



**Meeks Bay Vista
Property Owners Association**

December 3, 2021

Mr. Brian Bugsch, Chief, Land Management Division
Ms. Ninette Lee, Public Land Manager
California State Lands Commission
100 Howe Avenue, Suite 100-South
Sacramento, California 95825

Sent via: Email & FedEx

**RE: MEEKS BAY VISTA PROPERTY OWNERS ASSOCIATION - STATE
LANDS COMMISSION PROPOSED CATEGORY 1 ANDS CATEGORY 2 LAKE
TAHOE BENCHMARK RENTAL RATES – COMMENTS SUBMITTED FOR
THE PUBLIC RECORD**

Dear Mr. Bugsch & Ms. Lee;

Thank you for the opportunity to submit the following comments to you and the California State Lands Commission (CSLC) regarding the above-referenced matter.

Meeks Bay Vista Property Owners Association (MBVPOA) is a voluntary, non-profit organization of approximately 100 property owners located in the Meeks Bay and Rubicon Bay areas of Lake Tahoe. MBVPOA has been engaged in the Benchmark Rental Rate discussion with the CSLC Commissioners and staff members for approximately 10 years. On behalf of the MBVPOA Board of Directors, may I compliment you and your staff on their willingness to meet with our members and representatives and allow us the opportunity to provide input, data, and suggestions on this matter. You and your staff have always treated MBVPOA representatives with respect and a professional attitude, even on issues in which we disagree.

MBVPOA has spent thousands of dollars on attorneys, appraisers, and various consultants, as well as hundreds of hours of volunteered time, to review the Dore Report and its methodologies and analyses, and CSLCs subsequent proposed update to the 2012 Category I Lake Tahoe Berths and Buoys Benchmark Rental Rates and a proposal to establish a Category 2 Lake Tahoe Benchmark Rental Rate, applicable to non-water dependent uses extending on or over sovereign

land in Lake Tahoe. **We fully support** CSLC staff analysis and conclusion that The Dore Report was complex, yet inconsistent and generally perplexing, and was based on market conditions entirely outside of the subject area. Our consultants have provided a detailed analysis of the Dore Report that supports the conclusions made by your Staff that the report failed to adequately recommend fair, reasonable, and rational rates.

MBVPOA continues to have fundamental disagreements with the methods and assumptions of the Dore Report. At the same time, we are keenly aware that it may be impossible or impractical to ever draft a "perfect" report or reach a precisely correct rate. Therefore, notwithstanding these unresolved disagreements and without waving MBVPOA's right to contest these disagreements in the future, **MBVPOA generally finds the CSLC's proposed Category 1 and Category 2 rates as presented in your email of November 9, 2021 to be acceptable and will support these proposed benchmarks at the Commission Meeting.**

However, as you know, MBVPOA continues to have issues and misgivings about some assumptions relied on by the CSLC staff and the Dore Report when calculating rates. These concerns include but are not limited to:

- A) **Illegal non-permitted buoys:** Our Association members and all current CSLC Lessees are very frustrated that CSLC is fully aware of potentially **1,000 unpermitted buoys** that are in place in Lake Tahoe, without addressing and/or regulating these illegal buoys for the last 10 years, despite having undergone an update on regulations and rental rates. The owners of these unpermitted buoys have paid NO rent to CSLC and continue to be unregulated, creating a constant bone of contention between those owners and the owners of permitted, paying lessees and State Lands Commission. The lost revenue to The Lake Tahoe Science and Lake Improvement Account (the "Lake Tahoe Science Account") is in the hundreds of thousands of dollars. In all matter of fairness, common sense and a true fiduciary responsibility, this issue needs to be a priority to address by State Staff.

A-1) Suggestion/Recommendation: Seek legislation authorizing CSLC to allocate and use/divert \$100,000 per year for 5 years from rental funds payable to the Lake Tahoe Science Account to finance a top priority effort by CSLC staff and the Tahoe Regional Planning Agency (TRPA) to remove illegal unpermitted buoys or bring them into compliance by obtaining a CSLC lease and a TRPA permit. If the illegal unpermitted buoys are to be permitted and new CSLC Leases issued, there should be a claw-back provision for missed rent for 5 years. This action/legislation should actually add additional funding to the Lake Tahoe Science Account.

- B) **The applicability of applying a CPI adjustment:** A CPI is typically used in a non-residential setting to make a landlord whole for operational cost increases (i. e. property taxes, insurance, repairs, or maintenance). Here, in contrast, CSLC does not have operating costs associated with operating or administering private piers and buoys on

submerged sovereign lands of California, and this fact militates against imposing a CPI on CSLC Leases. Furthermore, CSLC incurs no cost in administering leases since related staff costs are charged back to the lessee. When Leases are renewed, the Lessee will pay the new benchmark rental rate upon renewal. That new benchmark rental rate may be less than the prior benchmark rate as increased by changes in the CPI.

B-1) Suggestion/Recommendation: Either remove the CPI based on the fact that the private non-profit buoys do not produce any income, and the rents are adjusted every 5 years; or as an alternative, set a floor of 1% and a ceiling of 2%.

- C) **El Dorado / Placer County Subsidy:** The rent analysis combines the two counties and provides a very inconsistent and skewed set of numbers. The CSLC staff's recommended 2021 Benchmark proposal **overcharges** lessees in El Dorado County, and yet **subsidizes** Placer County lessees. This is not only completely illogical, but also unfair and unjust.

C-1) Suggestion/Recommendation: Direct CSLC staff in the next 5-year adjustment to separate El Dorado County and Placer County rental structures accordingly.

- D) **The Dore Report methodology conflicted with authorized methodological approaches:** Public Resources Code section 6503.5(a) provides in part "[t]he Commission shall charge rents for a private recreational pier" and that "rents **shall be** based on rates are to be established by **local conditions and local fair annual rental values**". In particular, we observe that CSLC Staff Report 90, dated February 27, 2018, identified a range of methodologies to establish fair market value and rental rates; however, this range of methodologies, consistent with statutory limitations, omitted using capitalization rates from for-profit enterprises located in another region of the state. Thus, the Dore Report failed to proceed according to the guidance presented in the CSLCs own report identifying the scope of acceptable methodology and in accordance with 2 CCR 2003(a); that is, an identified range of methodologies limited by controlling statutory restrictions.

D-1) Suggestion/Recommendation: Do not accept the Dore Report.

- E) **The Dore Report and CSLC staff proposed 2021 Benchmark rental rates fail to consider the public benefit from the privately installed and maintained piers and buoys, benefits enjoyed by the public without an off-setting public cost:** There are countless anecdotal instances when private piers and buoys contributed to preventing a dangerous health and safety circumstance at the Lake. 2 CCR 2003(e)(4) provides "Rent may be discounted or waived for use of sovereign lands if the Commission, at its sole discretion, determines that a significant regional or statewide public benefit is provided or accrues from such use." The Dore Report and CSLC staff dispensed with the discount referenced in the regulation.

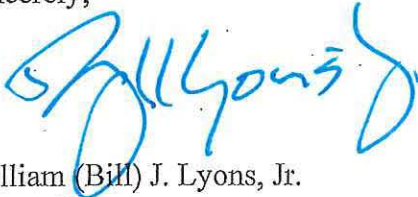
E-1) Suggestion/Recommendation: Methodological approaches **reaffirm the "public benefit"** to help support the removal of the CPI and establish fair rental rates.

- F) **It is illogical that private piers and buoys, not available for rental to the general public are charged more than commercial public piers and buoys, that operate to serve the general public for profit:** Way and Associates explained to the CSLC:
"Percentage-wise the difference between the current rent per slip paid to CSLC by private owners and the rent proposed in the Dore Report is **382%** (\$2,130/slip ÷ \$557/slip)."
The current CSLC staff proposed rental rates still charge private **non-profit** privately owned piers and buoys **more** than **for-profit commercial** piers and buoys. How is that fair and reasonable?

F-1) Suggestion/Recommendation: Review your commercial rental rates. It is truly illogical and indefensible **that non-profit** privately owned buoys and piers pay more rent than **for-profit commercial** operators who can pass on costs/fees to their customers.

Again, on behalf of MBVPOA, thank you for the opportunity to submit these comments. Should you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in blue ink, appearing to read "Bill Lyons Jr.", with a stylized flourish at the end.

William (Bill) J. Lyons, Jr.

President,

Meeks Bay Vista Property Owners Association

Lunetta, Kim@SLC

From: Anthony Sloss [REDACTED]
Sent: Tuesday, November 09, 2021 1:04 PM
To: Lee, Ninette@SLC
Subject: Lake Tahoe Benchmarks Comments

Attention: This email originated from outside of SLC and should be treated with extra caution.

CSLC,

Regarding the proposed update to the 2012 Category 1 Lake Tahoe Berths and Buoys Benchmark Rental Rates, I submit the following comments.

It is unfair and a mistake to assign commercial income rates to every square foot of a private pier. The vast majority of pier owners own a single motor boat which they may berth at their pier. Thus the privately owned pier is typically built to service one boat. This is categorically different from a commercial pier which is designed to berth multiple boats. Therefore, a more accurate and fair rent formulation for private piers is to charge the 5% of estimated income for the square footage associated with one boat, and a different ('access rate') charge for the remainder of the pier area. The access rate charge would not be based on income but some other passive-use metric. I submit this would be substantially lower than an income based rate.

Sincerely,

Tony Sloss
[REDACTED]

co-owner of lakefront property in Tahoma



TAHOE LAKEFRONT OWNERS' ASSOCIATION

P.O. Box 7073 · Tahoe City, CA · 96145 · (530) 583-5253 · FAX (530) 583-0401 · TLOA.net

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Todd Lowe
Incline Village

December 6, 2021

Via E-Mail Only

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Rubicon

William S. Thompson
Rubicon

Executive Director

Jan Brisco

Ms. Jennifer Lucchesi
Executive Officer
California State Lands Commission
100 Howe Avenue, Suite 100-South
Sacramento, CA 95825-8202

Re: Lake Tahoe Benchmark Piers & Buoys

Greetings:

This letter requests Regular Calendar item V.02 be modified to remove Category 2 Lake Tahoe Non-Water Dependent Uses benchmark rental rates for sovereign land in El Dorado, Placer, and Nevada Counties from consideration at the December 8, 2021, meeting.

This request comes after a careful review of the CSLC staff proposal, supporting documents, and submission of detailed comments and suggestions as to how the Category 2 Benchmark could be consistently and fairly applied. The CSLC proposal fails to fairly identify the various uses under which Category 2 is applied and uses faulty analysis in attempting to reach a fair Benchmark rate. The Tahoe Lakefront Owners' Association (TLOA) believes that this category of uses needs more refinement and an appropriate methodology applied to determine fair rent based on sound appraisal principals for all uses being considered.

For more than 40 years, the TLOA has been a committed partner with CSLC in development of fair and consistent regulations, and rents, for our California owners, and continues to work closely with the CSLC staff to find solutions to issues as they arise. As the CSLC staff has **not provided a written response** to our comments, nor have they shown any consideration for our suggestions in the final proposal, we feel it is prudent to bifurcate the approvals of Category 1 and Category 2 to allow further discussion and refinement to achieve an appropriate methodology.

Thank you for your consideration.

Sincerely,
TAHOE LAKEFRONT OWNERS' ASSOCIATION

Jan Brisco
Executive Director