

Staff Report 13

APPLICANT:

James M. Horowitz and Joi W. Horowitz, Trustees of the James and Joi Horowitz Family Trust dated May 15, 2009

PROPOSED ACTION:

Issuance of a General Lease – Recreational Use

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 6502 North Lake Boulevard, Tahoe Vista, Placer County.

AUTHORIZED USE:

Use and maintenance of one existing mooring buoy.

TERM:

10 years, beginning December 8, 2021.

CONSIDERATION:

\$273 per year, with an annual Consumer Price Index adjustment, and \$101 to compensate for the unauthorized occupation of State land for the period beginning September 1, 2021, through December 7, 2021.

SPECIFIC LEASE PROVISIONS:

- Liability insurance in an amount no less than \$1,000,000 per occurrence.
- Lessee acknowledges that a permit from the Tahoe Regional Planning Agency (TRPA) is required for the Authorized Improvements and failure to obtain a permit from TRPA and maintain compliance with that permit may result in TRPA imposing civil penalties and will constitute a breach of the lease.
- 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, 6503.5, and 6505.5; California Code of regulations, title 2, sections 2000 and 2003.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

On September 1, 2011, the Commission authorized a Recreational Pier Lease to James M. Horowitz and Joi W. Horowitz, Trustees of the James and Joi Horowitz Family Trust dated May 15, 2009, for continued use and maintenance of one existing mooring buoy ([Item C24, September 1, 2011](#)). The lease expired on August 31, 2021.

The Applicant is applying for a General Lease – Recreational Use, for use and maintenance of one existing mooring buoy.

If the Commission approves the proposed lease, the Applicant will pay \$101 in compensation for the unauthorized occupation of State land for the period beginning September 1, 2021, through December 7, 2021, and will be responsible for future rent; and the lease provisions regarding indemnity will extend to the period of the Applicant's unauthorized occupation of State-owned lands for the period before December 8, 2021 (the beginning date of the proposed lease).

The buoy has existed for many years at this location. The Applicant holds a current TRPA registration for the mooring buoy as obtained on September 27, 2019 (Registration No. 11175).

The Applicant owns the upland adjoining the lease premises. The subject facilities are privately owned and maintained. The mooring buoy is used for the docking and mooring of boats and facilitates 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 existing mooring buoy is located directly lakeward of the upland property and occupies a relatively small area of the lake. The proposed lease does not alienate the State's fee simple interest or permanently impair public rights. The lease is limited to a 10-year term, does not grant the lessee exclusive rights to the lease premises, and reserves an easement to the public for Public Trust-consistent uses. Upon termination of the lease, the lessee may be required to remove all

improvements from State land and restore the lease premises to their original condition.

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

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

OTHER PERTINENT INFORMATION:

1. Approval or denial of the application is a discretionary action by the Commission. Each time the Commission approves or rejects a use of sovereign land, it exercises legislatively delegated authority and responsibility as trustee of the State's Public Trust lands as authorized by law. If the Commission denies the application, the Applicant may be required to remove the mooring buoy 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 the "Meeting Evolving Public Trust Needs" Strategic Focus Area of the Commission's 2021-2025 Strategic Plan.
3. Staff recommends that the Commission find that this activity is exempt from the requirements of the California Environmental Quality Act (CEQA) as a categorically exempt project. The project is exempt under Class 1, Existing Facilities; California Code of Regulations, title 2, section 2905, subdivision (a)(2).

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

EXHIBITS:

- 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 Public Trust needs and values at this location, at this time, and for the foreseeable term of the lease; is consistent with the common law Public Trust Doctrine; and is in the best interests of the State.

AUTHORIZATION:

1. Authorize acceptance of compensation from the Applicant in the amount of \$101 for the unauthorized occupation of State lands for the period beginning September 1, 2021 through December 7, 2021.
2. Authorize issuance of a General Lease – Recreational Use to the Applicant beginning December 8, 2021, for a term of 10 years, for the use and maintenance of one existing mooring buoy, 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 \$273, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

LEASE 8940

LAND DESCRIPTION

A parcel of submerged lands situate in the bed of Lake Tahoe, lying adjacent to Lot 3 of fractional Section 14, Township 16 North, Range 17 East, M.D.B.&M., as shown on Official Government Township Plat approved November 10, 1865, County of Placer, State of California, more particularly described as follows:

A circular parcel of land, being 50 feet in diameter, underlying an existing buoy lying adjacent to that parcel described in Grant Deed recorded February 8, 2010 as Document Number 2010-0009562-00 in Official Records of said County.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared 08/12/2021 by the California State Lands Commission Boundary Unit.



NO SCALE



APN
117-060-020

APPROX.
SHORELINE

6223' ± LTD

LAKE

780'±

TAHOE



EXISTING
BUOY

EXHIBIT A

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LAND DESCRIPTION PLAT
LEASE 8940, HOROWITZ FAMILY TRUST
PLACER COUNTY

CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

SITE

APN
117-060-020

APPROX.
SHORELINE

6223' ± LTD

LAKE

780'

TAHOE

EXISTING
BUOY

6502 NORTH LAKE BLVD., TAHOE VISTA

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

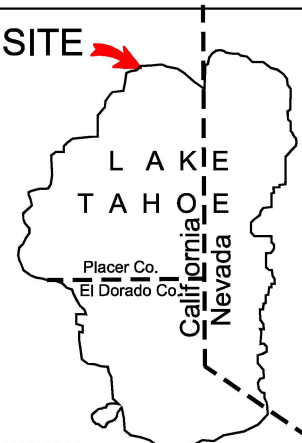
LEASE 8940

HOROWITZ FAMILY TRUST

APN 117-060-020

GENERAL LEASE -
RECREATIONAL USE
PLACER COUNTY

SITE



TS 08/12/2021