

Staff Report 19

LESSEE:

Serene Properties, LLC, a California limited liability company

APPLICANT:

Lip-Bu Tan and Ysa Loo, Trustees, FBO Lip-Bu Tan and Ysa Loo Trust dated February 3, 1992

PROPOSED ACTION:

Acceptance of a Lease Quitclaim Deed and Issuance of a General Lease –
Recreational Use

AREA, LAND TYPE, AND LOCATION

Sovereign land in Lake Tahoe, adjacent to 2200 North Lake Boulevard, near Tahoe City, Placer County.

AUTHORIZED USE:

Continued use and maintenance of two existing mooring buoys.

TERM:

10 years, beginning January 1, 2021.

CONSIDERATION:

\$754 per year, with an annual Consumer Price Index adjustment.

SPECIFIC LEASE PROVISIONS:

- Liability insurance in an amount no less than \$1,000,000 per occurrence.
- Lessee expressly acknowledges and agrees that issuance of a lease does not substitute for, or provide preference in, obtaining authorizations from the Tahoe

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

- Lessee shall not store any personal items or construct any improvements in the Public Trust easement which may impair the public uses of access, navigation, fishing, and lake-related recreation.

STAFF ANALYSIS AND RECOMMENDATION:

AUTHORITY:

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

PUBLIC TRUST AND STATE'S BEST INTERESTS:

On December 2, 2013, the Commission authorized a General Lease – Recreational Use for the continued use and maintenance of two existing mooring buoys to Serene Properties, LLC, a California limited liability company ([Item C34, December 2, 2013](#)). That lease will expire on December 31, 2023.

On January 23, 2020, interest in the upland property was transferred to the Applicant, Lip-Bu Tan and Ysa Loo, Trustees, FBO Lip-Bu Tan and Ysa Loo Trust dated February 3, 1992. The Applicant is applying for a General Lease – Recreational Use, for the continued use and maintenance of the two existing mooring buoys. On August 28, 2019, TRPA registered the two mooring buoys (Permit No. 10702).

The Lessee paid rent through December 31, 2020 and executed a lease quitclaim deed releasing their interest in the General Lease – Recreational Use. Staff recommends acceptance of the lease quitclaim deed effective January 23, 2020 and issuance of a new lease effective January 1, 2021. Because the Applicant took ownership of the upland on January 23, 2020, the lease provisions regarding indemnity extend to the period of the Applicant's unauthorized occupation of state-owned lands, from January 23, 2020 to December 31, 2020, the day before the beginning date of the proposed lease.

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

The subject facilities have existed for many years at this location. The two mooring buoys are located directly lakeward of the upland property and occupy a relatively small area of the lake.

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

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

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

OTHER PERTINENT INFORMATION:

1. Approval or denial of the application is a discretionary action by the Commission. Each time the Commission approves or rejects a use of sovereign land, it exercises legislatively delegated authority and responsibility as trustee of the State's Public Trust lands as authorized by law. If the Commission denies the application, the Applicant, as owner of the improvements on state land, may be required to remove the two mooring buoys and restore the premises to their original condition. Upon expiration or prior termination of the lease, the lessee also has no right to a new lease or to renewal of any previous lease.
2. This action is consistent with Strategy 1.1 of the Commission's Strategic Plan to deliver the highest levels of public health and safety in the protection, preservation, and responsible economic use of the lands and resources under the Commission's jurisdiction.
3. Acceptance of a quitclaim deed is not a project as defined by the California Environmental Quality Act (CEQA) because it is an administrative action that will not result in direct or indirect physical changes in the environment.

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

4. Staff recommends that the Commission find that this activity is exempt from the requirements of CEQA as a categorically exempt project. The project is exempt under Class 1, Existing Facilities; California Code of Regulations, title 2, section 2905, subdivision (a)(2).

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

EXHIBITS:

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

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that the activity is exempt from the requirements of CEQA pursuant to California Code of Regulations, title 14, section 15061 as a categorically exempt project, Class 1, Existing Facilities; California Code of Regulations, title 2, section 2905, subdivision (a)(2).

PUBLIC TRUST AND STATE'S BEST INTERESTS:

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

AUTHORIZATION:

1. Authorize acceptance of a lease quitclaim deed, effective January 23, 2020, of Lease No. PRC 8510, a General Lease – Recreational Use, issued to Serene Properties, LLC, a California limited liability company.
2. Authorize issuance of a General Lease – Recreational Use to the Applicant beginning January 1, 2021, for a term of 10 years, for the continued use and

maintenance of two existing mooring buoys, as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; annual rent in the amount of \$754 with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

LEASE 8510

LAND DESCRIPTION

Two parcels of submerged lands situated in the bed of Lake Tahoe, lying adjacent to Lot 2 of fractional Section 5, Township 15 North, Range 17 East, M.D.B.&M., as shown on Official Government Township Plat approved November 9, 1866, County of Placer, State of California, more particularly described as follows:

PARCELS 1 and 2 – BUOYS

Two circular parcels of land, each being 50 feet in diameter, underlying two existing buoys lying adjacent to those parcels described in Grant Deed recorded January 23, 2020 as Document Number 2020-0006290-00 in Official Records of said County.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared 05/04/2020 by the California State Lands Commission Boundary Unit.



NO SCALE

APN
094-140-032

APPROX.
SHORELINE

6223± LTD

TAHOE

LAKE

405'±
105'±

EXISTING
BUOYS (2)

EXHIBIT A

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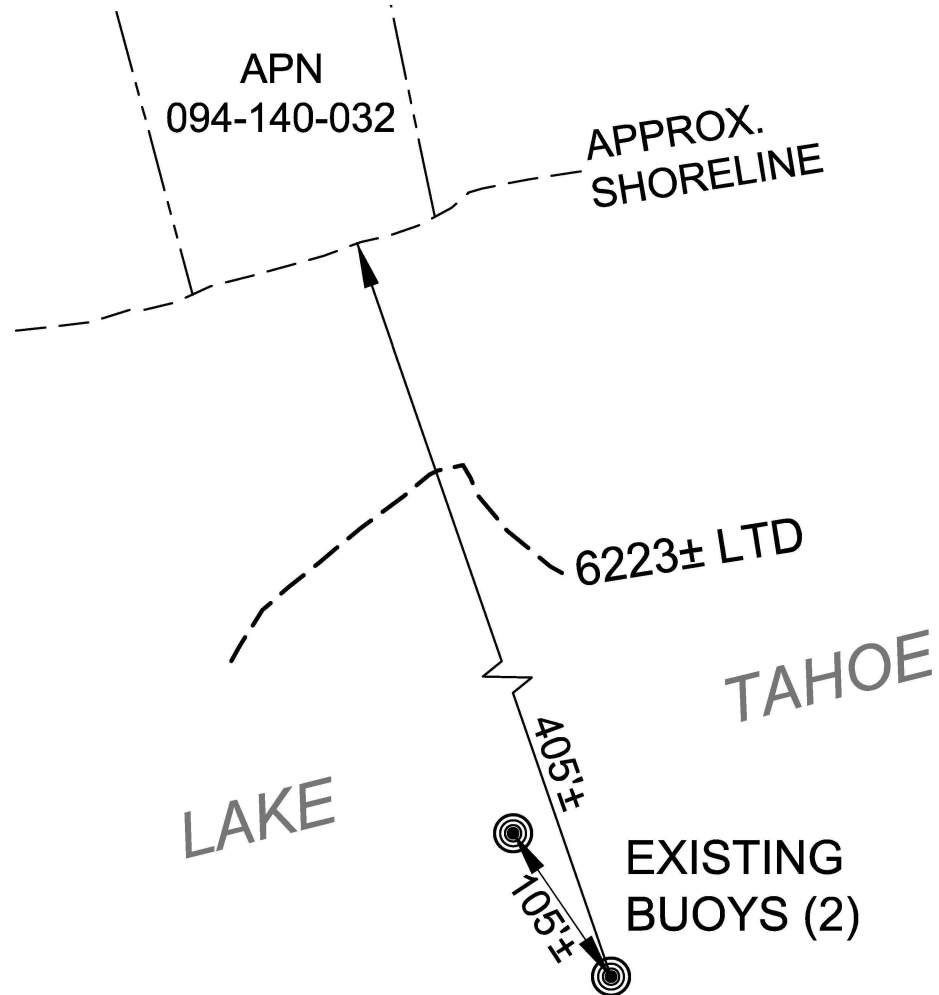
LAND DESCRIPTION PLAT
LEASE 8510, LIP-BU TAN AND YSA LOO TRUSTEES
PLACER COUNTY

CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

SITE



2200 NORTH LAKE BLVD., TAHOE CITY

NO SCALE

LOCATION



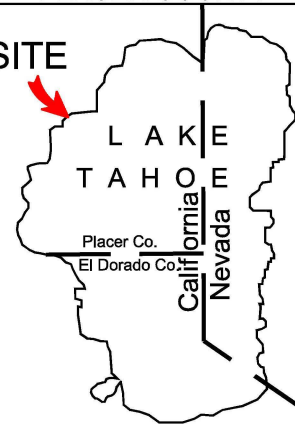
MAP SOURCE: USGS QUAD

This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.

Exhibit B

LEASE 8510
LIP-BU TAN AND YSA LOO,
TRUSTEES
APN 094-140-032
GENERAL LEASE -
RECREATIONAL USE
PLACER COUNTY

SITE



TS 05/04/2020