Tahoe	\$5,800	5.00	32.00	\$36.25
Average	\$4,330.50		Average	\$33.66

However, if the same Seasonal Rate is used and the same Season Months are used, but the Monthly Average is converted to an Annual Rate, the following Equivalent Rate is estimated.

Annualized Months Standard – Assumes Year-Round Use

Table 14: 2012 Benchmark Berth Equivalent Rate – 12 Months

Marina	In Season Rate	Season Months	Annual Equivalent	Average Length	Annual Rent Per SF
Lakeside	\$1,650	5.00	\$3,960	20.00	\$39.60
Tahoe Keys	\$3,125	5.00	\$7,500	25.00	\$60.00
Meeks	\$2,700	5.00	\$6,480	20.00	\$64.80
Obexer	\$5,509	6.00	\$11,018	30.00	\$61.21
Sunnyside	\$5,040	4.00	\$15,120	24.00	\$157.50
Tahoe City	\$7,500	5.00	\$18,000	32.00	\$112.50
Sierra	\$3,320	4.00	\$9,960	24.00	\$103.75
North Tahoe	\$5,800	5.00	\$13,920	32.00	\$87.00
Average	\$4,330.50	Average	\$10,744.75	Average	\$85.62

By comparison SLC reflected a rate that assumes only a 5-month season and that for the remaining 7 months of the year there is no use (rent) of the pier. If the Equivalent Rate is used at the same 2012 Benchmark figure the following annual rate would be calculated:

Table 15: 2012 Annualized Benchmark Berth Rate

26' avg. berth size x \$85.62/LF avg. berth rate	\$2,226.12
Annualized Benchmark	\$2,226.12

As shown, the result of using an annualized rate reflects a berth fee rate of \$2,226.14. There are no further adjustments or considerations required.

BERTHING SQUARE FEET

As noted, the Berthing Square Footage is a foundational reference for estimating the final rent. It is typical for berthing and slips to base the rent on per linear foot of slip space. This is traditional for coastal marina slips where there are significant varieties in boat lengths from dinghies to yachts. However, for recreational lakes and the defined seasonality of use, the common reference is simply overall monthly rent per slip. There is some uniformity in recreational boating lengths (motor v. sail is the only significant variance), but even with a difference in the style of propulsion the boat lengths tend to be in a certain standardized range from 10 to 60 feet, with most boats (motor or sail) ranging from 20 to 39 feet; the standard average is from 25 to 30 feet.

This is supported by the *California Boaters Report* where 62.3% of boat owners have boats from 20 to 39 feet.

Table 16: Berthing Square Feet

Length of Boat	Count	Percent
Less than 16 feet	228	8.7%
16 to 19 feet	450	17.1%
20 to 25 feet	846	32.2%
26 to 39 feet	792	30.1%
40 to 65 feet	295	11.2%
More than 65 feet	17	0.7%
Total	2,628	100.0%

It should also be noted that boats rented for recreational uses (daily and weekly) by local Lake Tahoe Marinas typically range from 19 to 27 feet and will accommodate between eight and 13 passengers.

SLC Benchmark 26-foot boat lengths would appear to be the mid-point. Overall, the SLC Benchmark standard of using a boat length of 26 feet is supportable. However, this boat length does not address the submerged land area that is required of the rent estimate. SLC uses an estimate of the square footage required for berths which is supported by the *Layout and Design Guidelines for Marina Berthing Facilities – 2005*.

Please note that that converting the Linear Foot basis to a per square foot figure does not necessarily reflect the market. In effect, the use of linear foot is somewhat *contrived* because it is clear in the local Lake Tahoe market and other comparable lake markets it is not common to use rent per linear foot for rental rates. Therefore, the SLC methodology to support pier rents using linear foot references is inconsistent with the market. This does not mean it cannot be used; it is simply not preferred.

I have completed research to support SLC referencing berth square footage. Please references the charts for support.

As noted, the 2012 rates (current) used 26-foot berth lengths with 666 square feet. The Double Berth Rates (boat and sail – see Double Berth Layout Planning Data) ranges from 630.2 to 702 which averages 666 square feet.

As referenced, if a slightly higher berth length is used the following estimates are shown for Single and Double Berths.

Single Berth – As noted in the following chart the Single Berth configuration for a Powerboat shows that the Berth Length (similar to boat length requirement) that ranges from 28 to 30 feet requires 869 to 960.4 square feet. A Sailboat with a similar Berth Length requires 785.8 to 865.5 square feet. The approximate median required square footage for a Single Berth is 870.

Double Berth – Using the chart for Double Berths Powerboats required 785.7 to 871.50 square feet. A Sailboat with a similar Berth Length required 702.6 to 776.6 square feet. The approximate median required square footage for a Double Berth is 784.

Overall, the estimate by the SLC for Berthing square footage is supported at 666 square feet (Benchmark 2012). There are references that the square footage would be higher based on Berth Lengths. I have also included the reference to the 1992 Benchmark for comparison. The impact on the annual rate would be as follows:

Table 17: 1992 Benchmark Berth Sensitivity Rate

Berth SF Range	Berth SF	Rate Est. / PSF	Annual Rate
SLC Current	666	\$0.788438	\$525.10
Double Berth	784	\$0.788438	\$618.14
Single Berth	870	\$0.788438	\$685.94
1992 Benchmark	792	\$0.788438	\$624.44

CONCLUSION

It can be concluded that the SLC use of 666 square feet reflects a minimum standard that would support the lowest annual rate. Adjusting the Berth SF to reflect Single Berth would show the highest rate at \$685.94. The former SLC Benchmark for 1992 reflects an annual rate between the SLC 2012 Benchmark and the surveyed Single Berth rate, or \$624.44.

SUBMERGED FEE RATE

The assumption that discounts the 2012 Benchmark Rate of \$10,502 is to apply a submerged fee rate of 5%. See below as previously referenced.

Table 18: Submerged Fee Berth Rate – Current Benchmark Rental Breakdown

26' avg. berth size x \$33.66/LF avg. berth rate	\$875.16/berth/month
\$875.16/berth x 12 months	\$10,502/berth/year
\$10,502 x 5% of gross income	\$525.10
\$525.10 / 666 sq. ft.	\$0.788/sq. ft.
Benchmark Rental Rate	\$0.79/sq. ft.

There are three foundational weaknesses in the assumption that uses the submerged fee rate of 5%:

1. There is no market support for using the indicated 5% rate;
2. There is no explanation or reasoning why a submerged fee rate is applied at all; and

CATEGORY 1 - REVIEW AND CONCLUSION OF SLC BENCHMARK RATE FOR PIERS

Overall, the analysis completed by SLC to support the Fair Market Rental Rate for piers is not supported by 1) appropriate methodology, and 2) recognized analysis. Based on SLC past Benchmarks³⁷ (reliance on 2012 as Current) the use of a Price per Linear Foot is inconsistent with the market data and there is no support for the submerged fee discount rate. The SLC analysis does provide reasonable and appropriate data in which to ascertain a supportable rate but was either incomplete or inconclusive in deriving a final rent.

A recapitulation of the existing SLC 2012 Benchmark analysis would lead to the conclusion that the SLC analysis provided a rental rate that was below market considering that the methodology used applied conservative figures for berth square footage and a concluded rate of 5%) without market support.

BUOY RENT

The Benchmark Survey for Buoys revealed that there were 11 marina facilities on Lake Tahoe with buoy moorings. These facilities reported a total of 623 buoys, or an average of 57 buoys per facility. The reported occupancy rates ranged from 60% to 100%, with an average occupancy rate of 93.4%.

The survey found that the swing radius for buoys in Lake Tahoe range from 15 to 37 feet. The swing area is the distance that a boat can pivot around on its mooring axis ("anchor center"). The Code of

³⁷ Benchmark Methodology has been similar since 1985. The only difference has been survey data inputs.

Ordinance for the Tahoe Regional Planning Agency (TRPA) requires buoy fields to be designed based on a minimum 50-foot grid spacing pattern.

The swing radius for each grid in this spacing pattern generally equates to 25 feet³⁸. The majority of the facilities surveyed indicated larger swing radii than the one contained in the 1992 Benchmark. The benchmark recommended the swing radius be increased to 25 feet, which is in accordance with TRPA design criteria.

Mooring buoys on Lake Tahoe are commonly rented on a seasonal basis, with the typical season running from May through September, a period of five months. This is consistent with Berths.

Like boat slips, mooring buoys on Lake Tahoe are commonly rented on a seasonal basis, with the typical season running from May through September, a period of five months. Consequently, rents are typically quoted on a seasonal basis. The survey indicated that seasonal rates on Lake Tahoe range from \$1,100 to \$6,500. Based on the number of months in the reported season, the equivalent monthly rates range from \$179 to \$1,300. The average of the surveyed rents is \$601 per month.

In prior benchmark updates, the new rental rate for buoys was calculated by multiplying the existing buoy rental rate by the overall percentage change since the prior update.

Applying this rate of increase to the prior benchmark rate of \$340 per buoy resulted in the 2012 benchmark rate of \$377 ($\340×1.11).

Table 19: New Benchmark Buoy Rental Rate (Rounded) Summary

\$93 Existing Buoy Rental Rate / 1,256 Sq. Ft.	\$0.074/Sq. Ft.
\$0.074/Sq. Ft. x 2.337 Increase from Prior Update	\$0.173/Sq. Ft.
\$0.173/Sq. Ft. x 1,963 Sq. Ft.	\$339.60/Buoy
11% Increase	1.11
Benchmark Rental Rate (Rounded)	\$377/Buoy

Similar to the discussion for Berth Rates there are two primary assumptions in the calculation of Buoy Rates that are subject to further analysis:

- Monthly Conversion of Fixed Rates; and
- Estimate of Buoy Swing square feet.

MONTHLY CONVERSION OF BUOY RATES

As noted, SLC establishes the fair market rent by using the quoted In-Season Rate assuming a monthly rate which may or may not reflect a supportable standard. This is summarized as follows:

³⁸ The buoy rent in the 1992 Lake Tahoe Benchmark was based on a 20-foot swing radius.

Season Months Standard – Assumes no use for approximately 7 months

Table 20: 2012 Benchmark Buoy Equivalent Rates – 5 Months Only

Marina	In Season Rate	Season Months	Per Month
Lakeside	\$1,100	5.00	\$220.00
Ski Run Marina	\$1,250	7.00	\$178.57
Timber Cove	\$1,650	5.00	\$330.00
Camp Richardson	\$1,650	5.00	\$330.00
Obexer	\$3,058	6.00	\$509.67
Sunnyside Marina	\$2,950	4.00	\$737.50
Tahoe City Marina	\$3,600	5.00	\$720.00
Sierra Boat Company	Only Monthly	4.00	\$725.00
North Tahoe	\$4,800	5.00	\$960.00
Average	\$2,507.25	Average	\$523.42

Homewood Marina was excluded. It was a market outlier that was double to triple compared to other marinas, or \$6,500 In Season.

In summary, the seasonal use for a buoy averages \$2,507.25. The SLC survey convoluted the analysis with an analysis reflecting the square footage for swing radius. In its simplest context a buoy space would support the average of \$2,507.25 per season. There is no basis to convert the Seasonal Rate to a monthly rate when at a minimum (4 to 7 months) of use the total rate ranges from \$1,100 to \$4,800.

A similar analysis was completed to annualize the buoy rate for reference. This is shown as follows:

Annualized Months Standard – Assumes Year-Round Use

Table 21: 2012 Annualized Benchmark Buoy Rate – Equivalent 12 Months

Marina	In Season Rate	Season Months	Annual Equivalent
Lakeside	\$1,100	5.00	\$2,640
Ski Run Marina	\$1,250	7.00	\$2,143
Timber Cove	\$1,650	5.00	\$3,960
Camp Richardson	\$1,650	5.00	\$3,960
Obexer	\$3,058	6.00	\$6,116
Sunnyside Marina	\$2,950	4.00	\$8,850
Tahoe City Marina	\$3,600	5.00	\$8,640
Sierra Boat Company	Only Monthly	4.00	\$8,700
North Tahoe	\$4,800	5.00	\$11,520
Average	\$2,507.25	Average	\$6,280.98

Homewood Marina was excluded. It was a market outlier that was double to triple compared to other marinas, or \$6,500 In Season.

If the buoy rate was annualized to reflect year-round use the rate averages \$6,280.98. Please note, the buoy rent is for the use of the submerged land only. The buoy itself (chain and float) are the property of the upland owner.

BUOY SWING SQUARE FOOTAGE

The Buoy Swing reference is a legacy figure that was derived from past Benchmark studies. While using a square footage for the Swing radius is referenced – it has no basis in the market and is fundamentally misleading.

As SLC states: Mooring buoys on Lake Tahoe are commonly rented on a seasonal basis, with the typical season running from May through September, a period of five months. Consequently, rents are typically quoted on a seasonal basis. Overall, there is no need or basis to use Buoy Swing references and it does not reflect the market.

Again, compounding this reference is the conversion of the square footage to a monthly indicator – is also not used in the market.

CATEGORY 1 – REVIEW AND CONCLUSION OF SLC BENCHMARK RATE FOR BUOYS

Overall, the analysis completed by SLC to support the Fair Market Rental Rate for buoys is not supported by 1) appropriate methodology and 2) recognized analysis. Based on SLC past Benchmarks (reliance on 2012 as Current) the use of a monthly conversion of a seasonal rate is inconsistent with the market data. Further there is no support for a Swing Square Footage unit indicator in the market. The data provided by SLC clearly shows an overall rate for the season and no further modifications or adjustment are required.

The seasonal rates from the Benchmark 2012 survey (excluding Homewood) ranges from \$1,100 to \$4,800 with an average of \$2,507.25. This reflects the minimum rate from the market over a typical season ranging from 4 to 7 months. No allowance is provided for *off-season* rates.

CATEGORY 2 – REVIEW AND CONCLUSIONS OF SLC BENCHMARK RATE NON-WATER USE.

A similar methodology is used for Category 2 to establish the fair market rent for non-water dependent use areas extending onto and over sovereign land in Lake Tahoe. This method to determine the non-water rate uses upland values and the SLC Land Rate Capitalization of 9% (as set by the California Code of Regulations). This method to value is recognized by the SLC as Method 1.

The non-water area (known as Category 2) are areas typically adjacent to the piers at Lake Tahoe that are used for sundecks, sleeping quarters, or other non-water dependent uses. Additionally, there are some areas where fill has been placed, thereby extending the usable upland residential property.

At Lake Tahoe, the adjoining upland property generally consists of single-family homes on residential lots. The rent to be set is based on the value of the underlying land and does not include the value of any improvements. Thus, for valuation purposes, the value of lakefront residential lots at Lake Tahoe is the basis of the rental rate. The Sales Comparison Approach to value was used which is a traditional and accepted method to value. The unit of comparison used was the price per square foot of land area.

The mean unit value was \$127 per square foot with a median unit value of \$117 per square foot. The concluded unit value was \$120 per square foot. Applying the 9% annual rate of return to the previously concluded market value of the upland property results in an annual rental rate of \$10.80 per square foot. The concluded value was based on the leased land having the same utility as the adjoining upland.

This method to value is appropriate for analysis purposes, but as will be discussed later using the 9% rate may be subject to criticism when market rates support a lower rate.

REGIONAL MAPS

Figure 3: Map of Placer and El Dorado Counties

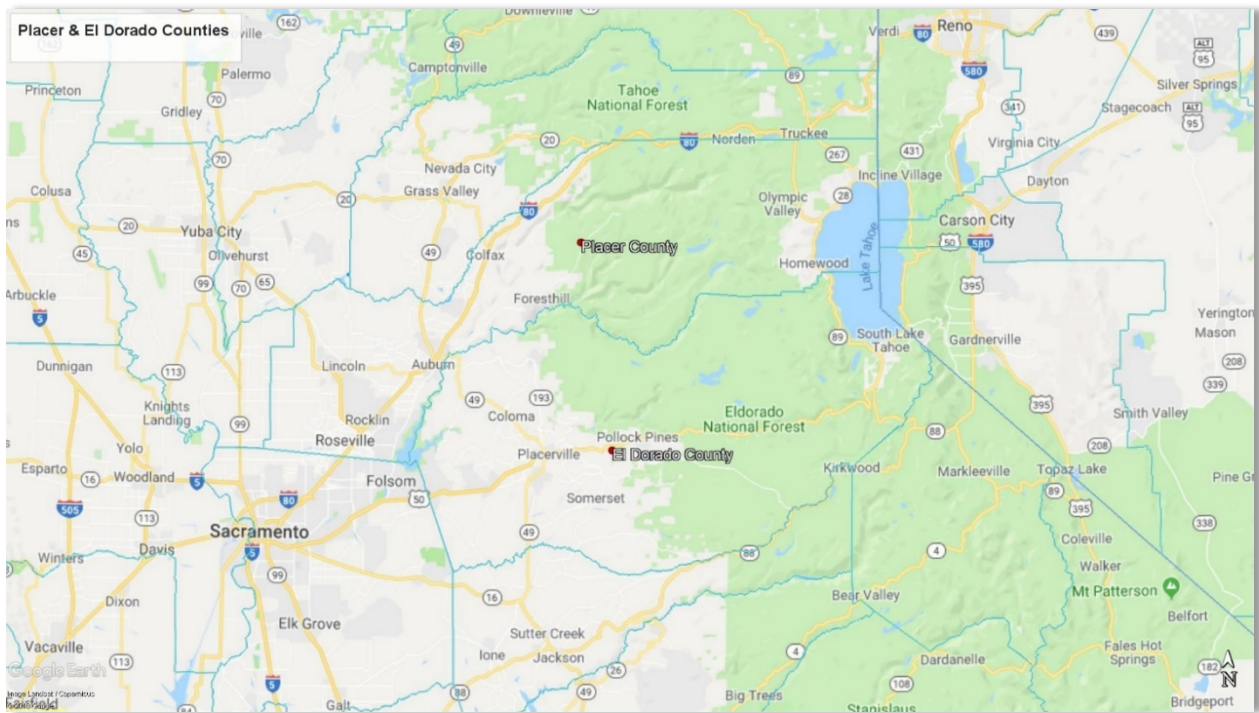
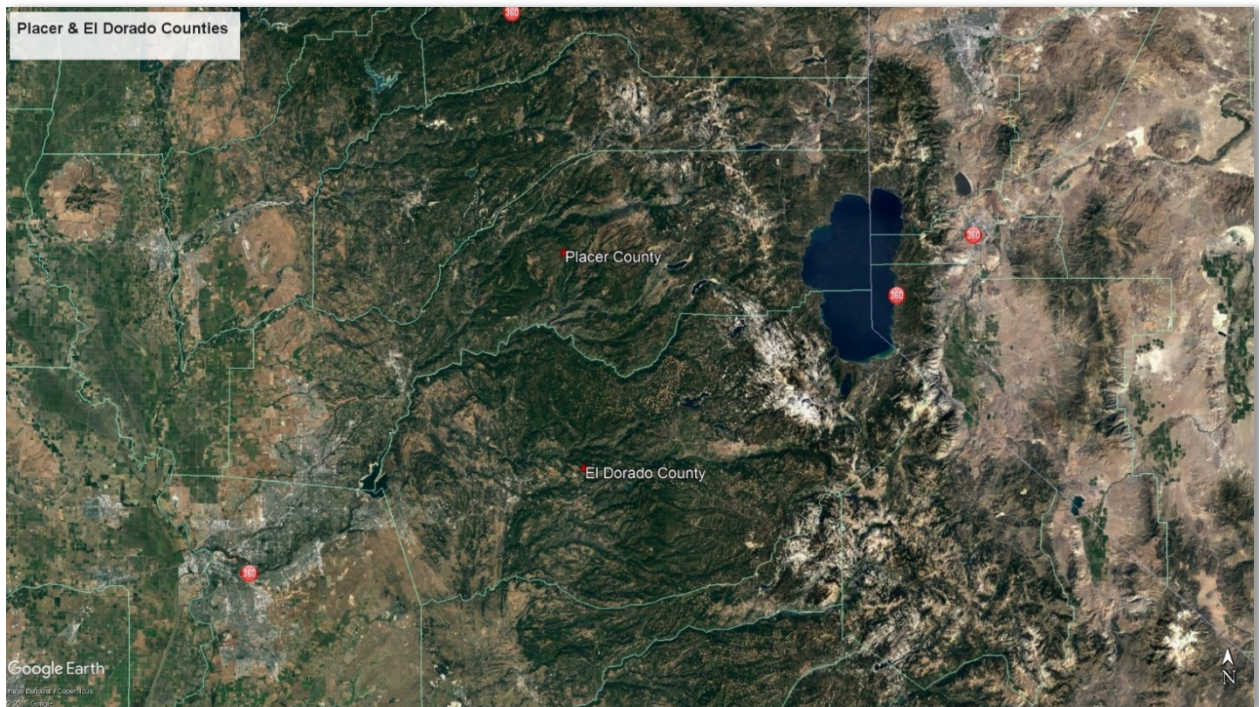


Figure 4: Aerial View of Placer and El Dorado Counties



TAHOE REGIONAL PLANNING AGENCY - TRPA

The Tahoe Regional Planning Agency leads the cooperative effort to preserve, restore, and enhance the unique natural and human environment of the Lake Tahoe Region, while improving local communities, and people's interactions with our irreplaceable environment.

In 1969, the United States Congress created the Tahoe Regional Planning Agency which is a cooperative agreement between the States of California and Nevada. The Compact, as revised in 1980, gave TRPA authority to adopt environmental quality standards, called thresholds, and to enforce ordinances designed to achieve the thresholds. The TRPA Governing Board adopted the thresholds in 1982. In 2013, California and Nevada passed legislation to update the Bi-State Compact. TRPA was the first bi- state regional environmental planning agency in the country.

TRPA is uniquely positioned at Lake Tahoe to make significant environmental improvements with good land use planning. The Agency along with input from the community and state, federal, and local governments updated the Regional Plan which was adopted on December 12, 2012. TRPA receives direction on decisions from a 15-member Governing Board, a 21-member Advisory Planning Commission as well as many stakeholders and members of the public like you. The Agency also reports on our activities regularly to the Nevada and California state legislatures.

TRPA uses two main tools to protect and restore Lake Tahoe:

- An Environmental Improvement Program that implements restoration projects to heal past damage to the ecosystem
- A regulatory program that works to minimize the impact of developed properties on the watershed

Although the Compact designates TRPA as the leader of environmental standards in the Basin, cooperative partnerships exist with other organizations, agencies, and many private property owners to implement the various environmental and regulatory programs. These programs include the Aquatic Invasive Species and Forest Fuel Reduction.

The Agency's top priorities and basic operational strategy is set by a Strategic Plan. Community engagement, environmental gain, operational efficiency and streamlined operations are critical to TRPA's efforts to protect and restore this special place.

The Regional Plan that was adopted in 2012 also establishes goals for improving water quality, sustainably redeveloping the environment, providing incentives for mixed- use town centers and improving safety and quality of life.

Specific to Environmental Oversight the Bi-State Compact directs TRPA to establish measures to achieve environmental standards called threshold carrying capacities, or thresholds. The adopted threshold categories include Water Quality, Air Quality, Soil Conservation, Vegetation, Fisheries, Wildlife, Noise, Scenic Quality, and Recreation.

TRPA SHORELINE PLAN - 2019

New programs include boater education and enforcement of the 600-foot no-wake zone at Lake Tahoe, expansion of the no-wake zone to include all Emerald Bay and no-wake zone buffers around all swimmers, paddlers, and shoreline structures to prevent unsafe boating near the shoreline where motor boats, paddlers, and swimmers interact. Boats must stay under 5 mph within Emerald Bay and when within 600 feet of shore, 100 feet of paddlers and swimmer, and 200 feet of shoreline structures.

TRPA is partnering with the Lake Tahoe Water Trail and the basin-wide Take Care campaign, as well as with the League to Save Lake Tahoe, marinas, concessionaires, and law enforcement agencies, to implement these new boater education and enforcement activities. In addition to strengthening its own presence on the lake with a second watercraft team, TRPA is entering an agreement with all law enforcement agencies on the lake. The goal is to coordinate and prioritize enforcement strategies through a Watercraft Task Force that will meet regularly to focus on improving compliance with boating regulations at Lake Tahoe.

"Lake Tahoe was suffering from the lack of a shoreline plan as illegal activity caused environmental degradation and conflicts among recreationists on the water," said Darcie Goodman Collins, chief executive officer of the League to Save Lake Tahoe. "This new plan has stronger protections, more effective enforcement, and a vastly improved education program enhanced by technology." Other new programs provide:

- Coordinated TRPA enforcement against illegal boat moorings on the lake with the California State Lands Commission and Nevada Division of State Lands;
- More monitoring and control projects to prevent the spread of harmful aquatic invasive species;
- Enhanced TRPA monitoring for noise and scenic impacts from boating activity and shoreline structures;
- New provisions to keep noisy boats with aftermarket exhaust systems that exceed TRPA, California, and Nevada sound limits from operating on the lake.

MOORING REGISTRATION AND PERMITTING

Property owners can now get permits and register existing moorings online. The registration period for this season will remain open until Sept. 30. Property owners who are eligible to apply to register an existing mooring in 2019 include:

- Those who have a mooring permitted by TRPA;
- Those who have previously applied for a TRPA mooring permit;
- Those who have a mooring with a state or federal permit or lease; and

-
- Those who have a mooring with no permit or lease but proof of its existence prior to 1972.

A \$43 annual registration fee will be charged for each mooring. Revenue from the registration fee will help pay for coordinated enforcement against illegal moorings on the lake. Each buoy is also charged a \$47 annual scenic impact fee that will help pay for projects to restore the natural scenic qualities of Lake Tahoe's shoreline.

Existing moorings that do not have a prior TRPA permit will have to undergo TRPA permit review in conjunction with the registration process.

"Registering moorings is a key part of the new Shoreline Plan that will improve recreation at Lake Tahoe and help protect the environment for generations to come," said Jan Brisco, executive director of the Tahoe Lakefront Owners' Association.

The Lake Tahoe Shoreline Plan authorizes TRPA to permit up to 1,486 new private moorings over the next 20 years. As part of the phased plan, permitting and registration for new moorings will begin in January 2020. To apply for a new mooring, property owners must have a best management practices (BMP) certificate from TRPA.

NEW PIER APPLICATIONS

The Shoreline Plan authorizes up to 128 new private piers over the next 20 years but allows up to five new single-parcel piers and up to seven new multiple parcel piers to be permitted during the first two years of the plan. New pier applications will be accepted every two years. Beginning June 1, TRPA will accept project proposals for new single parcel and multiple-parcel piers. Selected project proposals will then be able to move forward with the application and review process.

SHORELINE STRUCTURES

The Shoreline Plan authorizes up to:

- 10 new public piers
- 128 new private piers, with 12 pier applications accepted every two years. Piers that serve multiple properties will be prioritized, with no more than 25 pier permits available for piers that serve a single property.
- 2 new public boat ramps
- 1,486 new moorings, including buoys and boat lifts, with no more than 15 percent of the moorings permitted in any given year. In 2019, TRPA will ensure that all existing moorings on the lake are permitted and registered and will begin processing new mooring applications by 2020.
- Up to 330 of the new moorings will serve existing marinas, and up to 300 new moorings will serve public agencies with lakefront facilities.

SHORELINE FEES:

- \$43 annual mooring registration fee charged for all boat moorings. Pays for enforcement of illegal moorings, no-wake zone education and enforcement, and aquatic invasive species monitoring and control.
- \$47 annual buoy scenic mitigation fee charged for all buoys. Pays for projects to offset the scenic impacts of buoys.
- \$12 increase to annual boat sticker fees for all boat inspections. Pays for aquatic invasive species monitoring and control and watercraft inspection costs.
- \$75 annual boat rental concession fee charged for all rental boats with a 3-star or higher rating by the California Air Resources Board and \$150 annual boat rental concession fee charged for all rental boats with a lower or no CARB rating. The fee structure encourages fleet turnover to cleaner engines and pays for aquatic invasive species monitoring and control and no-wake zone education and enforcement.

SB 630, PAVLEY, CALIFORNIA – TAHOE REGIONAL PLANNING AGENCY

The approved Senate Bill 630 (SB 63), as of October 12, 2013, was passed specifically to protect and enhance Lake Tahoe through funding where rents collected by the State in Lake Tahoe will be used for Lake Tahoe protection and enhancement. The bill is important because it facilitates many of the funding of the local agencies via the permit fee and use program which includes the piers and buoy rents addressed in this Rent Methodology Study.

In summary:

- (1) The waters of Lake Tahoe and other resources of the region are threatened with deterioration or degeneration, which endangers the natural beauty and economic productivity of the region.
- (2) The public and private interests and investments in the region are substantial.
- (3) The region exhibits unique environmental and ecological values which are irreplaceable.
- (4) By virtue of the special conditions and circumstances of the region's natural ecology, developmental pattern, population distribution and human needs, the region is experiencing problems of resource use and deficiencies of environmental control.
- (5) Increasing urbanization is threatening the ecological values of the region and threatening the public opportunities for use of the public lands.
- (6) Maintenance of the social and economic health of the region depends on maintaining the significant scenic, recreational, educational, scientific, natural, and public health values provided by the Lake Tahoe Basin.

-
- (7) There is a public interest in protecting, preserving and enhancing these values for the residents of the region and for visitors to the region.
 - (8) Responsibilities for providing recreational and scientific opportunities, preserving scenic and natural areas, and safeguarding the public who live, work and play in or visit the region are divided among local governments, regional agencies, the States of California and Nevada, and the federal government.
 - (9) In recognition of the public investment and multistate and national significance of the recreational values, the federal government has an interest in the acquisition of recreational property and the management of resources in the region to preserve environmental and recreational values, and the federal government should assist the states in fulfilling their responsibilities.
 - (10) In order to preserve the scenic beauty and outdoor recreational opportunities of the region, there is a need to ensure an equilibrium between the region's natural endowment and its manmade environment.
 - (11) In order to enhance the efficiency and governmental effectiveness of the region, it is imperative that there be established a Tahoe Regional Planning Agency with the powers conferred by this compact including the power to establish environmental threshold carrying capacities and to adopt and enforce a regional plan and implementing ordinances which will achieve and maintain such capacities while providing opportunities for orderly growth and development consistent with such capacities.
 - (12) The Tahoe Regional Planning Agency shall interpret and administer its plans, ordinances, rules and regulations in accordance with the provisions of this compact.

A key provision in SB 630 is that all rental income from surface uses for lands at Lake Tahoe shall be deposited into the Lake Tahoe Science and Lake Improvement Account.

STATE LANDS COMMISSION LEASE - OVERVIEW

I have reviewed leases used by the State Lands Commission. The basic structure and overview is similar for all leases. Concluding remarks are detailed after the overview.

COMMENTS TO THE STANDARD LEASE

As with most traditional leases the pertinent provisions of this representative lease are as follows:

- **Property Rights:** **Leasehold subject to an easement.**

There is a special provision in the lease which specifically identifies a duality of ownership for the lessee. This duality is expressed as follows:

Private owners of the uplands on non-tidal navigable waters own to the ordinary low water mark unless their deed provides otherwise. The area lying between the ordinary high and low water marks of the bed of such waters is subject to an easement for Public Trust purposes of commerce, navigation, fishing, water related recreation, and conservation of natural resources. Private upland owners may utilize lands between ordinary high water and low water marks for purposes which are not incompatible with Public Trust needs on the property.

This provision specifically states that the lessee (subject to the terms and condition of the lease) own between the high and low water marks but are subject to an easement.

In effect, the owner (upland property) becomes the servient tenant of the easement area which lies between the high and low water mark and the public becomes the dominant tenant. This is a foundation in property rights principles for real estate where the servient tenant has limited property rights which are defined by the easement per the terms of the lease.

Additional provisions of the Standard Lease area as follows:

Rental Provisions of the Lessee (upland property):

- Subject to CPI index increases
- Renewal with 1-year notice
- No commercial use (no subleasing or rental income allowed)
- Lessor expressly reserves the right to lease, convey, or encumber the Lease Premises, in whole or in part, during the Lease term for any purpose per the rights or privileges of Lessee
- Assignment per Lessor written approval
- Successor transfer allowed
- No renewal guarantee
- Upon expiration of lease all improvements must be removed at lessee expense

Expenses Paid by the Lessee (upland property):

- a) Real Estate Taxes – if applicable
- b) Insurance
- c) Maintenance and Repairs

A summary of the averages for each category of the existing SLC leases are as follows:

Table 22: State Lands Commission Lease Summary

Single Buoy	Average	\$401.37
Two Buoy		\$402.93
Multiple Buoy		\$412.16
Joint Pier and Other Use		\$430.52
Pier and Other Use		\$482.37
Pier and Buoy		\$450.88
Pier, Buoy and Other Use		\$448.04
	Overall Avg.	\$432.61

There is a high level of correlation between all categories ranging from \$401.37 per Use to \$482.37 per Use. There is a stronger correlation for the Buoy rates that range from \$401.37 to \$412.16 per Buoy. There is also a strong correlation between the Pier rates that range from \$430.52 to \$482.37 per Use. Please note, Use reflects other uses that are not specifically identified as Pier or Buoy.

However, with further analysis there should not be such a high correlation between all the uses. The rates, regardless of Use, all have a very strong central tendency in the low to mid \$400 per year and with little variance. The rate for a Pier is only slightly higher than for a Buoy.

This is inconsistent with the 2012 Benchmarks (currently in place) where Berths are at \$525.10 and Buoys are at \$377. Some explanation can be made that the summaries are averages over time that reflect older leases adjusted to CPI and newer leases and are a benchmark reference, and that full implementation of the 2012 Benchmark rates are not fully in place. This can also be partially explained by variances in base size references. An internal audit of the existing lease rates would be reasonable to determine adherence to the current policy.

LAKE TAHOE PIERS, BUOYS AND USES - REPRESENTATIVE PHOTOGRAPHS

Figure 5: Typical Residential Pier



Figure 6: Typical Residential Buoy



Figure 7: Typical Commercial Pier



Figure 8: Typical Pier and Boathouse



Photo courtesy of Shutterstock

VALUATION METHODOLOGY – CA STATE LANDS COMMISSION

In the previous sections I have reviewed the definitions that are pertinent to the Scope of Work. These definitions provide a basis for understanding the different concepts that are unique and specific to the Rent Methodology Study. The next section reviewed the legal standings and cases that impact the procedural rulings and provides the parameters in which the rent methodology is based. A review of the Historical Benchmark rates, reasoning, analysis and methodology was analyzed extensively for reference.

After this I provided an overview of the market (Lake Tahoe) and the regulatory agencies that have an influence and oversight on the Rent Methodology study. This is important to assist in understanding the overall demand and supply characteristics of users for berths and buoys in the market. The regulatory authority (TRPA) was summarized and an overview of the Shoreline Plan was presented, which was very recently adopted by TRPA and impacts the Rent Methodology study. Finally, a detailed analysis is provided on the stipulated methods to that are used by the SLC for further analysis and consideration to conclude on a final recommendation.

The recognized rent methodologies are:

- (1) 9% of the appraised value of the leased land;*
- (2) A percentage of annual gross income (the percentage being based on an analysis of the market for like uses and other relevant factors);*
- (3) Comparison to rents for other similar land or facilities;*
- (4) \$0.05 per diameter inch per lineal foot of pipeline, conduit, or fiber optic cable;*
- (5) Benchmarks for regions where there are large concentrations of similar facilities (benchmark rental rate to be based on analysis of similar or substitute facilities in the local area);*
- (6) For Forest Management Agreements: Rent may constitute enhancement of the land's value resulting from the use;*
- (7) Other such methods or information that are based on commonly accepted appraisal practices and principles;*
- (8) For leases for a recreational pier or buoy, rent shall be based on local conditions and local fair annual rental values;*

These will be individually analyzed on which to provide a final recommendation.

RENT METHOD 1 – 9% OF THE APPRAISED VALUE OF THE LEASED LAND

The State Lands Commission allows for several methods to value to determine the Fair Market Rent. Method 1 allows for a determination of the leased land appraised value and applying an appropriate rate, which in this case is set at 9.0%. The rate set by the State Lands Commission is typical for Government Agencies that have the ability to set rates for government property. See Method 7 for support of Agency rates and Land Capitalization Rates.

There is however a long-standing concern in the valuation arena specific to the influence of the government before reliance is made on this method to value (Method 1). This is well documented in the Uniform Appraisal Standards for Federal Land Acquisitions which states: ³⁹

Sales Involving the Government or Other Condemnation Authority. *Sales to government entities are inherently problematic for federal appraisal purposes because they routinely involve nonmarket considerations, making them inaccurate indicators of market value and therefore improper to consider as comparable sales. 40 For example, as recognized by the federal courts, such transactions tend to reflect payments “in the nature of compromise to avoid the expense and uncertainty of litigation and are not fair indications of market value.”41 Courts also exclude such evidence in litigation because it “complicates the record, confuses the issue, is misleading, and especially in condemnation cases, raises collateral issues as to the conditions under which such sales were made...”42*

Sales to government entities must therefore be viewed as suspect from the outset, but they cannot, and should not, be rejected by appraisers as categorically invalid comparable sales. 43 If the appraiser determines, after careful analysis and verification, that a sale to a government entity was a true open-market transaction, the sale may be

³⁹ 2016 - Uniform Appraisal Standards for Federal Land Acquisitions – 2016. 4.4.2.4.2 (5)

⁴⁰ See *United States v. 0.59 Acres of Land*, 109 F.3d 1493, 1498 (9th Cir. 1997); *10.48 Acres*, 621 F.2d at 339; *United States v. 25.02 Acres of Land*, 495 F.2d 1398, 1403 (10th Cir. 1974); *Transwestern Pipeline Co. v. O’Brien*, 418 F.2d 15, 17-18 (5th Cir. 1969); *Evans*, 326 F.2d at 831; *Slattery*, 231 F.2d at 40-41.

⁴¹ *10.48 Acres*, 621 F.2d at 339 (quoting *Slattery*, 231 F.2d at 41).

⁴² *United States ex rel. Tenn. Valley Auth. v. Bailey*, 115 F.2d 433, 434 (5th Cir. 1940); see also *Duk Hea Oh v. Nat’l Capital Revitalization Corp.*, 7 A.3d 997, 1010-11 (D.C. 2010) (barring evidence of other government acquisitions that would “bias the [government] by requiring it to explain its compromise decision and ‘what’s going on with the government’ and would occasion a ‘frolic and detour’ that would ‘bias’ the [government]”).

⁴³ See *10.48 Acres*, 621 F.2d at 339-40; cf. *Olson v. United States*, 292 U.S. 246, 256 (1934) (“[T]o the extent that probable demand by prospective purchasers or condemnors affects market value, it is to be taken into account. But . . . value to the taker of a piece of land combined with other parcels for public use is not the measure of or a guide to the compensation to which the owner is entitled.”)

appropriate to consider, 44 particularly if there is a paucity of private sales available for use in the sales comparison approach to value. 45 But such a determination requires extraordinary verification due to the nonmarket considerations inherent in most government acquisitions. 46 Mere conclusory statements that a transaction was voluntary or did not involve the threat of condemnation are not sufficient.47 For example, the Tenth Circuit barred consideration of the government transactions at issue despite one witness’s testimony that the transactions were “voluntary,” pointing out that the same witness “also admitted that the government was eager to obtain the [properties] without using the condemnation process.”

The key concern regarding the State Lands Commission use of a regulated 9% rate is that it may inherently not reflect the market, and the Scope of Work dictates Fair Market Rent. Please note, the concept of market transaction implies sales and also implies rent. The definition is the same under this premise to determine fair market between knowledge buyer and seller.

This method to value is similar to the Submerged Land Valuation (See Method 7) however it implies simply that there is a benefit to the owner for the ability to have, use, or own a pier and buoy. The stated question – is there a value to the owner? Accordingly, it states.

The Legislature shall have no power to give or to lend, or to authorize the giving or lending, of the credit of the State... nor shall it have power to make any gift or authorize the making of any gift, of any public money or thing of value to any individual, municipal

⁴⁴ *Transwestern*, 418 F.2d at 18 (Sales to condemners can be considered “only when it is certain that those sales truly represent the market value of the land in question.”); *25.02 Acres*, 495 F.2d at 1403 (Such sales “often involve compulsion, coercion or compromise [A] condemning party might be willing to give more than the property is worth, and the owner might be willing to take less than it is worth rather than undergo a lawsuit.”).

⁴⁵ *E.g., United States v. 264.80 Acres of Land in Ramsey Cty.*, 360 F. Supp. 1381, 1383 (D. N.D. 1973) (“[T]his purchase of land in the area by [a government agency] was not an isolated transaction. The [agency] had made several other purchases in the area, and . . . taken together, all of these purchases had a significant impact on the general market value of land in that community.”); *see Olson*, 292 U.S. at 257.

⁴⁶ *E.g., United States v. 46,672.96 Acres in Doña Ana Cts.*, 521 F.2d 13, 17 (10th Cir. 1975) (“[Great caution should be used . . . since [the price paid by a condemner] is an inaccurate indicator of market value.”); *see also United States v. 2.739 Acres of Land in Santa Cruz Cty.*, 609 F. App’x 436, 437-38 (9th Cir. 2015) (unpubl.) (upholding use of sale to government entity given “evidence that the sale had been voluntary”); *cf. Olson*, 292 U.S. at 256 (“Considerations that may not reasonably be held to affect market value are excluded. Value to the taker of a piece of land combined with other parcels for public use is not the measure of or a guide to compensation . . .”).

⁴⁷ *Transwestern*, 418 F.2d at 19; *see, e.g., 264.80 Acres in Ramsey*, 360 F. Supp. at 1383.

or other corporation whatever; provided, that nothing in this section shall prevent the Legislature granting aid pursuant to Section 3 of Article XVI;48

In this case, a *gift* means a transfer through a lease of public property without adequate consideration or for a private as opposed to a public purpose.⁴⁹ A gift of property may have incidental benefits to a private party but must always be for a public purpose.⁵⁰

It is clear in this case that the State is entitled to compensation for use of sovereign lands. Once the question of benefit is established the next step is to simply provide a basis for the land value.

In this case, the land value, or simply the value that is attributed to the benefit to have a pier, or buoy can be quantified. This is difficult to put exact figures on but it is reasonable to statistically estimate the value of several components in the market; 1) Lakefront Value – with no pier and buoy, 2) Lakefront Value with a pier, but no buoy, 3) Lakefront value with a buoy, but no pier, and 4) Lakefront Value with a pier and buoy.

I have done extensive research in Tahoe for properties that exhibit these characteristics in order to ascertain the value of the various amenities through a paired sales analysis. Please note, this analysis is specific to deriving the market value of piers and buoys via paired analysis.

In summary the conclusions were as follows:

Table 23: Sales Analysis –Lake Tahoe 2016-2019

# Of Sales	Description	Average	Median
653	Non-Lake Properties Without Pier or Buoy	\$733,417	\$631,047
135	Lake Properties Without Pier or Buoy	\$1,150,908	\$875,000
64	Lake Properties with Pier AND/OR Buoy (one or the other / or both)	\$2,411,990	\$2,000,000
14	Lake Properties with Pier AND Buoy	\$2,855,357	\$2,745,000
21	Lake Properties with Pier and NO Buoy	\$2,521,429	\$1,999,000
27	Lake Properties with Buoy and NO Pier	\$2,008,821	\$1,750,000

This data reflects the time periods from 2016 to 2019. This represents three years of sales history in West Lake Tahoe. As expected, the quantity of sales is larger from non-lake properties and as the amenities increase (scarcity) the sales decrease. The data represents a good sampling of data in which to make a conclusion about how the market reacts to various value attributes in Lake Tahoe.

⁴⁸ Cal. Const., art. XVI, § 6.

⁴⁹ *Post v. Prati*, 90 Cal. App. 3d 626, 635 (Cal. Ct. App. 1979); *Besaro Mobile Home Park, LLC v. City of Fremont*, 204 Cal. App. 4th 345, 357 (2012).

⁵⁰ *County of Sonoma v. State Bd. of Equalization*, 195 Cal. App. 3d 982 (1st Dist. 1987).

Please note, South Lake Tahoe has very limited activity for individual lakefront sales that are not part of Tahoe Keys. Tahoe Keys is a PUD (planned unit development) that has a common homeowners association that is different than stand-alone residences on individual lots. Therefore, Lake Tahoe communities was reviewed and the analysis provided a strong basis for comparison. The next graphic represents the paired sales analysis. A paired analysis is such that if two properties are similar except one attribute – the value of that attribute can be determined. For example (to follow) – if the value of Lakefront properties averages \$1,150,908 and the value of Non-Lakefront properties average \$733,417 the value attributable to having a lakefront location is \$417,491. The median values were also referenced for transparency.

The results of the paired analysis are as follows:

Table 24: Paired Sales Analysis - Lake Tahoe 2016 – 2019

Value Conclusions per Component	Average	Median
Lake Properties Without Pier or Buoy	\$1,150,908	\$875,000
Non-Lake Properties Without Pier or Buoy	\$733,417	\$631,047
Value of Lakefront	\$417,491	\$243,953
Lake Properties with Pier AND/OR Buoy	\$2,411,990	\$2,000,000
Lake Properties Without Pier or Buoy	\$1,150,908	\$875,000
Value of Pier and/or Buoy	\$1,261,082	\$1,125,000
Lake Properties with Pier AND Buoy	\$2,855,357	\$2,745,000
Lake Properties with Pier AND/OR Buoy	\$2,411,990	\$2,000,000
Value of Pier or Buoy	\$443,367	\$745,000
Lake Properties with Pier AND Buoy	\$2,855,357	\$2,745,000
Lake Properties with Pier and NO Buoy	\$2,521,429	\$1,999,000
Value of Buoy	\$333,928	\$746,000
Lake Properties with Pier AND Buoy	\$2,855,357	\$2,745,000
Lake Properties with Buoy and NO Pier	\$2,008,821	\$1,750,000
Value of Pier	\$846,536	\$995,000
Value of Pier AND Buoy	\$1,180,464	\$1,741,000

Overall, it can be concluded that a lakefront property supports a higher value than non-lakefront property. Lakefront property with a pier and buoy supports the highest values. The value of pier is approximately \$850,000 to \$995,000. The value of a buoy is approximately \$333,929 to \$746,000. The value of a pier and, or buoy is approximately \$1,125,000 to \$1,261,000. Combining the Value of the Pier and the Value of a Buoy would be from \$1,180,464 to \$1,741,000.

A survey was also completed by interviewing local brokers familiar with the market. The firms that were interviewed included:

-
- Trinkie Watson, Chase International (North Tahoe) indicated that in their experience a pier was worth \$1,000,000 and a buoy was worth \$500,000.
 - Alex Min, Oliver Luxury Real Estate & Christies indicated that in their experience a pier was worth:
 - 20-25% of the home value. With an average home value of \$2,500,000 this would equate to \$500,000 to \$625,000.
 - Pier quality can drastically vary – simple wooden dock vs. modernized pier with amenities.
 - Adele Lucas, Chase International (South Tahoe) indicated that in their experience a pier was worth \$1,000,000 and a buoy was worth \$500,000.
 - Difference of approximately \$1,000,000 without presence of pier and/or buoy on property.
 - Buoys in a cluster or buoys farther from property decrease in value.
 - Michael Keller, Keller Properties (South Tahoe) indicated that in their experience a pier was worth \$1,000,000 and a buoy was worth \$50,000.
 - Waterfront property insight; \$10k-\$15k per sq. ft. of frontage.
 - Nevada waterfront properties can be 20% to 30% more due to lower state & county taxes.
 - Jim Courcier, Sotheby's (North Tahoe) recently sold a 28-foot-long Tahoe City Marina slip for \$435,000 (not pier).
 - Buoy price range in the Marina- closer to clubhouse & docks more valuable.
 - Stated that lakefront pier with a boathouse is a minimum of \$1,000,000.

Overall, the paired analysis and the local market interviews show a very strong consistent value that piers are worth approximately \$850,000 to \$950,000 in the market and buoys are worth approximately \$350,000 to \$500,000 in the market.

As noted, the State has provided a benefit to a private party and the owner must compensate the State for the use of State Lands. The benefit is the lessee interest (private party) as described in the permit (lease) for use of State Lands. As noted, State Lands have been defined as the submerged lands from the low water mark toward the lake. The area between the high-water mark and the low water mark is "owned" by the private party but limited by a public trust easement and therefore fee simple

ownership rights are restricted – similar to an access easement there is a servient tenement and dominant tenement.

Using Method 1 as a standard for valuation (as outlined in the California Code of Regulations) the land value times the 9% rate will result in a standard for Fair Market Rent.

I have previously supported, via market data and market participants, that the value of a pier is approximately \$900,000. A range could be used based on the data presented from \$850,000 to \$1,100,000 but it is sufficient to establish that the market recognizes the value of pier at \$900,000.

Conversely, the market data and market participants, show that the value of a buoy is approximately \$350,000. A range could be used based on the data presented from \$300,000 to \$700,000 but it is sufficient to establish that the market recognizes the value of buoy at \$350,000, which is best supported by the average value of the paired sales analysis.

It is clear the Method 1 to value that the relevant basis for the value is land. It is clear that the market data information denotes an “improved” pier and/or buoy. In order to provide a basis for the *land* in this Method to value the improvements must be deleted. The result will be market value of the underlying that reflects the pier and/or buoy.

The method of value to land is well established appraisal literature and is known as the Extraction Method to Land Value. In summary it is defined as follows:

*A method of estimating land value in which the depreciated cost of the improvements on the improved property is calculated and deducted from the total sales price to arrive at an estimated sale price for the land.*⁵¹

I have estimated the cost of a typical pier and buoy in Lake Tahoe. The general standards are based on TRPA Shoreline Plan and review of piers and buoys in Lake Tahoe per TRPA for Piers as follows:

- A. The width of piers shall be a maximum of ten feet, which shall include all appurtenant structures except for a single low-level boat lift and a single catwalk. A catwalk below the level of the main deck, and not exceeding three feet in width by 45 feet in length, may be permitted. Additional width for a single catwalk may be permitted where TRPA finds it is necessary to facilitate barrier free access but at no time shall the entire width of the pier and catwalk exceed 13 feet. A low-level boat lift with forks not exceeding ten feet in width may be permitted. An estimated 100-foot-long pier is proposed.
- B. Pier decks shall not extend above elevation 6,232.0 feet, Lake Tahoe Datum. Boat lifts, pilings, and handrails and other similar safety devices shall not extend more than four feet above the pier deck. Pier decks may extend up to elevation 6,234.0 feet in limited situations where TRPA

⁵¹ The Dictionary of Real Estate Appraisal – Fifth Edition, page 73

finds that the additional height is necessary for safety reasons or that local wave characteristics represent a real threat to the integrity of the structure.

- C. To permit free circulation of water, piers shall be floating, or shall be built on an open piling foundation, but in no case shall a pier be supported on a foundation that is less than 90 percent open.
- D. Superstructures shall not be permitted on any lake or lagoon in the region unless the structure is assured to be removed upon discontinuation of the use or the need for the structure; and it is either:
 - 1. For the purpose of conducting research identified in the Environmental Impact Program or conducting ongoing monitoring of environmental conditions identified in TRPA's monitoring program; the nature of the research or environmental monitoring requires an —over the water|| location for data gathering instrumentation and is the minimal size necessary; and no watercraft will be housed in or on the superstructure; or
 - 2. Required by a public agency for public health and safety purposes (such as a radio transmitter or a light beacon); by its very nature the superstructure requires an over the water location and is the minimum size necessary; and no watercraft will be housed in or on the superstructure.
- E. Fueling facilities shall not be permitted on piers located adjacent to littoral parcels on which the primary use is residential.
- F. The standards set forth in subparagraph A, above, may be waived for piers recognized by TRPA as multiple uses pursuant to Section 84.9.

Construction standards per TRPA for mooring buoys is as follows:

The placement and design of buoys shall conform to the following standards:

- Location Standards are:
 - A maximum of two mooring buoys may be permitted per littoral parcel.
 - The placement of mooring buoys shall be subject to the prohibitions set forth in subparagraphs 84.5.1.B and C.
 - Mooring buoys shall not be located any further lakeward than necessary to provide for safe mooring, but not to exceed 350 feet lakeward of the high-water line.
 - Mooring buoys shall be placed within the setback lines established by TRPA. TRPA shall establish the setback lines by measuring 20 feet inward from each property line along the highwater line. From this point, a setback line shall be projected lakeward and

perpendicular to the tangent of the shoreline. TRPA may adjust angle of projection to compensate for unique circumstances such as a small cove.

- Mooring buoys shall display a TRPA Buoy Identification Tag at all times.
- The standards set forth in subparagraphs A and C may be waived for mooring buoys recognized by TRPA as multiple-use pursuant to Section 84.9.

In determine the contributory value of the Piers and Buoys I have used a cost basis via Marshall & Swift Cost services and TRPA overviews.

Table 25: Contributory Value of the Piers and Buoys

Marshall & Swift						
Cost Source: Marshall & Swift			Recreation Properties - Section 67			
			Local Multiplier: 1.240			
			Current Cost Multiplier: 1.070			
			Combined Multipliers: 1.327			
Pier Improvements						
Item	Unit Type	Cost	Quantity	Multiplier	Total	
Wood Girder Bolted	Sq. Ft.	\$115.00	1,000	1.327	\$152,582	
(Assumes 100 feet x 10 feet)				1.327	\$0	
Total Building Improvement Costs					\$152,582	
Price per SF Gross Building Area					\$11.74	
Buoy Improvement						
Item	Unit Type	Cost	Quantity	Total		
Buoy Improvement	Lump Sum	\$7,500	1	\$7,500		
(Assumes 30 feet deep)				\$0		
Total Site Improvement Costs					\$7,500	
Subtotal: Building & Site Costs					\$160,082	
Price per SF Gross Building Area					\$12.32	
Soft Costs						
Item				Percent Type	Total	
Engineering and Consult	20.0%	% of Building Cost		\$30,516		
Architectural	10.0%	% Bld. & Site Cost		\$16,008		
TRPA Permits and Fees					\$25,000	
Misc.					\$50,000	
Total Soft Costs					\$121,525	
Cost New					\$273,357	
Total Costs						
Subtotal: Building, Site & Soft Costs					\$281,607	
Developer's Profit 25.0%					\$70,402	
Total Cost					\$352,008	

Pier square footage reflects typical pier area for lake front homes based on aerial surveys.

Please note, the combined cost for pier and buoy is \$352,008. When deducted from the land value estimate (pier and buoy) combined the residual value to the land is as follows:

Table 26: Residual Land Value

Pier and Buoy Value:	\$1,250,000
Total Cost of Pier and Buoy:	(\$352,008)
Residual Land Value:	\$897,992

If the SLC rate of 9% is applied is the Method 1 Land Value, the annual rent would be as follows:

Table 27: SLC Rate of 9% – Annual Rent for Piers and Buoys

Residual Land Value:	\$897,992
SLC Rate 9% / Annual Rent:	\$80,819
Annual Rent for Piers and Buoys	\$80,819

Using Method 1, the annual rent (most of the rent would be applicable to the pier) is approximately \$80,819. The SLC Benchmark Rates for combined Piers and Buoy (and later referenced for comparables from other marinas in California and around Tahoe) range from \$300 to \$1,400 per year.

There is only one conclusion that can be made regarding Method 1 as a basis for determining market rent for Piers and Buoys and that is that **Method 1 does not reflect the market** because the stipulated overall rate of 9% per SLC has no foundation in the market.

The Scope of Work is premised on the definition of Market Value/Market Rent and Method 1 does not reflect Market because overall rates are significantly lower in the market. This is supported by our previous analysis where the average – Non-Lake Price – was \$733,417. Our Rental Rates survey is shown as follows:

Tahoe Rent Survey - Non Lake Front					
Location	Bd Ba	SF	Mo Rent	\$/SF	Annual Rent
Zephyr Cove	2 / 1	900	\$2,250	\$2.50	\$27,000
Carnelian Bay	1 / 1.5	808	\$1,800	\$2.23	\$21,600
SLT	3 / 1	2,800	\$3,200	\$1.14	\$38,400
SLT	1 / 1.5	868	\$1,650	\$1.90	\$19,800
SLT	2 / 1.5	1,114	\$1,650	\$1.48	\$19,800
SLT	2 / 2	1,306	\$2,100	\$1.61	\$25,200
Incline Village	3 / 2	1,080	\$2,350	\$2.18	\$28,200
Incline Village	4 / 5	4,348	\$6,000	\$1.38	\$72,000
SLT	2 / 1	950	\$1,695	\$1.78	\$20,340
SLT	3 / 2	1,511	\$2,400	\$1.59	\$28,800
SLT	2 / 1	864	\$1,500	\$1.74	\$18,000
SLT	2 / 1	600	\$1,300	\$2.17	\$15,600
SLT	3 / 2	1,446	\$2,800	\$1.94	\$33,600
Zephyr Cove	2 / 2	1,200	\$1,695	\$1.41	\$20,340
SLT	3 / 2	1,408	\$2,150	\$1.53	\$25,800
Incline Village	3 / 3	1,584	\$3,300	\$2.08	\$39,600
SLT	3 / 2.5	1,512	\$2,800	\$1.85	\$33,600
SLT	3 / 1	1,296	\$1,950	\$1.50	\$23,400
Tahoe City	3 / 2	1,440	\$2,800	\$1.94	\$33,600
Incline Village	2 / 1.5	1,240	\$2,100	\$1.69	\$25,200
Zephyr Cove	4 / 2.5	2,080	\$2,750	\$1.32	\$33,000
Tahoe Vista	3 / 2	1,852	\$2,950	\$1.59	\$35,400
Average		1,464	\$2,418	\$1.75	\$29,013

Applying the average price and the annual average rent, the overall rate is 3.96% for Non-Lake Front. This compares well with Method 7 rate analysis at the lower end for capitalization rates (low end from approximately 4.00% to 7.00%). Residential capitalization rates are similar due to the lower risk associated with Tahoe location. Please note, there is a slight difference in overall rates between piers/buoys and local Lake Tahoe Residential (lower) due to high demand amenity properties. A lower rate is also supported by the water amenity which is not reflected in the survey. All of this reduces risk. Therefore, a lower rate is supported. Alternatively, the land overall rate reflects ground leases for traditional commercial properties which do not have the high amenity or demand as the subject and are therefore slightly higher. (See Method 7). Commercial rates are used to reflect the overall market acceptance of risk. A variety of alternative risk rates are shown to establish a market basis.

For this part of the analysis, a different figure is used from the 2012 Benchmark estimates (1,962.5 radius square feet). This benchmark assumes that the entire area of the radius is encumbered unlike the pier that has permanent improvements. The lessee can only, at any single time, occupy the length and width of the boat. The areas within the radius, not occupied by the boat, are always vacant and

unused and available for public use. Therefore, the more reasonable estimate for buoy square footage is the boat length (30 feet basis) and width (10 feet basis) for a total of 300 square feet. An additional length of 6 feet is used for the *pick-up* line which runs from the buoy to the boat. Therefore, the total usable square feet for the buoy is $36 \times 10 = 360$ square feet.

Using a market rate of 5.0% (See Method 7), the combined monthly rate from piers and buoys would be as follows:

Residual Land Value = \$897,992

Market Rate 5.00% / Annual Rent = \$44,900

Annual Rent for Piers and Buoys = \$44,900

As noted, this reflects a paired sales analysis of the combined piers and buoy rents. Support was provided that shows buoys had an average value at \$333,928 and piers had an average value of \$846,536. These values total \$1,180,464 which correlates with my reconciled value of \$1,250,000. Therefore, as a percentage buoys are 28% of the total contribution and piers are 72% contribution. This is shown as follows:

Total Reconciled Value of Piers and Buoys = \$1,180,464

Pier Value @ $\$846,536 / \$1,180,464 = 72\%$

Buoy Value @ $\$333,928 / \$1,180,464 = 28\%$

The allocation has been supported based on a paired analysis. The next step is to apply a specific rent that is representative of the Pier and Buoy. The land areas are supported in Rent Method 7 and the Benchmark discussions. However, the following land areas are used:

- Total Land Area (average lot size in Lake Tahoe Survey): 10,890⁵² sf
- Pier/Slip Land Area: 792 SF
- Buoy Land Area: 360 SF

These areas applied as follows:

Total Annual Rent = \$44,900

Total Land Area SF = 10,890

Rent per SF = \$4.12

Pier/Slip Rent/SF @ 72% = \$2.97

Buoy Rent/SF @ 28% = \$1.15

Allocation of Rent

Pier/Slip Rent (\$2.97/SF) @ 792 SF = \$2,352

⁵² Upland average lot size is used based on interdependence of submerged land to upland. A price per square foot is required of the upland land which is the basis for use of piers and buoys. This in turn is applied to the pier and buoy areas. The contribution of the upland must be reflected in the rent.

Buoy Rent (\$1.15/SF) @ 360 SF = \$414

Therefore, the supported rent under Rent Methodology 1 is as follows:

RECOMMENDED RENT ESTIMATE – METHOD 1 (PAIRED SALES)

The recommended annual rate for the piers and buoys is as follows:

ANNUAL PIER RATE: \$2,352 / \$2.97 PSF

ANNUAL BUOY RATE: \$414 / \$1.15 PSF

Please note, the market typically uses a flat annual rate for both pier and buoys. References to a price per square foot can apply to variances in pier and buoys square footage; if applicable.

RENT METHOD 2 – A PERCENTAGE OF ANNUAL GROSS INCOME

The pier and buoy leases do not allow for leasing or renting to a third party, therefore this method to value is not applicable.

RENT METHOD 3 – COMPARISON TO RENTS FOR OTHER SIMILAR LAND OR FACILITIES OF THE APPRAISED VALUE OF THE LEASED LAND

There is a significant influence in the subject area where public forest lands (Lessor) are used by private parties (Lessee). However, this does not represent piers and buoys. This Rent Method is not applicable.

RENT METHOD 4 – 0.05 PER DIAMETER INCH PER LINEAL FOOT OF PIPELINE, CONDUIT, OR FIBER-OPTIC CABLE

This method to determine Fair Market Rent is not applicable for analysis for the Lake Tahoe Rent Methodology study.

RENT METHOD 5 – BENCHMARKS FOR REGIONS WHERE THERE ARE LARGE CONCENTRATIONS OF SIMILAR FACILITIES

I have surveyed key lakes in California. After completing this survey, it was determined that lakes in Shasta, Trinity and Big Bear are not comparable to Lake Tahoe.

RENT METHOD 6 – FOR FOREST MANAGEMENT AGREEMENTS: RENT MAY CONSTITUTE ENHANCEMENT OF THE LAND'S VALUE RESULTING FROM THE USE A PERCENTAGE OF ANNUAL GROSS INCOME

For reasons similar to Rent Method 2 to determine Fair Market Rent this is not applicable for analysis for the Lake Tahoe Rent Methodology study.

RENT METHOD 7 – OTHER SUCH METHODS OR INFORMATION THAT ARE BASED ON COMMONLY ACCEPTED APPRAISAL PRACTICES AND PRINCIPLES

SUBMERGED LAND VALUATION METHODOLOGY

The submerged land value method reflecting the appraised value of leased land was published in October 2000 with the Appraisal Institute – “Valuation of Submerged Lands”⁵³ submerged land valuation. A summary of the method to value as reflected in this peer reviewed journal follows certain steps. The basis of the valuation and determination of Fair Market Rent is the determination of the submerged land and upland relationship.

The value of submerged land is a varying percentage of the upland value, depending on use. Generally, a higher value will be placed on a use that is more water dependent. This analysis is then used to establish the appropriate rental rates for the use of the submerged land. This is done with recognized income analysis from the market using a capitalization rate for the years’ revenues.

Each State values its submerged land differently, applying varying percentages of the upland value to its submerged land based on the laws and procedures followed by the state. Therefore, there is no universal formula; there are only broad generalizations that apply to all tidal lands, which makes adherence to the principles of sound appraisal practice critical in the final analysis.

- First, the upland is valued based on recognized sales comparison techniques applied indirectly.
- Second, a rental survey is completed of public jurisdictions that lease submerged land to private entities, and a submerged fee rate is reconciled. The submerged fee rate, when applied to the upland value, provides an implied submerged land value.
- Third, a separate sales comparison approach is completed to determine a land capitalization rate. This land capitalization rate is then applied to the implied submerged land value to determine the annual lease payment for use of the tidal water above the submerged land. The State Lands Commission has a codified rate of 9%.

There are recognized valuation techniques based on property rights inherent with the ownership of real estate. The public lands are held in fee simple estate until an encumbrance is created through a lease or other vehicle. The bundle of rights is allocated to a lessor (public domain) and the lessee (private use) which establishes a leased fee estate when a usage fee (lease amount) is created for the tidal lands.

The methodology to determine the value of submerged land and corresponding lease rates starts with the highest and best use analysis. This is consistent with the accepted highest and best analysis as

⁵³ Valuation of Submerged Lands – Appraisal Institute – October 2000. Lance W. Dore, and Phil Mitchel PhD.

though vacant and specific to the upland. However, local ordinances and uses of tidal land varies among individual states and ports. The value may be found by applying the direct sales comparison or income approach based on an investigation of various port authorities' lease pricing schedules. While differences in lease pricing schedules occur between each port area, the underlying valuation principles are the same in the selection and analysis of the comparable data regarding the legal, physical, financial and maximally productive uses. Although regional differences do exist, there is a common formula that can be used to determine the value of submerged land leases and ownership.

The sales comparison approach can only be used indirectly, since there are few, if any, comparable sales of actual submerged lands. This is compounded by the fact that if actual sales do occur, they are typically inter-agency transfers within the public sector and are therefore less reliable because of their non-economic use. Therefore, submerged land is usually valued as a percentage of the upland fee simple value.

In valuing the upland, the sales and/or listings of properties similar to the subject's upland characteristics are used to indicate and provide a basis for determining the upland value. "Upland" is defined as that land which is directly adjacent to the submerged land in question.

As in typical land appraisals, comparisons are made between the subject and comparable properties relative to differences or similarities in time, location, physical characteristics in land and structure, and the conditions of sale. Percentage or dollar adjustments are then made to the selling price of each comparable for property rights, financing, time of sale, and unusual sales conditions. Qualitative or quantitative adjustments are made for physical differences between the comparable and the subject.

A range of values is the result of this approach. The appraiser must then correlate the range into a final indicated value by selectively rating the comparables as to their overall comparative values. Therefore, if an upland fee simple value is supported at \$22.00 per square foot and the appropriate submerged fee rate (see discussion below) is 25%, the indicated value for the submerged land would be: $\$22.00 \times 0.25 = \5.50 per square foot.

The submerged fee rate varies and is based on intended or current uses. If the submerged land use derives income and the adjacent upland is dependent on the operation, then the submerged fee rate is placed at the higher end of the range. If the adjacent upland use is less dependent, the submerged fee rate is placed at the lower end of the range. This codependency is consistent with most port authorities.

To determine the submerged fee rate, a complete market survey is applied to the upland value. The submerged fee rate is determined by surveying public agencies, including port authorities and state agencies. As noted, the rates will vary based on the interdependence of the upland use and the submerged land (tidal water) use.

For example, if the submerged land is being used for boat docks that derive income and the adjacent upland is dependent on the boat dock operation (such as a yacht club), the submerged fee rate will be placed at the higher end of the range. In some jurisdictions, the interdependence is considered 100%,

and therefore, the submerged fee rate is 100% of the upland value. In this instance, the submerged land area is the same as the reconciled upland value.

If the adjacent upland use is less dependent on the submerged land, the submerged fee rate is placed at the lower end of the range. This “dependence” structure is consistent with all agencies. Some exceptions may apply on a jurisdictional basis but are not common.

Examples of actual submerged fee rates from port districts and other States are listed below. Overall, submerged fee rates were found to range from 10% to 50%, with the majority falling between 25% and 40%. Please note, the standards in valuing submerged land based on a percentage of upland is one method used with other ports and sovereign landowners using a price per square foot, % of income, or minimum fee.

SUBMERGED LAND FEE RATES

Table 28: Submerged Land Fee Rates

Agency	Rate to Upland
City (Port) of San Diego	25%
City (Port) of Los Angeles	50%
Port of Los Angeles	33%
State of Washington	30%
State of Florida	10%
Western Canada	40%
Average	31%

By applying the submerged fee rate to the upland value, the submerged land is valued with market data. However, an additional step is applied because submerged land cannot be owned by private entities. It can, however, be leased by private entities from the public agency that owns the submerged land. The lease amount reflects the usage fee to the private entity.

To determine the lease amount, a lease rate is applied to the land. The land capitalization rate (lease rate) is based on the market and determined through a sales comparison approach. The sales comparison approach uses sales of land that sold with ground leases. In doing so, an appropriate land capitalization rate can be supported. The land capitalization rate is then applied to the submerged land value to determine the annual lease payment for using the tidal water.

The following valuation scenario can be applied:

Table 29: Submerged Land Value – Method Example

Category	Indicators
Upland Value	\$10.00 psf
Submerged Fee Rate	50%
Implied Submerged Land Value	\$5.00 psf
Land Capitalization Rate	10%
Annual Rent	\$0.50 psf

Submerged lands cannot be owned by private entities; they are owned by the state. However, the tidal water above the submerged land can be used by private entities. Public agencies use this methodology for valuing submerged lands to determine the public's right to lease land for private use.

Because of the nature of the market, valuation is best accomplished by means other than the sales comparison approach. As noted, the value of submerged land is a varying percentage of the upland value, depending on use. This survey produced a rate range from 10% to 50% with an average of 31% (say 30%). For analysis purposes a rate of 30% is used. This is well supported by the market data at the

most consistent rates which range from 25% to 33%. This is best represented by the West Coast Ports where submerged land rates are available. These ranged from 25% to 50%. Supporting a rate at 30% is well bracketed and shows a strong correlation to the average.

A higher value will be placed on a use that is more water dependent. Each state values its submerged land by applying a range of percentages of the upland value to its submerged land based on the laws of those states. Occasionally no policy is in place and there are only stated (regulatory) amounts.

The approach used to determine the submerged rate is as follows:

SALES COMPARISON APPROACH – LAND VALUATION

The subject's land value has been developed via the sales comparison approach. The Sales Comparison Approach is based on the premise that a buyer would pay no more for a specific property than the cost of obtaining a property with the same quality, utility, and perceived benefits of ownership. It is based on the principles of supply and demand, balance, substitution and externalities. The following steps describe the applied process of the Sales Comparison Approach:

- The market in which the subject property competes is investigated; comparable sales, contracts for sale and current offerings are reviewed.
- The most pertinent data is further analyzed, and the quality of the transaction is determined.
- The most meaningful unit of value for the subject property is determined.
- Each comparable sale is analyzed and where appropriate, adjusted to equate with the subject property.
- The value indication of each comparable sale is analyzed, and the data reconciled for a final indication of value via the Sales Comparison Approach.

The purpose in determining the upland value will be used as a basis for the submerged land valuation as described in the methods to value.

The local Lake Tahoe Market (California) was analyzed to determine the upland value. A two-step valuation process is used to estimate this rental rate. The first step is to estimate the current fee simple value of lakefront parcels. The method used to estimate the fee simple land value (unimproved) uses the Sales Comparison approach. However, after an extensive search of land sales in Lake Tahoe (California) there is very limited data that would warrant a reliable analysis for vacant land on the lakefront. Therefore, the method to value used to determine the upland value is known as an Extraction Method to Land Value and defined as follows:

A method of estimating land value in which the depreciated cost of the improvements on the improved property is calculated and deducted from the total sales price to arrive at an estimated sale price for the land.⁵⁴

COMPARABLES

Nine years of sales were researched in the North Lake Tahoe area. This time frame reflects a complete real estate cycle and also provides a sufficient database to use for analysis purposes. Please note, South Lake Tahoe has very limited activity for individual lakefront sales that are not part of Tahoe Keys. Tahoe Keys is a PUD (planned unit development) that has a common homeowners association that is different than stand-alone residences on individual lots. Therefore, Lake Tahoe communities were reviewed and the analysis provided a strong basis for comparison.

The nine years of sales reflected the time period between 2010 and 2019. There were 87 sales that were used as a basis for determine the upland values. Again, this method to value is a Sales Comparison Approach to determine upland values with additional steps to extract the value of the improvements. The factors considered in the overall analysis included:

- Property Rights Sold
- Financing
- Conditions of Sale
- Market Trends
- Location
- Physical Characteristics

Once the final dataset was analyzed the following assumptions were used in the analysis.

- Median Market Value (\$2,957,000)
- Cost New (\$425 psf)
- Indirects (12%)
- Pier Improvement (\$115 psf)
- Site Improvements (7%)
- Effective Age – 30 Years

⁵⁴ Ibid, page 73

- Economic Life – 70 Years

Following is a summary of conclusions.

Table 30: Land Value – Extraction

Median Value				\$ 2,957,000
Cost New (M & S)	\$425	2,907	\$ 1,235,475	
Pier (10 x100)	\$115	1,000	\$ 115,000	
Indirects		12%	\$ 148,257	
Site Improvements		7%	\$ 86,483	
Total Cost New			\$ 1,585,215	
Depreciation (eff age 30/total life 70)		30/70	43%	
Total Depreciation			\$ 681,642	
Depreciated Cost of Improvements				\$ 903,573
Residual Land Value				\$ 2,053,427
			Say	\$ 2,000,000

The median lot size for the 87 surveyed properties was approximately .25 acres, or 10,890 square feet. Therefore, the indicated price per square foot was \$183.65.

The data used to support the extraction method to value is on the following pages:

Table 31: Lake Properties –Lake Tahoe

Address	City	Sold Price	Sq. Ft.	Age in Years	Closing Date	Sold Price Per Sq. Ft.
1490 North Lake Boulevard	Tahoe City	\$3,366,500	3,200	5	9/8/2010	\$1,052.03
850 West Lake Boulevard	Tahoe City	\$4,000,000	4,644	20	9/17/2010	\$861.33
6740 Powderhorn Lane	Tahoma	\$2,100,000	878	50	9/24/2010	\$2,391.80
3780-3790 North Lake Boulevard	Tahoe City	\$3,900,000	3,440	20	10/13/2010	\$1,133.72
1130 West Lake Boulevard	Tahoe City	\$2,250,000	2,647	30	11/2/2010	\$850.02
5920 North Lake Boulevard	Agate Bay	\$2,850,000	2,790	20	11/17/2010	\$1,021.51
5306 North Lake Boulevard	Carnelian Bay	\$3,350,000	2,900	50	3/28/2011	\$1,155.17
6548 North Lake Boulevard	Tahoe Vista	\$2,066,000	3,960	10	4/13/2011	\$521.72
4820 West Lake Boulevard	Homewood	\$2,900,000	1,904	50	9/2/2011	\$1,523.11
3280 Edgewater Drive	Tahoe City	\$3,040,050	3,361	40	10/19/2011	\$904.51
3920 North Lake Boulevard	Carnelian Bay	\$2,280,000	2,356	40	12/16/2011	\$967.74
3328 Edgewater Drive	Tahoe City	\$2,950,000	3,892	20	3/16/2012	\$757.97

99 Chipmunk Street	Kings Beach	\$900,000	1,688	30	3/23/2012	\$533.18
7097 West Lake Boulevard	Tahoma	\$3,435,000	2,003	40	5/25/2012	\$1,714.93
8355 Meeks Bay Avenue	Meeks Bay	\$2,600,000	2,560	10	7/23/2012	\$1,015.63
8789 Rubicon Drive	Tahoma	\$2,800,000	1,680	50	8/15/2012	\$1,666.67
1620 North Lake Boulevard	Tahoe City	\$2,000,000	5,500	40	8/17/2012	\$363.64
8315 Meeks Bay Avenue	Meeks Bay	\$3,025,937	1,248	50	8/28/2012	\$2,424.63
3115 West Lake Boulevard	Tahoe City	\$1,250,000	2,768	50	10/11/2012	\$451.59
9767 Brockway Springs Drive	Kings Beach	\$2,525,000	2,946	15	10/24/2012	\$857.09
5405 Hemlock Drive	Soda Springs	\$610,000	1,042	30	10/25/2012	\$585.41
3965 Bellevue Avenue	Homewood	\$2,900,000	1,672	50	10/29/2012	\$1,734.45
8797 Rubicon Drive	Tahoma	\$2,925,000	1,960	50	11/5/2012	\$1,492.35
8650 Brockway Vista Avenue	Kings Beach	\$1,999,000	2,999	30	11/15/2012	\$666.56
664 Olympic Drive	Tahoe City	\$3,600,000	2,864	40	12/3/2012	\$1,256.98
9530 Brockway Springs Drive	Kings Beach	\$3,850,000	4,699	10	12/12/2012	\$819.32
6490 North Lake Boulevard	Tahoe Vista	\$3,140,150	3,420	40	12/24/2012	\$918.17
9922 Lake Street	Kings Beach	\$6,000,000	5,666	50	12/24/2012	\$1,058.95
8477 Meeks Bay Avenue	Meeks Bay	\$4,700,000	5,500	15	4/8/2013	\$854.55
100 Sierra Terrace	Tahoe City	\$3,500,000	2,421	10	5/17/2013	\$1,445.68
6460 North Lake Boulevard	Tahoe Vista	\$3,450,000	3,697	15	6/10/2013	\$933.19
8353 Meeks Bay Avenue	Meeks Bay	\$2,155,000	2,500	20	8/15/2013	\$862.00
3155 West Lake Boulevard	Tahoe City	\$897,500	1,690	30	8/30/2013	\$531.07
8612 North Lane	Rubicon Bay	\$650,000	1,600	30	9/15/2013	\$406.25
3852 North Lake Boulevard	Carnelian Bay	\$2,600,000	3,386	30	11/18/2013	\$767.87
3115 West Lake Boulevard	Tahoe City	\$1,575,000	2,768	50	6/4/2014	\$569.00
5230 North Lake Boulevard	Carnelian Bay	\$3,340,000	4,076	20	6/18/2014	\$819.43
3334 Edgewater Drive	Tahoe City	\$5,850,000	3,955	20	7/1/2014	\$1,479.14
7442 North Lake Boulevard	Tahoe Vista	\$850,000	970	30	7/24/2014	\$876.29
4570 North Lake Boulevard	Carnelian Bay	\$2,800,000	2,529	50	8/27/2014	\$1,107.16
6270 McKinney Drive	Homewood	\$1,150,000	1,598	50	9/16/2014	\$719.65
9810-9820 Brockway Springs Drive	Kings Beach	\$5,750,000	4,227	30	9/30/2014	\$1,360.30
648 Olympic Drive	Tahoe City	\$2,950,000	1,648	40	10/15/2014	\$1,790.05
3750 North Lake Boulevard	Carnelian Bay	\$2,950,000	2,854	30	12/17/2014	\$1,033.64
220 Four Ring Road	Rubicon Bay	\$5,250,000	1,988	50	1/30/2015	\$2,640.85
7170 North Lake Boulevard	Tahoe Vista	\$4,200,000	7,000	50	3/23/2015	\$600.00
210 Mankato Place	Tahoe City	\$1,800,000	2,930	10	3/24/2015	\$614.33
5680 North Lake Boulevard	Agate Bay	\$2,600,000	3,400	40	4/6/2015	\$764.71

3740 North Lake Boulevard	Carnelian Bay	\$5,250,000	5,080	30	4/15/2015	\$1,033.46
6542 North Lake Boulevard	Tahoe Vista	\$4,900,000	3,976	20	5/1/2015	\$1,232.39
6290 West Lake Boulevard	Homewood	\$3,200,000	2,356	30	7/1/2015	\$1,358.23
8357 Meeks Bay Avenue	Tahoma	\$2,800,000	2,338	20	7/30/2015	\$1,197.60
160 Sierra Terrace	Tahoe City	\$3,190,000	1,690	50	8/3/2015	\$1,887.57
6780 North Lake Boulevard	Tahoe Vista	\$3,800,000	2,997	15	10/5/2015	\$1,267.93
8669 Beach Lane	Rubicon Bay	\$3,325,000	3,235	15	10/16/2015	\$1,027.82
3275 West Lake Boulevard	Homewood	\$1,250,000	1,680	50	11/3/2015	\$744.05
6190 McKinney Drive	Homewood	\$1,518,750	2,538	40	11/18/2015	\$598.40
7770 North Lake Boulevard	Tahoe Vista	\$3,130,000	3,823	20	12/16/2015	\$818.73
4812 North Lake Boulevard	Carnelian Bay	\$2,958,500	1,698	50	1/11/2016	\$1,742.34
8634 Brockway Vista Avenue	Kings Beach	\$2,095,000	2,244	50	2/19/2016	\$933.60
6956 Pomin Avenue	Tahoma	\$6,000,000	5,759	30	3/9/2016	\$1,041.85
2140 North Lake Boulevard	Tahoe City	\$4,750,000	3,274	30	4/11/2016	\$1,450.82
1830 North Lake Boulevard	Tahoe City	\$5,675,000	3,678	30	7/22/2016	\$1,542.96
8415 Meeks Bay Avenue	Meeks Bay	\$1,750,000	1,268	50	8/4/2016	\$1,380.13
8249 Meeks Bay Avenue	Meeks Bay	\$2,250,000	1,486	50	8/10/2016	\$1,514.13
8775 Rubicon Drive	Meeks Bay	\$2,690,000	2,016	50	8/31/2016	\$1,334.33
5080 West Lake Boulevard	Homewood	\$5,950,000	4,487	15	9/28/2016	\$1,326.05
3920 North Lake Boulevard	Carnelian Bay	\$3,350,000	2,250	20	1/18/2017	\$1,488.89
5372 North Lake Boulevard	Carnelian Bay	\$5,725,000	2,741	50	5/19/2017	\$2,088.65
5090 West Lake Boulevard	Homewood	\$6,000,000	3,528	20	8/31/2017	\$1,700.68
3970 North Lake Boulevard	Carnelian Bay	\$2,630,000	1,941	50	9/7/2017	\$1,354.97
4500 North Lake Boulevard	Carnelian Bay	\$2,200,000	1,232	50	9/21/2017	\$1,785.71
8569 Meeks Bay Avenue	Meeks Bay	\$3,000,000	2,318	50	10/13/2017	\$1,294.22
4590 North Lake Boulevard	Carnelian Bay	\$4,850,000	4,493	15	10/16/2017	\$1,079.46
8365 Meeks Bay Avenue	Meeks Bay	\$2,050,000	2,072	50	11/16/2017	\$989.38
8769 Rubicon Drive	Tahoma	\$2,275,000	2,016	40	11/30/2017	\$1,128.47
9420 Brockway Springs Drive	Kings Beach	\$4,500,000	4,029	20	12/11/2017	\$1,116.90
4676 North Lake Boulevard	Carnelian Bay	\$5,400,000	4,259	10	12/12/2017	\$1,267.90
720 West Lake Boulevard	Tahoe City	\$7,500,000	5,240	10	1/10/2018	\$1,431.30
7422 North Lake Boulevard	Tahoe Vista	\$3,770,000	3,499	40	3/12/2018	\$1,077.45
4886 North Lake Boulevard	Carnelian Bay	\$3,725,000	4,582	15	5/30/2018	\$812.96

8030 North Lake Boulevard	Kings Beach	\$1,750,000	1,340	50	6/18/2018	\$1,305.97
1280 West Lake Boulevard	Tahoe City	\$9,450,000	4,000	50	8/17/2018	\$2,362.50
8523 Meeks Bay Avenue	Meeks Bay	\$1,470,000	732	50	8/28/2018	\$2,008.20
111 Chipmunk Street	Brockway	\$2,957,000	2,015	20	9/13/2018	\$1,467.49
6061 North Lake Boulevard	Tahoe Vista	\$1,000,000	1,592	30	9/21/2018	\$628.14
2562 Lake Forest Road	Tahoe City	\$4,000,000	1,959	50	6/28/2019	\$2,041.86
	Average	\$3,238,096	2,907	33	NA	\$1,180.91
	Low	\$610,000	730	5	NA	\$363.64
	Median	\$2,957,000	2,768	30	NA	\$1,079.46
	High	\$9,450,000	7,000	50	NA	\$2,640.85

The next step is to determine the land overall rate.

OVERALL LAND CAPITALIZATION RATE (OAR)

A determination of an appropriate capitalization rate for use in the submerged fee rate analysis has been made considering comparable sales data of ground leases (market) and agency rates.

There is a dichotomy that exists between public and private land capitalization rates. This was detailed in Rent Method 1 per the discussion of government influenced values/rates.

The market (third party transactions) typically support rates between 4% and 6% (see survey), however governmental agency (agency) surveys show land capitalization rates that typically range from 8% to 10%. It should be noted that the surveyed transaction capitalization rates are based on market participants and the surveyed agency rates are based on policy. It has been my experience that agency policy capitalization are not necessarily based on the market. Discussions with government agencies often conclude that the established rate was often stipulated with no organizational knowledge of supporting data.

The impact on a higher land rate (when applied to a fixed value) is a higher rent. This is shown as follows”

- Agency rate 10% @ \$1,000,000 fixed value = \$100,000 annual fee
- Market rate 5% @ \$1,000,000 fixed value = \$50,000 annual fee

The California State Lands Commission uses a regulatory rate of 9%. This is similar to other surveyed agencies. Surveyed agencies are summarized as follows:

Table 32: Agency Ground Lease Survey

Area	Percentage
County of San Bernardino	6 – 10%
Los Angeles Metro Transit	4.5 – 7.5%
Port of Los Angeles	10%

Port of San Francisco	8%
Morro Bay	8%
Metropolitan Water District	8 – 10%
Other Port Districts	9 – 10%
CA State Lands Commission	9%

The agency rates are about 100% higher than the market. There are a variety of factors that influence an overall rate, but the fundamental principle is to assess risk. The overall rate is a risk rate for that particular investment. In the case of agency leases the typical tenants are relatively stable that lease for a longer period of time (reduces risk) but may be subject to public restrictions (increases risk). Market overall rates are similar that have stable tenants and sign for longer terms. The one variance for market land leases is the stability of the tenant which are often regional and national corporations or organizations. In this case the guarantees of the tenant will reduce risk.

These types of market leases are viewed in the market as real estate investments and are often net-leased properties. Typical market ground leases range from 10 to 60 years, predominately 20 to 40 years. From a lenders and market perspective, ground leases require a minimum of 30 years to qualify for a loan. The reason being that 30 years is the typical time it takes for a loan to amortize. Ground leases that do not meet or exceed 30-years are subject to slightly higher risk based on reduced marketability. Therefore, when compared to Agency leases (5 to 10 years) this increases risk.

Overall, there is reasoning for agency rates to be higher than the market, but not to the magnitude reflected in the surveys. It would be reasonable to show a 100 to 200 basis point spread from the market to agency to reflect the higher risk.

CAPITALIZATION RATE FROM PUBLISHED SOURCES

Long-term ground leases will compete with other real estate investments as well as more traditional investments such as stocks and corporate bonds. As such, information from market surveys was also considered. Realty Rates is a good source to provide benchmarks for ground leases as well. This is shown as follows:

Table 33: RealtyRates.com Investor Survey – 3rd Quarter 2019 Land Leases

Property Type	Min Cap Rate	Max Cap Rate	Avg Cap Rate	Min Discount Rate	Max Discount Rate	Ave Discount Rate
Apartments	2.43%	10.12%	6.42%	5.03%	10.62%	7.42%
Golf	2.49%	16.12%	8.73%	5.09%	16.62%	9.73%
Health Care / Senior Housing	2.97%	11.20%	7.08%	5.57%	11.70%	8.08%
Industrial	2.57%	10.08%	6.76%	5.17%	10.58%	7.76%
Lodging	2.92%	15.72%	7.40%	5.52%	16.22%	8.40%
Mobile Home / RV Park	2.53%	13.02%	7.69%	5.13%	13.52%	8.69%
Office	2.75%	9.68%	6.52%	5.35%	10.18%	7.52%

Restaurant	3.15%	15.26%	8.22%	5.75%	15.76%	9.22%
Retail	2.67%	11.20%	6.87%	5.27%	11.70%	7.87%
Self-Storage	2.75%	10.20%	7.89%	5.35%	10.70%	8.89%
Special Purpose	3.43%	16.19%	8.61%	6.32%	18.58%	9.37%
All Properties	2.43%	16.19%	7.47%	5.03%	16.62%	8.36%

**2nd Quarter 2019 Data - Copyright 2019 RealtyRates.com™*

The average land capitalization rates for all properties was 7.47%. This also shows strong mid-point correlation between the market rate survey and the agency survey.

Capitalization Rate from Comparable Sales Data are summarized below.

Table 34: Market Based Land Capitalization Rates (Past 3 Years)

#	Site Use/Location	Date of Sale	Sale Price	Age	Land Area (SF)	OAR
1	Wendy's, San Ramon, CA	9/17/2019	\$2,805,750	2015	31,799	4.51%
2	ALDI, Westminster, CA	9/16/2019	\$5,125,000	2017	58,370	4.00%
3	Parking lot, South Pasadena, CA	9/4/2019	\$7,200,000	2004	27,007	3.80%
4	76 Gas & Kangaroo Express, Temecula, CA	8/15/2019	\$5,150,000	2019	78,408	5.61%
5	Stockton Plaza, Stockton, CA	8/8/2019	\$16,975,000	1999	358,934	8.64%
6	Retail store, Los Angeles, CA	6/24/2019	\$8,750,000	1995	15,773	5.88%
7	Trafalgar Square, Escondido, CA	6/24/2019	\$7,250,000	1995	186,001	7.05%
8	Walgreens, La Palma, CA	6/19/2019	\$6,500,000	2008	24,829	4.82%
9	ARCO, Fair Oaks, CA	6/7/2019	\$1,775,000	1967	19,602	6.00%
10	Red Robin, Apple Valley, CA	5/10/2019	\$3,240,000	2009	48,787	5.42%
11	ARCO, Redding, CA	4/29/2019	\$3,500,000	2018	50,530	5.00%
12	Eastridge Mall, San Jose, CA	4/5/2019	\$2,625,000	1971	43,560	5.77%
13	CarMax, Colma, CA	4/4/2019	\$17,750,000	2017	385,070	5.41%
14	Lemoore Plaza, Lemoore, CA	3/19/2019	\$957,000	1993	27,878	5.75%
15	Office Building, Santa Monica, CA	3/1/2019	\$65,000,000	2004	34,195	2.50%
16	Del Taco, Santa Monica, CA	2/28/2019	\$5,000,000	1964	8,712	3.50%
17	Raising Cane's Chicken Fingers, Ontario, CA	2/14/2019	\$5,350,000	2018	66,211	4.21%
18	Bank of America, Gilroy, CA	1/24/2019	\$3,600,000	2004	44,867	4.33%
19	El Pollo Loco, Lancaster, CA	1/4/2019	\$1,975,000	2017	43,678	4.41%
20	Jack in the Box, Fontana, CA	12/20/2018	\$2,375,000	2018	23,522	4.00%
21	Fast Food, Fontana, CA	12/20/2018	\$2,375,000	2018	23,522	4.00%
22	Steakhouse/Joe's Crab Snack/Red Robin/Oggi's Pizza, Garden Grove, CA	12/17/2018	\$13,100,000	2008	77,537	4.90%
23	Chevron, San Jose, CA	12/14/2018	\$5,050,000	1967	29,621	4.93%
24	Raising Cane's Chicken Fingers, Vista, CA	10/29/2018	\$3,900,000	2018	68,463	4.40%
25	Starbucks, Torrance, CA	10/12/2018	\$5,171,500	1972	15,454	3.83%
26	Monrovia Landing Shopping Center, Monrovia, CA	9/17/2018	\$2,100,000	1994	23,522	4.38%
27	Foothill Ranch Town Center, Foothill Ranch, CA	8/27/2018	\$3,680,000	N/Av	47,916	4.16%
28	CVS, Los Angeles, CA	8/1/2018	\$10,800,000	2017	65,523	3.84%
29	Winchester Square, Murrieta, CA	7/13/2018	\$2,230,000	2004	37,026	4.07%
30	Promenade, Sacramento, CA	7/12/2018	\$5,750,000	2006	63,598	5.21%

31	Starbucks, Montebello, CA	7/9/2018	\$3,000,000	2018	12,632	3.83%
32	Starbucks, Montebello, CA	7/9/2018	\$3,000,000	2018	12,632	3.83%
33	Cracker Barrel, Sacramento, CA	7/5/2018	\$4,300,000	2018	90,605	4.65%
34	Broadway Plaza, Chula Vista, CA	6/22/2018	\$58,500,000	1997	559,746	5.50%
35	Warehouse, Sacramento, CA	6/22/2018	\$2,376,000	2018	36,301	4.25%
36	Habit Burger, Victorville, CA	5/22/2018	\$3,500,000	2017	30,867	4.28%
37	BJ's Pizza & Brewery, Victorville, CA	5/18/2018	\$4,000,000	2016	59,242	3.45%
38	Cracker Barrel, Victorville, CA	4/6/2018	\$5,200,000	2018	96,703	4.52%
39	Autozone, San Diego, CA	4/2/2018	\$1,500,000	1984	15,246	4.20%
40	Taco Bell, Hanford, CA	3/19/2018	\$4,000,000	2012	31,799	4.50%
41	CVS, Redondo Beach, CA	3/9/2018	\$13,000,000	2008	63,214	3.87%
42	Chase Bank, San Clemente, CA	3/1/2018	\$4,300,000	2017	36,155	3.26%
43	Café Rio & Pizza, Bakersfield, CA	2/15/2018	\$4,800,000	2017	59,677	5.00%
44	Raising Cane's Chicken Fingers, Laguna Hills, CA	2/13/2018	\$5,475,000	2016	40,946	4.20%
45	Walgreens, Oceanside, CA	12/18/2017	\$9,200,000	2011	51,836	4.35%
46	CVS, Los Angeles, CA	11/9/2017	\$8,200,000	2015	40,681	4.26%
47	Starbucks, Turlock, CA	10/24/2017	\$1,275,000	2008	55,757	4.75%
48	McDonald's, Azusa, CA	10/20/2017	\$3,540,000	2017	26,136	3.25%
49	Parkway Plaza, Lincoln, CA	10/16/2017	\$21,600,000	2012	126,324	6.46%
50	Chic-Fil-A, Long Beach, CA	10/13/2017	\$6,057,143	2017	43,934	3.50%
51	Taco Bell, Coachella, CA	10/13/2017	\$1,617,000	2016	40,511	4.45%
52	Buffalo Wild Wings, Gilroy, CA	10/6/2017	\$2,900,000	2004	45,302	5.00%
53	Farmers Boys, Riverside, CA	9/20/2017	\$1,245,000	2002	30,056	5.13%
54	Starbucks, Garden Grove, CA	9/13/2017	\$2,650,000	2018	18,295	3.58%
55	KCN, Newport Beach, CA	9/11/2017	\$2,613,000	1980	13,068	3.90%
56	Rite Aid, Lancaster, CA	8/24/2017	\$7,150,000	2010	57,064	5.40%
57	Antioch Former Restaurant, Antioch, CA	8/15/2017	\$3,350,000	1974	42,689	4.63%
58	Rancho Vista, Palmdale, CA	8/15/2017	\$3,653,000	2016	26,136	3.70%
59	Office Building, Santa Clara, CA	8/15/2017	\$10,300,000	2017	44,401	4.00%
60	The Village at Seco Canyon, Santa Clarita, CA	8/11/2017	\$15,520,000	2005	83,635	6.50%
61	KFC, Lemon Grove, Ca	7/24/2017	\$3,075,000	1990	24,829	4.69%
62	Fast Food, El Cajon, CA	7/12/2017	\$3,246,341	2007	23,958	4.00%
63	Valencia Town Center, Valencia, CA	7/12/2017	\$67,000,000	1995	387,684	5.00%
64	Chase Bank, Lafayette, CA	6/30/2017	\$7,000,000	2017	16,531	3.70%
65	IHOP, Manteca, CA	6/30/2017	\$3,200,000	2000	37,462	5.73%
66	Shell, Merced, Ca	6/14/2017	\$587,000	N/Av	15,002	6.00%
67	Ventura Libbet, Encino, CA	6/8/2017	\$25,000,000	1980	55,596	1.50%

68	Imperio Kia/Nissan, San Juan Capistrano, CA	5/8/2017	\$16,000,000	N/Av	348,480	3.00%
69	Popeyes, Perris, Ca	5/1/2017	\$2,380,000	N/Av	20,909	4.41%
70	Wendys, Perris, CA	3/31/2017	\$2,109,500	2017	33,977	4.03%
71	Strip Center, Long Beach, CA	3/30/2017	\$2,450,000	1983	16,418	3.66%
72	Restaurant, Perris, CA	3/6/2017	\$2,345,000	N/Av	33,541	3.84%
73	Wendy's, North Highlands, CA	3/6/2017	\$1,597,500	N/Av	46,609	5.00%
74	Jack in the Box, Long Beach, CA	2/17/2017	\$1,950,000	N/Av	28,750	3.87%
75	McDonald's, Carmichael, CA	2/14/2017	\$2,675,000	2015	43,416	3.48%
76	The Shops on Lake Avenue, Pasadena, CA	1/27/2017	\$15,130,000	2002	231,835	3.90%
77	Popeyes, Anaheim, CA	1/11/2017	\$2,800,000	N/Av	32,043	3.75%
78	Chase Bank, Torrance, CA	12/22/2016	\$6,450,000	2013	46,696	3.80%
79	Carl's Jr., Fresno, CA	11/18/2016	\$1,550,000	1996	30,056	5.40%
80	Mc Donald's, Canoga Park, CA	11/18/2016	\$4,120,000	2016	31,315	3.28%
81	The Habit Burger, Downey, CA	11/10/2016	\$3,536,000	2014	37,897	4.10%
82	Carl's Jr., Santee, CA	11/10/2016	\$2,647,000	1999	29,621	4.25%
83	Orangetown Center, Riverside, CA	10/18/2016	\$2,037,000	2005	26,136	4.75%
84	El Pollo Loco, Moreno Valley, CA	10/4/2016	\$1,610,000	2016	28,763	3.95%
85	CVS, Porterville, CA	10/4/2016	\$2,350,000	2008	68,825	5.32%
86	Taco Bell, Chino Hills, CA	9/28/2016	\$1,882,000	2015	53,274	4.25%
87	El Pollo Loco, San Jacinto, CA	9/21/2016	\$2,050,000	N/Av	25,700	4.82%

Average is 4.48%.

RECONCILIATION OF CAPITALIZATION RATE

When reconciling the land capitalization rate, I took into consideration the type of use, and physical characteristics of the subject in relation to the market, agency influence, and surveyed published sources.

The comparable land capitalization rates ranged from 4.48% to 10.00% from all sources. There was a predominate land rate from the market between 4.00% and 5.00%, between 8.00% and 10.00% from the agencies and a central point average from published surveys at 7.48%. The spectrum of rates provides a range of risk expectations for the various property types.

The typical lease for the SLC is 10-years which reduces the risk and provides a long term cashflow to the SLC. The tenants are traditionally adjacent homeowners who have primary and secondary homes in the Lake Tahoe market which further reduces risk based on the quality and quantity of tenants. Renewals, unless there are significant violations of the lease terms, are generally provided. Again, this further reduces risk.

By all market standards a capitalization rate would be supported near 5%. This weighs most closely to the Market Based Survey which averaged 4.48%. Some consideration is given to the agency influence

of rates which is clearly higher at 9% to 10%. The average published survey rate is at 7.487%. As noted, the impact on the final rate is demonstrated in the following charts showing the agency rate of 9.0% and a market rate of 5.00%.

CONCLUSION FOR PIER SUBMERGED FEE RATE - AGENCY RATE OF 9%

Table 35: Conclusion for Pier Submerged Fee Rate – Agency Rate of 9%

Category	Indicators
Upland Value (\$2,000,000 total)	\$183.65 psf
Submerged Fee Rate (Average 30%)	30%
Implied Submerged Land Value	\$55.09 psf
Land Capitalization Rate	9%
Annual Rent (psf)	\$4.96
Pier Slip SF (Benchmark 1992 / 792 sf) ⁵⁵	\$3,927

CONCLUSION FOR PIER SUBMERGED FEE RATE - MARKET RATE OF 5%

Table 36: Conclusion for Pier Submerged Fee Rate – Market Rate of 5%

Category	Indicators
Upland Value (\$2,000,000 total)	\$183.65 psf
Submerged Fee Rate (Average 30%)	30%
Implied Submerged Land Value	\$55.09 psf
Land Capitalization Rate	5%
Annual Rent (psf)	\$2.75
Pier/Slip SF (Benchmark 1992 / 792 sf)	\$2,178

Based on this comparison the Agency Pier Rate of \$3,927 per year is 80% higher than the Market Rate of \$2,178. By definition, the SLC is to adhere to market value, which includes all references to market parameters including overall rates. Therefore, the supported market rate for piers using the Submerged Land Value method to determine the rate is \$2,178.

CONCLUSION FOR BUOY SUBMERGED FEE RATE

The same analysis is used to determine the Buoy Rate. The only missing component is the application of the buoy square footage. As previously reported typical boat length ranges from 20 to 39 feet. That was provided earlier where 62.3% of boat owners have boats from 20 to 39 feet.

⁵⁵ Highest Correlation with Boating Survey

Table 37: Buoy Square Footage

Length of Boat	Count	Percent
Less than 16 Feet	228	8.7%
16 to 19 Feet	450	17.1%
20 to 25 Feet	846	32.2%
26 to 39 Feet	792	30.1%
40 to 65 Feet	295	11.2%
More than 65 Feet	17	0.7%
Total	2,628	100.0%

For this part of the analysis, a different figure is used from the 2012 Benchmark estimates (1,962.5 radius square feet). This benchmark assumes that the entire area of the radius is encumbered unlike the pier that has permanent improvements. The lessee can only, at any single time, occupy the length and width of the boat. The areas within the radius, not occupied by the boat, are always vacant and unused and available for public use. Therefore, the more reasonable estimate for buoy square footage is the boat length (30 feet basis) and width (10 feet basis) for a total of 300 square feet. An additional length of 6 feet is used for the *pick-up* line which runs from the buoy to the boat. Therefore, the total usable square feet for the buoy is $36 \times 10 = 360$ square feet.

I have also used a lower Submerged Fee Rate based on the lower interdependence (15%). This is based on the mooring balls that are not part of the upland and require boat access to gain access to the upland. This correlates strongly with the State of Florida where submerged fees are reflect public use discounts of 30% when 90% used by the public. If we discount the pier rate of 30% by 30% the adjusted buoy submerged fee rate would be 21%. However, as noted, buoys are not part of the upland and an additional discount is applied. Overall, a reconciled submerged fee rate of 15% is bracketed in the market.

CONCLUSION FOR BUOY SUBMERGED FEE RATE – AGENCY RATE OF 9%

Table 38: Submerged Fee Rate – Agency Rate of 9%

Category	Indicators
Upland Value (\$2,000,000 total)	\$183.65 psf
Submerged Fee Rate (Midpoint 15% to 25%)	15%
Implied Submerged Land Value	\$27.55 psf
Land Capitalization Rate	9%
Annual Rent (psf)	\$2.48
Buoy SF (360 sf)	\$893

CONCLUSION FOR BUOY SUBMERGED FEE RATE – MARKET RATE OF 5%

Table 39: Submerged Fee Rate – Market Rate of 5%

Category	Indicators
Upland Value (\$2,000,000 total)	\$183.65 psf
Submerged Fee Rate (Midpoint 15% to 25%)	15%
Implied Submerged Land Value	\$27.55 psf
Land Capitalization Rate	5%
Annual Rent (psf)	\$1.37
Buoy SF (360 sf)	\$495.90

Based on this comparison the Agency Buoy Rate of \$893 per year is 80% higher than the Market Rate of \$495. As noted, the SLC is to adhere to market value, which includes all references to market parameters including overall rates. Therefore, the supported market rate for buoys using the Submerged Land Value method to determine the rate is \$495.

RECOMMENDED RENT ESTIMATE – METHOD 7 (SUBMERGED LAND)

The recommended annual rate for the piers and buoys is as follows:

ANNUAL TYPICAL PIER RATE⁵⁶:	\$	2,178
ANNUAL PER BUOY RATE:	\$	495

CATEGORY 2 – CONCLUSIONS OF SLC BENCHMARK RATE NON-WATER USE.

As discussed in the Benchmark discussion the appropriate method to value for determining the upland infill rate is the value of the upland and applying a land capitalization rate. This was analyzed under Method 7 for submerged land. This provides support for the Category 2 rate. The same overall rate range is provided.

CONCLUSION FOR CATEGORY 2 FEE RATE – AGENCY RATE OF 9%

Table 40: Conclusion for Category 2 Fee Rate – Agency Rate of 9%

Category	Indicators
Upland Value (\$2,000,000 total)	\$183.65 psf
Land Capitalization Rate	9%
Annual Rent (psf)	\$16.53

⁵⁶ This is a representative annual rate based on 792 square feet of pier/slip. Actual rate will vary based on leases area.

CONCLUSION FOR CATEGORY 2 FEE RATE – MARKET RATE OF 5%

Table 41: Conclusion for Category 2 Fee Rate – Market Rate of 5%

Category	Indicators
Upland Value (\$2,000,000 total)	\$183.65 psf
Land Capitalization Rate	5%
Annual Rent (psf)	\$9.18

RECOMMENDED RENT ESTIMATE – USING METHOD 7 – CATEGORY 2

The recommended annual rate per square foot for upland (non-water):

ANNUAL NON-WATER PER SF: \$ 9.18

The market land overall rate is used for the final recommendation.

RENT METHOD 8 – FOR LEASES FOR A RECREATIONAL PIER OR BUOY RENT SHALL BE BASED ON LOCAL CONDITIONS AND LOCAL FAIR ANNUAL RENTAL VALUES

The State of Nevada has recently adopted a new fee schedule (August 2019) for their Submerged Land Use Fee, however while in close proximity to the subject and in Lake Tahoe, the legal structure (lack of ownership) is vastly different from the California piers and buoys.

As noted, in the Nevada Use Fee definition - this is a permit fee, or license fee. This fee is for use only. It is similar to a Driver's License Fee and in this case is renewed annually. This fee has no ownership benefits or rights.

As noted with the Permit used by SLC this is a lease. By definition a lease imparts ownership. In fact, it is quoted as follows:

Private owners of the uplands on non-tidal navigable waters own to the ordinary low water mark unless their deed provides otherwise. The area lying between the ordinary high and low water marks of the bed of such waters is subject to an easement for Public Trust purposes of commerce, navigation, fishing, water related recreation, and conservation of natural resources. Private upland owners may utilize lands between ordinary high water and low water marks for purposes which are not incompatible with Public Trust needs on the property.

Overall, the State of Nevada permits fees are not comparisons for the State of California.

SUMMARY

RECOMMENDED RENT ESTIMATE – METHOD 1 (PAIRED SALES)

Pros: Local Market Support and Paired Sales for Pier and Buoy Value

Con: Cost Estimates

This method to value is the most representative of SLC lease structure and interest. Overall weight 20%.

The recommended annual rate for the piers and buoys is as follows:

ANNUAL PIER RATE: \$ 2,352

ANNUAL RATE PER SF:⁵⁷ \$ 2.97

ANNUAL BUOY RATE: \$ 414

RECOMMENDED RENT ESTIMATE – METHOD 7 (SUBMERGED LAND)

Pros:

Industry Standard for Submerged Land

Estimate of Land Capitalization Rates

Cons:

Estimate of Upland via Extraction

Estimate of Submerged Rate

The recommended annual rate for the piers and buoys is as follows:

ANNUAL PIER RATE: \$ 2,178

ANNUAL RATE PER SF:⁵⁸ \$ 2.75

ANNUAL BUOY RATE: \$ 495

RECOMMENDED RENT ESTIMATE – USING METHOD 7 – CATEGORY 2

The recommended annual rate per square foot for upland (non-water):

ANNUAL NON-WATER PER SF: \$ 9.18

⁵⁷ Rate per SF based on 792 square feet as previously referenced in Benchmarks and Boating Survey

⁵⁸ Ibid

RECOMMENDATIONS

The core issue regarding the determination of appropriate Rent Methodology for the California State Lands Commission is based on California Constitution prohibition of gifts of public money (from the state, counties, or general law cities) to private parties. It states:

The Legislature shall have no power to give or to lend, or to authorize the giving or lending, of the credit of the State... nor shall it have power to make any gift or authorize the making of any gift, of any public money or thing of value to any individual, municipal or other corporation whatever; provided, that nothing in this section shall prevent the Legislature granting aid pursuant to Section 3 of Article XVI;⁵⁹

A "gift" "means a transfer of public property without adequate consideration or for a private as opposed to a public purpose."⁶⁰ A gift of property may have incidental benefits to a private party but must always be for a public purpose.⁶¹

Compensation to the public shall be based on local fair annual rental values PRC 6503.5. It is my opinion that the California State Lands Commission, via the Benchmark History of rental rates dating from 1989 has provided a gift of public funds over the years based on this analysis.

The California State Lands Commission has by policy and mandate methods on which to determine the market rent for any property. These are as follows:

1. 9% of the appraised value of the leased land;
2. A percentage of annual gross income (the percentage being based on an analysis of the market for like uses and other relevant factors);
3. Comparison to rents for other similar land or facilities;
4. \$0.05 per diameter inch per lineal foot of pipeline, conduit, or fiber optic cable;
5. Benchmarks for regions where there are large concentrations of similar facilities (benchmark rental rate to be based on analysis of similar or substitute facilities in the local area);
6. For Forest Management Agreements: Rent may constitute enhancement of the land's value resulting from the use;

⁵⁹ Cal. Const., art. XVI, § 6.

⁶⁰ *Post v. Prati*, 90 Cal. App. 3d 626, 635 (Cal. Ct. App. 1979); *Besaro Mobile Home Park, LLC v. City of Fremont*, 204 Cal. App. 4th 345, 357 (2012).

⁶¹ *County of Sonoma v. State Bd. of Equalization*, 195 Cal. App. 3d 982 (1st Dist. 1987).

7. Other such methods or information that are based on commonly accepted appraisal practices and principles;
8. For leases for a recreational pier or buoy, rent shall be based on local conditions and local fair annual rental values;

Further, it is concluded that the Rent Methods to value are reasonable for determining pier, buoy and upland fill rates. Due to the nature of the data and market – Rent Methodologies 2, 3, 4, 5 and 6 are not valid for determining rates for Piers, Buoys, or upland infill rates. Rent Methods 1 and 7 are valid methods in determining rates for Piers, Buoys, or upland infill rates.

It is my conclusion that Rent Method 1 is the most reliable method(s) to value based on specific data in the local market which was confirmed by broker input for overall demand and pricing levels. Rent Method 7 is very supportive and due to additional assumptions is weighed less. Rent Method 7 correlates with Rent Method 1 and therefore can be used to support Category 2 rents.

Overall, the reconciled Category 1 and Category 2 rents are as follows:

The recommended annual rates for the piers and buoys are as follows:

CATEGORY 1

ANNUAL RATE PER SF (PIERS)⁶²:	\$	2.84
ANNUAL BUOY RATE:	\$	450

CATEGORY 2

The recommended annual rate per square foot for upland (non-water):

ANNUAL NON-WATER PER SF:	\$	9.18
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The Scope of Work also provides for an overview of the benefits to the upland owners which is reflected in the rental rates.

The benefits provided to the lessee were determined to be:

- Ownership interest State Lands between the High and Low Water marks per terms of the lease:
 - It is my further recommendation that SLC provide new contracts that reflect the intent and nature of a traditional lease between a lessor and lessee without the implied benefit of ownership;

⁶² \$2,250 base @ 792 SF

-
- If the SLC voids the implication of ownership to private owners, the rates may be subject to reevaluation;
 - Value enhancement of the upland based on lessee terms and conditions value enhancement to the upland (net of costs) for a pier and buoy is approximately \$1,250,000.

There is an argument, because the State Lands Commission has the right to terminate the lease, and does not have to renew the leases as follows:

This lease is for a fixed term of years and contains no options or rights of renewal. If Lessee desires to occupy the Lease Premises beyond the term of this Lease, Lessee shall submit an application and minimum expense deposit for a new lease at least one year prior to the expiration of this Lease. Submission of an application does not guarantee a new lease will be granted to Lessee.

And

Lessor may waive all or any part of this obligation in its sole discretion if doing so is in the best interests of the State.

The SLC has the right to not allow use of State lands and the lessee may be required to remove all improvements at the cost of the lessee. Under this scenario it can be argued that the upland property owner would lose in value to the upland approximately a) \$350,000 for a buoy, b) \$900,000 for a pier and C) \$1,250,000. All scenarios include the value of any improvements which would have to be demolished. Pending legal opinion, the lessee would have no recourse.

ADDENDA

DEFINITIONS

CALIFORNIA CODE OF REGULATIONS

Title 2. Administration - Division 3. State Property Operations - Chapter 1. State Lands Commission -
Article 1. General Provisions - 2 CCR § 1900 |

§ 1900. Definitions.

- i. The term “lease” includes a permit, right-of-way, easement, license, compensatory agreement, or other entitlement of use.
- ii. The term “structure” means any manmade construction.
- iii. The term “sovereign lands” means the beds of all the State's natural, navigable waterways, and tide and submerged lands, including those adjacent to the coast and offshore islands of the State from the ordinary high-water mark to three geographic miles offshore. On tidal waterways, the State's sovereign fee ownership extends landward to the ordinary high-water mark, except for areas of fill or artificial accretion, in which case the boundary is fixed at the location of the last ordinary high water mark prior to artificial influences, or where the boundary has been fixed by agreement or a court order. On navigable non-tidal waterways, including lakes, the State holds fee ownership of the bed of the waterway landward to the ordinary low water mark.
- iv. The term “submerged lands” means the area lying below the elevation of ordinary low water in the beds of all tidal and nontidal navigable waters.
- v. The term “tidelands” means the area lying between the elevations of ordinary low water and ordinary high water on lands subject to tidal action.
- vi. The term “uplands” shall mean lands bordering on navigable waterways.
- vii. The term “school lands” refers to all Sections 16 and 36 granted to the State for the benefit of common schools by Chapter 145 of the Federal Statutes of 1853.
- viii. The term “lieu or indemnity lands” refers to those lands acquired by the State in place of school lands it previously acquired or school lands to which it did not receive title because they were either mineral in character, had not been sectionalized, or were subject to prior established rights.
- ix. The terms “merchandise,” “product” and “commodity” are interchangeable and shall include, goods, wares, chattels, personal property of every description, cargo, freight, mail, vessel's stores and supplies, articles, matter and material.
- x. The term “impact area” means a reasonable area beyond the footprint of the actual facilities or improvements occupying State land. The “impact area” is intended to reflect the additional and temporary use, as well as impacts to public access or use, of State land for the docking of vessels, maintenance of the facility, or other such uses.

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- xi. The following formula, hereafter called the “Adjustment Formula,” shall be used to determine the adjusted minimum annual rent for each year subsequent to July 1, 2014. $((\text{Current CPI} - \text{Prior CPI}) / \text{Prior CPI} + 1) \times \text{Previous Year's Rent} = \text{Adjusted Annual Rent}$.

The term “CPI” means the index published periodically by the California Department of Industrial Relations and titled “California Consumer Price Index (1955-2013) All Items (1982-1984 = 100),” a successor index to the aforementioned, or a reasonably equivalent index acceptable to the Lessor and Lessee.

OTHER DEFINITIONS NOT SOURCED FROM THE CALIFORNIA CODE OF REGULATIONS

- xii. Buoy – A stationary floating object used as an aid for navigation.⁶³
- xiii. Mooring – Securing to a dock or to a buoy or anchoring with two anchors.⁶⁴ A mooring is a permanent structure to which a watercraft may be secured overnight or for long-term storage. Typical moorings include buoys, boatlifts, and boat slips.⁶⁵
- xiv. High Tide Line – The term high tide line is defined as “the line of intersection of the land with the water's surface at the maximum height reached by a rising tide. The high tide line may be determined, in the absence of actual data, by a line of oil or scum along shore objects, a more or less continuous deposit of fine shell or debris on the foreshore or berm, other physical markings or characteristics, vegetation lines, tidal gages, or other suitable means that delineate the general height reached by a rising tide. The line encompasses spring high tides and other high tides that occur with periodic frequency but does not include storm surges in which there is a departure from the normal or predicted reach of the tide due to the piling up of water against a coast by strong winds such as those accompanying a hurricane or other intense storm.”⁶⁶
- xv. Environmental Threshold Carrying Capacity – An environmental standard necessary to maintain a significant scenic, recreational, educational, scientific or natural value of the region or to maintain public health and safety within the region. Such standards shall include but not be limited to standards for air quality, water quality, soil conservation, vegetation preservation and noise.⁶⁷
- xvi. Fast Land – Land that is above the high-water mark and that, when flooded by a government project, is subjected to a governmental taking.⁶⁸

⁶³ Maritime Dictionary

⁶⁴ *ibid*

⁶⁵ TRPA – “Mooring Permitting” March 2019

⁶⁶ 33 CFR 328.3

⁶⁷ SB 630 – Article II (i)

⁶⁸ UASFLA – 4.11.1 (upland)

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- xvii. Pier – A structure (such as a breakwater) extending into navigable water for use as a landing place or promenade or to protect or form a harbor⁶⁹

DEFINITIONS OF MARKET VALUE AND MARKET RENT

- i. (UASFLA) is defines Market Value as:

Market value is the amount in cash, or on terms reasonably equivalent to cash, for which in all probability the property would have sold on the effective date of value, after a reasonable exposure time on the open competitive market, from a willing and reasonably knowledgeable seller to a willing and reasonably knowledgeable buyer, with neither acting under any compulsion to buy or sell, giving due consideration to all available economic uses of the property.

- ii. (FIRREA) is defines Market Value as:

Market value means the most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specific date and the passing of title from seller to buyer under conditions whereby:

- (1) Buyer and Seller are typically motivated;*
- (2) Both parties are well informed or well advised, and acting in what they consider their own best interests;*
- (3) A reasonable time is allowed for exposure in the open market;*
- (4) Payment is made in terms of cash in U. S. Dollars or in terms of financial arrangements comparable thereto; and*
- (5) The price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.*

- iii. (CA Civil Code – 1263.320) defines Market Value as:

- b) The Fair Market Value of the property taken is the highest price on the date of valuation that would be agreed to by a seller, being willing to sell but under no particular or urgent necessity for so doing, nor obliged to sell, and a buyer, being ready, willing and able to buy but under no particular necessity for so doing, each dealing with the other with full knowledge of all the uses and purposes for which the property is reasonably adaptable and available.
- c) The Fair Market Value of property taken for which there is no relevant, comparable market is its value on the date of valuation as determined by any method of valuation that is just and equitable.

⁶⁹ Merriam-Webster

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- iv. (Uniform Standards of Professional Appraisal Practice – USPAP)⁷⁰ defines Market Value as:
A type of value stated as an opinion, that resumes the transfer of a property (i.e. a right of ownership or a bundle of such rights), as of a certain date, under specific conditions set forth in the in the definition of the term identified by the appraiser as applicable in an appraisal.
- v. (Dictionary of Real Estate Appraisal)⁷¹ is defines Market Rent as:
The most probable rent that a property should bring in a competitive and open market reflecting all conditions and restrictions of the lease agreement, including permitted uses, use restrictions, expense obligations, term concession, renewal and purchase options and tenant improvements.
- vi. (CA Government Code – title 1, Division 7, Chapter 5, Article 1.)
6503.5.
(a) Consistent with Section 6503, the commission shall charge rent for a private recreational pier constructed on state lands. Rent shall be based on local conditions and local fair annual rental values.
(b) Subdivision (a) does not apply to either of the following:
(1) A lease in effect on July 1, 2011, for the term of that lease. If a lease in effect on July 1, 2011, expires or is otherwise terminated, the commission shall include fair annual rent provisions pursuant to subdivision (a) in the new lease contract.
(2) A lease for which the application and application fees were submitted to the commission prior to March 31, 2011.
(c) “Recreational pier” includes a fixed facility for the docking or mooring of boats.

⁷⁰ Dictionary of Real Estate Appraisal – Sixth Edition; page 141

⁷¹ Ibid; page 140

LAKE TAHOE

LOCATION | OVERVIEW

The area known as “Lake Tahoe” is located in the Sierra Nevada Mountains and includes Lake Tahoe, as well as several cities and communities surrounding the lake. The area is a popular year-round tourist destination due to abundant outdoor recreational and tourist attractions. It is generally bounded by Interstate 80, Coloma and Placerville to the west, Carson City and U.S. 395 to the east, Interstate 80, Truckee (California) and Reno (Nevada) to the north, and El Dorado National Forest to the south.



Figure 9: Photo of Lake Tahoe

Lake Tahoe is a freshwater lake situated along the border of California and Nevada in the Sierra Nevada Mountains. It has about 72 miles of shoreline with approximately two-thirds in California (Placer and El Dorado Counties) and one-third in Nevada (Washoe and Douglas Counties and Carson City).

AREA CITIES & COMMUNITIES

South Lake Tahoe, California, is the only incorporated city in the Lake Tahoe area. The remaining communities are unincorporated and are located in either California or Nevada. Over 78% of the land surrounding the lake is public and managed by the U.S. Forest Service.

South Lake Tahoe, California (City): Containing just over 16 square miles, South Lake Tahoe is in California in El Dorado County. Before incorporating in 1965, it consisted of the unincorporated communities of Al Tahoe, Bijou, Bijou Park, Stateline, Tahoe Valley, and Tallac Village. Today it is the most populous community in the area. Situated on the southern shore of Lake Tahoe, it extends about five miles along U.S. 50 (Lake Tahoe Boulevard). Heavenly Mountain Ski Resort and supporting tourist businesses (i.e., retail, restaurants, accommodations, etc.) are located along the California-Nevada border on the east side of the city, with primarily residential development on the west side. South Lake Tahoe (CA) and Stateline (NV) are effectively a single town with the state line intersecting U.S. 50 near the Harrah’s and Harveys casinos. Being the largest city, South Lake Tahoe is home to several schools, including Lake Tahoe Community College.

Stateline, Nevada (CDP): Located on the eastern shore of Lake Tahoe, just east of the California-Nevada state line in Douglas County (NV), Stateline is a small unincorporated census-designated place (CDP) consisting of only 0.8 square miles. Although the community’s permanent population is minimal, it is very intertwined with the city of South Lake Tahoe and is quite busy during the busy winter and summer seasons due to its large inventory of hotel rooms and rental accommodations and shuttle

transfer of visitors from South Lake Tahoe who come to gamble at the casinos. Four of the Stateline's casinos – MontBleu (formerly Caesar's), Harrah's Lake Tahoe, Horizon, and Harveys Lake Tahoe – are full-scale resorts. SR 207, known as Kingsbury Grade, is also located in Stateline. Rising up from Lake Tahoe, it goes up and over a mountain, dropping down into the community of Gardnerville (NV). Most of Stateline's permanent and visitor accommodations, amenities and services are located on or near Kingsbury Grade. Being a mountain pass, access can be difficult and snow chains are required in the winter.

Tahoe City, California (CDP): The unincorporated communities of Tahoe City and Sunnyside combine to form a census designated place (CDP) in Placer County, California. Formerly known as "Tahoe," Tahoe City is located on Lake Tahoe, approximately 14 miles southeast of Donner Pass and is accessed by SR 89. Formerly the site of significant logging and hunting activity for the northern Tahoe Basin, today it is a year-round vacation town that caters primarily to visitors with hotels, restaurants, bars, sports shops, banks, boat marinas, the Tahoe Yacht Club, and a couple of large chain grocery stores.

Kings Beach, California (CDP): Located on the north shore of Lake Tahoe in Placer County, California, Kings Beach is a CDP with a total area of 3.4 square miles. SR 28 passes through the community along the lakeshore and connects to SR 267, which provides access to Northstar, Truckee and I80.

Incline Village, Nevada (CDP): Located on the north shore of Lake Tahoe in Washoe County, Nevada, Incline Village is a CDP with a land area of 21.7 square miles. Prior to the 2010 census, the CDP also included Crystal Bay, Nevada. The community is the former location of Sierra Nevada Wood and Lumber Company, who had a major logging operation on the northeast side of Lake Tahoe. Today the community is known as a tax haven for individuals and businesses escaping the higher taxes in neighboring California. Incline Village is home to the private Incline Beach, which is located on Lakeshore Drive between Village Boulevard and Country Club Drive and offers one of the most beautiful views of the lake, as well as picnic tables, barbecues, a playground, sand volleyball courts, a concession stand, and roped off swimming area. Diamond Peak Ski Resort is also in Incline Village, as well as Sierra Nevada's College's main campus.

Glenbrook, Nevada (CDP): Located on the east shore of Lake Tahoe in Douglas County, Nevada, Glenbrook is a CDP just west of Carson City. Containing about four square miles, it is about 10 miles south of Incline Village and 12 miles north of South Lake Tahoe. It is the oldest settlement on the lake and, as a result of being a primary timber supplier, played a significant part in Nevada becoming a state.

Zephyr Cove, Nevada (CDP): Located in Douglas County, Nevada, on the east shore of Lake Tahoe, Zephyr Cove is a CDP with a land area of 2.2 miles. Prior to the 2010 Census, the CDP included Round Hill Village.

TRANSPORTATION

The Lake Tahoe area can be reached year-round directly by car and indirectly by airplane or train. If weather and traffic conditions are ideal, visitors can typically reach the area within the following time

frames: Sacramento (two hours), Reno (one hour), and Carson City (30 minutes). In winter months, chains or snow tires are often required from all directions. Weekend traffic occurs as a result of the influx into the area and inclement weather in the winter season.

Several highways provide access to the Lake Tahoe area from Reno, Carson City and Sacramento. The primary routes are Interstate 80 (via Truckee), U.S. Route 50, and Nevada State Route 431 (via Reno). US 50 is mostly a four-lane highway passing south of the lake and along part of the eastern shore. Although several highways are close to the shore for much of the lake's perimeter, the majority of the shoreline is within state or national parks. The majority of the highways accessing and encircling Lake Tahoe are paved two-lane mountain roads. Some of these additional thoroughfares include California's State Route 89, which follows the western lakeshore to Emerald Bay State Park, DL Bliss State Park, Camp Richardson, Meeks Bay, Tahoe City, and eventually Truckee. California's State Route 28 is part of the circuit from Tahoe City around the northern shore to Kings Beach, Crystal Bay, and Incline Village (NV), where it becomes Nevada's State Route 28. It eventually returns along the eastern shore to US 50 near Spooner Lake.

The primary airports in the area are: Reno-Tahoe International Airport (Reno, NV), Sacramento International Airport (Sacramento, CA), Lake Tahoe Airport (South Lake Tahoe, CA), Truckee-Tahoe Airport (Truckee, CA), and Minden-Tahoe Airport (Minden, NV). The nearest long-distance passenger train service is available at the Amtrak station in Truckee. There are several bus and shuttle operators offering service between the larger airports, cities, communities, ski resorts and casinos, including the South Tahoe Express Shuttle and North Lake Tahoe TART.

NATURAL CHARACTERISTICS

Lake Tahoe lies at an elevation of 6,225 feet. At 22 miles long by 12 miles wide and a surface area of 191 miles, the lake is the largest alpine lake in North America. At 1,645 feet deep, it is the second deepest in the U.S. after Crater Lake. It is fed by 63 tributaries, with half the lake's water coming directly from rain or snow. The lake's only outlet is the Truckee River, which flows to the northeast through Reno (NV) and eventually into Pyramid Lake (NV). The river accounts for only one-third of the water leaving the lake with the balance evaporating from the large surface. The flow of the Truckee River and the height of the lake are controlled by a dam at the outlet.

Some of the highest peaks in the Lake Tahoe Basin are Freel Peak (10,891 feet), Monument Peak (10,067 feet), Pyramid Peak (9,984 feet), and Mount Tallac (9,735 feet). The north shore has three peaks at 10,000+ feet: Mount Rose, Houghton and Relay peaks.

Mean annual precipitation ranges from 55+ inches on the west side of the basin to about 26 inches on the east side near the lake. The majority of this precipitation falls as snow between November and April. There is significant runoff of snowmelt in late spring and early summer. In some years, summer storms originating in the Great Basin bring intense rainfall, especially to the higher elevations on the northeast side of the basin. August is typically the warmest month with an average low of 39.8° F and an average high of 78.7° F; January is the coldest month with an average low of 15.1° F and an average

high of 41.0° F. Temperatures almost only drop below 0 °F an average of 7.6 days per year, but freezing temperatures typically occur each month of the year. However, the lake never freezes. Rarely do temperatures exceed 90 °F.

The majority of vegetation in the Lake Tahoe Basin is comprised of mixed conifer forest, wet meadows and riparian areas, dry meadows, brush fields, and rock outcrop areas, especially at higher elevations. Salmon spawning occurs in the area, which attracts carnivores including mink, bears and Bald eagles. University of California, Davis is one of the primary stewards of the lake. Their dedicated UC Davis Tahoe Environmental Research Center conducts research, education and public outreach, and publishes an annual “State of the Lake” report with objective scientific information used to promote the restoration and sustainable use of the Lake Tahoe Basin.

LAKE TAHOE BASIN MANAGEMENT UNIT

In 1899, President William McKinley created the Lake Tahoe Forest Reserve, which is the core of subsequent National Forest lands in the Tahoe Basin. The Tahoe, El Dorado and Toiyabe National Forests were all developed out of this reserve, extending into the basin and managing separate sections. In 1973, the Lake Tahoe Basin Management Unit (LTBMU) was created from the basin portions in each of the three aforementioned National Forests resulting in the formation of a single management unit. This allowed for more effective management of the basin’s watershed, ecological and recreational values. The LTBMU straddles the borders of California and Nevada and contains a total of approximately 191,000 acres. Altitude ranges from 6,225 feet above sea level at Lake Tahoe to 10,881 feet at Freel Peak.

Although not nearly as large as other National Forests, the LTBMU comprises 78% of Lake Tahoe Basin lands. In its role as steward of the LTBMU, the U.S. Forest Service works in conjunction with other federal, state and local agencies to conserve and restore natural and cultural resources and enhance the recreational values of the Lake Tahoe Basin. Specifically, the LTBMU focuses on habitat, fire, and urban lot management, as well as the provision and maintenance of recreational opportunities for the millions of people who use the land every year. Mining, grazing and timber harvesting are nearly non-existent in order to best protect the sensitive ecosystem around the lake.

HUMBOLDT-TOIYABE NATIONAL FOREST

The Humboldt-Toiyabe National Forest (HTNF) is the main U.S. National Forest in the state of Nevada, with a small portion in eastern California. Containing a total of 6.3 million acres, it is the largest National Forest on the continental U.S. However, it is comprised of numerous large and non-contiguous sections widely dispersed throughout 13 Nevada counties (the most in Nye, Elko and White Pine) and six California counties (the most in Mono). There are 10 ranger districts, only one of which is located in California (Bridgeport), with the headquarters located in Sparks, Nevada.

The forest has two main sections: Humboldt and Toiyabe. Humboldt National Forest, which is generally located in eastern and northern Nevada in parts of Elko, White Pine, Humboldt, Nye, and Lincoln Counties, is the smallest section with 43.5% of the total forest area. Toiyabe National Forest, which is

generally located in central, western, and southern Nevada and eastern California in parts of Nye, Lander, Mineral, Lyon, Eureka, Washoe, Douglas, and Clark Counties and Carson City in Nevada, and Mono, Alpine, Sierra, Nevada, Lassen, and El Dorado Counties in California, contains 56.5% of the total forest area. Humboldt National Forest contains 13 designated wilderness areas and Toiyabe contains 10.

POPULATION | DEMOGRAPHICS

The combined impact of the post-World War II population and construction boom, the building of casinos in the Nevada portion of the basin in the mid-1950s, and completion of the interstate highway links for the 1960 Winter Olympics in Squaw Valley resulted in a dramatic boost in population. Between 1960 and 1980, the permanent population increased from about 10,000 to more than 50,000, and the summer population jumped from 10,000 to about 90,000.

Table 42: Lake Tahoe Area Population Estimates

	2010	2017	% Change [2010-2017]
Glenbrook, NV (CDP)	215	208	-3.3%
Incline Village, NV (CDP)	8,777	8795	0.2%
Kings Beach, CA (CDP)	3,796	2824	-25.6%
South Lake Tahoe, CA (City)	21,403	21,464	0.3%
Stateline, NV (CDP)	842	981	16.5%
Sunnyside-Tahoe City, CA (CDP)	1,557	1,267	-18.6%
Zephyr Cove, NV (CDP)	565	443	-21.6%

Source: U.S. Census | California Dept. of Finance

Population and demographic statistics are not provided for the Lake Tahoe area as a whole as it contains several incorporated cities and unincorporated communities in the states of California and Nevada, as well as abundant open space. The largest city in the Lake Tahoe area is South Lake Tahoe. The following table provides historical population and demographic estimates for South Lake Tahoe and unincorporated communities in the area:

SERVICES

Area services, including schools, police and fire protection, public facilities, and utilities, are adequate for both residents and visitors and are provided by a combined effort of the states of California and Nevada and several of the smaller local communities. Law enforcement and fire/emergency services are provided by a variety of agencies, including California’s El Dorado and Placer County Sheriff and Fire Departments, Nevada’s Washoe and Douglas County Sheriff and Fire Departments, South Lake Tahoe Police and Fire Departments, and U.S. Forest Service. In addition, the U.S. Coast Guard oversees Lake Tahoe due to its designation as an interstate waterway. South Lake Tahoe is home to four

elementary schools, one middle school, one high school, and two colleges (Lake Tahoe Community College and Sierra Nevada college). Utilities and water are provided by several companies / agencies.

Table 43: Lake Tahoe Area Demographic Estimates

City	# Households	Persons/Household	Median Age
Glenbrook, NV (CPD)	107	2.01	64.6
Incline Village, NV (CPD)	3,765	2.29	45.7
Kings Beach, CA (CPD)	1,362	2.73	31.8
South Lake Tahoe, CA (City)	8,497	2.51	35.6
Stateline, NV (CPD)	383	2.19	32.8
Sunnyside-Tahoe City, CA (CPD)	744	2.08	40.6
Zephyr Cove, NV (CPD)	290	1.95	54.5

Source: 2010 U.S. Census

RECREATION | TOURISM

Although skiing and other snow-related activities are the most significant draw to the area, the Lake Tahoe area is a year-round tourist destination attracting thousands of visitors primarily from California and Nevada. Although there are a number of restaurants, golf courses and casinos, outdoor recreational opportunities offered by the lake and surrounding mountains are the primary focus of visitors.

Winter activities include downhill ski boarding, cross country skiing, sledding, snow tubing, snowmobile riding and snowshoeing. Most of the ski resorts in the Lake Tahoe area are located on the northern end of the lake near Truckee (CA) and Reno (NV) and include:

- **Heavenly Mountain Resort:** Located near Stateline (NV), this is the largest ski area in both California and Nevada;
- **Squaw Valley:** The second largest ski area located near Tahoe City;
- **Alpine Meadows:** A mid-sized ski area on the north shore a few miles from Squaw Valley;
- **Diamond Peak:** A small ski area in Incline Village (NV);
- **Northstar at Tahoe:** Located on the north shore;
- **Kirkwood Mountain Resort:** The resort with the highest snow levels in the region;
- **Sierra-at-Tahoe:** A mid-sized ski resort on the south shore;
- **Boreal Mountain Resort:** A small ski area on Donner Pass;

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- **Sugar Bowl Ski Resort:** A mid-sized ski area in Donner Pass;
 - **Donner Ski Ranch:** A very small ski area on Donner Pass;
 - **Homewood Mountain Resort:** A mid-sized ski area located on the west shore;
 - **Mount Rose Ski Resort:** A mid-sized ski area located on Slide Mountain, northeast of the lake.

For the most part, summer activities are centered on the lake in late spring to early fall and include boating, parasailing, jet skiing, paddle sports (i.e., kayaking and stand up paddle boards), and scuba diving. The lake is the location of the prestigious wooden boat show known as the Lake Tahoe Concourse d’Elegance held annually in August. Also, many of the ski resorts become mountain biking trails in the summer. Located on the east shore, the Flume Trail is ranked as one of the top 10 trails in the U.S. by *Mountain Biking Magazine*. Additional summer activities include hiking and camping. One of the most popular of Tahoe's trails is the Tahoe Rim Trail, a 165-mile trail that circumnavigates the lake. Eagle Lake Trailhead near Emerald Bay is situated on the west shore.

Gambling is legal on the Nevada side of Lake Tahoe resulting in a number of casinos located on the south shore in Stateline and on the North Shore in Crystal Bay and Incline Village. Harrah's Tahoe, Harvey's, Montbleu, and the Lakeside Inn are some of the larger casinos.

As mentioned, about 78% of the Lake Tahoe's watershed, comprised of more than 500 acres, is included in the Lake Tahoe Basin Management Unit as designated national forest land and is overseen by the U.S. Forest Service. A portion of the Humboldt-Toiyabe National Forest is also in the Lake Tahoe area, as well as several state parks and wilderness areas, including Granite Chief and Desolation Wilderness areas, Emerald Bay State Park, and DL Bliss State Park.

LOCAL ECONOMY | INCOME

The economy of the Lake Tahoe area is dominated by the established tourism and retail industries. Along with the rest of California, Nevada and nation, the area was hit by the economic recession in 2008, which hit tourism particularly hard. As of 2019, the consensus is that the area has recovered.

Economic data for the area as a whole is not available as it is comprised of numerous smaller communities in both California and Nevada. The following table provides summary employment and income data for some of these areas:

REAL ESTATE DEVELOPMENT

As previously mentioned, about 78% of the land in the Lake Tahoe area is open space public land set aside for conservation and recreational uses. The majority of existing development is residential with pockets of tourist, service, and recreation-oriented uses. During the first half of the 20th century, development around the lake was limited to a small number of vacation homes. As mentioned earlier, the post-World War II boom, arrival of casinos in the mid-1950s, and linking of the interstate highways for the 1960 Winter Olympics resulted in a dramatic boost in development in the Lake Tahoe area. As a result of a tightening of land development controls, development slowed after the 1980s.

Table 44: Lake Tahoe Area Employment & Income Figures

Area	Civilian Labor Force Jul-2019*	Civilian Labor Force 2017**	Employed Jul-2019*	Employed 2017**	Unemployment % Jul-2019*	Unemployment % 2017**	Median HH Income
Glenbrook, NV (CDP)	n/a	75	n/a	66	n/a	4.7%	n/a
Incline Village, NV (CDP)	n/a	4,604	n/a	4,437	n/a	3.8%	\$66,555
Kings Beach, CA (CDP)	1,900	1,870	1,861	1,807	2.1%	2.5%	\$46,023
South Lake Tahoe, CA (City)	12,500	12,059	11,960	10,863	4.5%	6.2%	\$45,223
Stateline, NV (CDP)	n/a	687	n/a	650	n/a	4.5%	\$43,971
Sunnyside-Tahoe City, CA (CDP)	700	730	669	677	4.6%	5.4%	\$74,955
Zephyr Cove, NV (CDP)	n/a	2,762	n/a	2,675	n/a	1.8%	\$61,094

Source: *California Employment Development Dept. **U.S. Census (2017 U.S. Community Survey)

Before the formation of the Tahoe Regional Planning Agency (TRPA), construction on the lake shore was mostly up the real estate developers causing the naturally clear lake to become clouded. TRPA is a dual state agency between California and Nevada that protects the Lake Tahoe Basin environment through land-use regulation and planning. As a result of various conflicts between TRPA and local residents, several strict grass-roots environmental organizations have formed over the years. One such organization is the League to Save Lake Tahoe (Keep Tahoe Blue), which was founded in 1957 as a result of a proposal to construct a four-lane highway around the lake, including a bridge

over the entrance to Emerald Bay. The League has been successful in shutting down poorly designed and environmentally unsound projects, while supporting responsible uses that protect the Lake's natural attributes.

Table 45: Lake Tahoe Area Housing Statistics

	South Lake Tahoe (CA)	Stateline (NV)	Kings Beach (CA)	Incline Village (NV)	Glenbrook (NV)	Zephyr Cove (NV)	SS-Tahoe City (CA)
Total Housing Units	15,561	434	2,353	7,523	396	622	2,083
# Single Family (%)	10,080 (64.8%)	74 (17.1%)	1,427 (60.6%)	6,432 (85.5%)	385 (97.2%)	481 (77.3%)	1,828 (87.8%)
# Multi Family (%)	4,891 (31.4%)	192 (44.2%)	794 (33.7%)	1,061 (14.1%)	4 (1.0%)	129 (20.7%)	255 (12.2%)
# Occupied Units (%)	8,497 (54.6%)	368 (84.8%)	1,211 (51.5%)	3,539 (47.0%)	87 (22.0%)	201 (32.3%)	722 (34.7%)
# Owner Occupied (%)	3,768 (44.3%)	96 (26.1%)	360 (29.7%)	2,299 (65.0%)	80 (92.0%)	137 (68.2%)	467 (64.7%)
# Renter Occupied (%)	4,729 (55.7%)	272 (62.7%)	851 (70.3%)	1,240 (35.0%)	7 (8.0%)	64 (31.8%)	255 (35.3%)
Median Value	\$334,500	\$88,500	\$356,200	\$687,300	\$1,000,000+	\$497,200	\$564,400
Median Rent	\$902	\$973	\$885	\$1,328	\$2,000+	\$560	\$1,375

Source: 2017 American Community Survey

Lake Tahoe is home to several 19th and 20th century mansions of historical significance. The Thunderbird Lodge once claimed almost 27 miles of the lake shoreline in Nevada. The 38-room home and island teahouse on Emerald Bay known as Vikingsholm and a former summer home known as Ehrman Mansion are two other notable properties.

CONCLUSION

In the short term, the Lake Tahoe area has recovered from the recessionary economy at a modest pace along with the rest of the region. The extremely well-established tourism industry and overall quality of life are the primary reasons why the area is expected to continue to thrive in the long-term.

GENERAL CONDITIONS AND ASSUMPTIONS

The appraisal has been completed subject to the following General Conditions and Assumptions:

- This appraisal was completed per the requirements of the *Uniform Standards of Professional Appraisal Practice (USPAP)* and those additional requirements expected of a member of the Appraisal Institute. The development process used was a complete analysis that is documented in this appraisal report.
- By use of this appraisal report, each party that uses this report agrees to be bound by all of the Hypothetical Conditions and Extraordinary Assumptions stated herein. The opinions are only as of the date stated in the appraisal report. Changes since that date in external and market factors, or in the subject property itself, can significantly affect the conclusions presented in the appraisal report.
- This appraisal is to be used only for the purpose stated herein. While distribution of this appraisal in its entirety is at the discretion of the client, individual sections shall not be distributed as this report is intended to be used in whole and not in part.
- All files, work papers and documents developed in connection with this assignment are the property of The Doré Group. No part of this appraisal, its value estimates, or the identity of the firm or the appraiser(s) may be communicated to the public through advertising, public relations, media sales, or other media without The Doré Group's prior written consent. If the appraisal report is referred to or included in any offering material or prospectus, the report shall be deemed referred to or included for informational purposes only and The Doré Group, its employees, and the appraiser(s) have no liability to such recipients. The Doré Group disclaims any and all liability to any party other than the party that retained The Doré Group to prepare the appraisal report.
- The information contained in this appraisal report, or upon which the report is based, has been gathered from sources the appraiser(s) assumes to be reliable and accurate. The owner of the subject property may have provided some of such information. Neither the appraiser(s), nor The Doré Group, shall be responsible for the accuracy or completeness of such information, including the correctness of estimates, opinions, dimensions, sketches, exhibits, and factual matters. Any authorized user of the appraisal report is obligated to bring to the attention of The Doré Group any inaccuracies or errors that it believes are contained in the report. Any plans provided are intended to assist the client in visualizing the property; no other use of these plans is intended or permitted. Appraisals are based on the data available at the time the assignment is completed. Amendments/modifications to appraisals based on new information made available after the appraisal was completed will be made, as soon as reasonably possible, for an additional fee.
- No part of the appraisal report shall be used in conjunction with any other analyses. Reference to the Appraisal Institute or to the MAI designation is prohibited. Except as may be otherwise

stated in the letter of engagement, the appraisal report may not be used by any person(s) other than the party(ies) to whom it is addressed or for purposes other than that for which it was prepared. Any authorized user(s) of this appraisal report who provides a copy to, or permits reliance thereon by, any person or entity not authorized by The Doré Group in writing to use or rely thereon, hereby agrees to indemnify and hold The Doré Group, its affiliates and their respective shareholders, directors, officers and employees, harmless from and against all damages, expenses, claims and costs, including attorneys' fees, incurred in investigating and defending any claim arising from or in any way connected to the use of, or reliance upon, the appraisal report by any such unauthorized person(s) or entity(ies).

- If the appraisal report is submitted to a lender or investor with the prior approval of The Doré Group, such party should consider this report as only one factor, together with its independent investment considerations and underwriting criteria, in its overall investment decision. Such lender or investor is specifically cautioned to understand all Hypothetical Conditions and Extraordinary Assumptions incorporated in this appraisal report.
- The appraiser(s) may not divulge the material (evaluation) contents of the report, analytical findings, or conclusions, or give a copy of the report to anyone other than the client, legal authorities via subpoena, or the Appraisal Institute.
- The appraisal report is based on the assumption of: (a) responsible ownership and competent management of the subject property; (b) no hidden or unapparent conditions of the subject property, subsoil or structures that render the property more or less valuable (no responsibility is assumed for such conditions or for arranging for engineering studies that may be required to discover them); (c) full compliance with all applicable federal, state and local zoning and environmental regulations and laws, unless noncompliance is stated, defined and considered in the Report; and (d) all required licenses, certificates of occupancy and other governmental consents have been or can be obtained and renewed for any use on which the value opinion contained in the appraisal report is based.
- No opinion is intended to be expressed and no responsibility is assumed for the legal description or for any matters that are legal in nature or require legal expertise or specialized knowledge beyond that of a real estate appraiser. Title to the subject property was presumed to be good and merchantable and the property was appraised assuming there were no adverse easements, encroachments, liens, encumbrances, special assessments, or other restrictions.
- The appraised value was based on the assumption that there were no tax liens affecting the subject property. Unless otherwise noted, the subject property was found to be current in the payment of real estate taxes as of the date of value according to the applicable county treasurer-tax collector. It was assumed that any special assessments affecting the subject property are typical and appropriate for the area and do not have an impact on the value conclusion in this report and that any outstanding bonds have been paid.

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- Unless stated herein, the subject property is assumed to be outside of areas where flood hazard insurance is mandatory. Maps used by public and private agencies to determine these areas are limited with respect to accuracy. Due diligence has been exercised in interpreting these maps, but no responsibility is assumed for misinterpretation.
 - The Doré Group did not review a Biological Survey detailing possible biological species on the subject land. A biologic report prepared by an expert in this field may be prudent to resolve any environmental issues regarding the presence of an endangered species. No responsibility is assumed for any adverse conditions or any expertise or knowledge required discovering them.
 - No opinion is expressed with regard to potential seismic impact and it was assumed that the subject's potential risks are similar to those shared by most properties throughout the region. The Doré Group makes no warranty as to the seismic stability of the subject land. The assumption was made that any future development of the property, if any, would occur in accordance with all appropriate regulations and ordinances regarding grading, fill, and applicable building codes.
 - Except as may be otherwise stated in the letter of engagement, the appraiser(s) shall not be required to give testimony in any court or administrative proceeding relating to the subject property or the appraisal. If the appraiser(s) is subpoenaed pursuant to a court order, the client agrees to pay The Doré Group's regular per diem rate plus expenses.
 - In the event of a claim against The Doré Group, its affiliates, their respective officers or employees, or the appraiser(s) in connection with or in any way relating to this appraisal report or this engagement, the maximum damages recoverable shall be the amount of the monies actually collected by The Doré Group or its affiliates for this appraisal report and under no circumstances shall any claim for consequential damages be made.
 - Necessary licenses, permits, consents, legislative or administrative authority from any local, state, or federal government, or private entity, are assumed to be in place or reasonably obtainable.
 - We assumed no legal mining claims for surface or subsurface extraction. No documentation was located or provided that would support a mineral right claim. However, even if mineral rights were allowed, it would not influence the value conclusions because the discovery, extraction, and marketing of mineral products usually requires the investment of large amount of capital over an extended period of time as well as a large element of risk.
 - We assumed that any existing uses have met the requirements of the Clean Water Act (CWA), as stipulated in Section 402 & 404, which govern the discharging, dredging, or filling of any "waters of the U.S." The "waters of the U.S." include intermittent streams and wetlands as defined by the Army Corps of Engineers.

CERTIFICATION STATEMENT

I certify that, to the best of my knowledge and belief:

- I, Lance W. Doré, MAI, do hereby certify that I have no present and no prospective interest in the Property, that I have personally examined the Property, that my fee for this Appraisal is not contingent upon the amount of the value reported nor upon any other condition excepting the predetermined fee, that to the best of my knowledge and belief the statements and opinions in the Report are correct, subject to the limiting conditions herein set forth, and that the Report has been made in conformity with recognized appraisal procedures and applicable principles of law, and I have been able to form and have formed the opinion of the market value pursuant to the Scope of Work attached as of the date of inspection.
- The statements of fact contained in this report are true and correct.
- The reported analyses, opinions and conclusions are limited only by the reported assumptions and limiting conditions, and are our personal, impartial, and unbiased professional analyses, opinions and conclusions.
- I have no present or prospective future interest in the property that is the subject of this report, and have no personal interest with respect to the parties involved.
- I have no bias with respect to the property that is the subject of this report, or to the parties involved with this assignment.
- My engagement in this assignment was not contingent upon developing or reporting predetermined results.
- My compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value estimate, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.
- My analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the Uniform Standards of Professional Appraisal Practice (USPAP) and adheres to the State of California appraisal standards.
- I certify sufficient competence to appraise this property through education and experience, in addition to the internal resources of the appraisal firm.

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- As of the date of this report, Lance W. Doré, MAI, FRICS has completed the continuing education program for designated members of the Appraisal Institute.
 - As of the date of this report, Lance W. Doré, MAI, FRICS has completed the Standards and Ethics Education Requirement for Candidates of the Appraisal Institute.
 - I have not performed valuation services, as appraiser, regarding the property that is the subject of this report within the three-year period immediately preceding acceptance of this assignment.
 - Lance W. Doré, MAI, FRICS has made an inspection of the subject property.

Respectfully submitted,



Lance W. Doré, MAI, FRICS

President / CEO

The Doré Group, Inc.

AG002464

lwdore@thedoregroup.com