

Staff Report 20

APPLICANT:

Team JEM Tahoe LLC, a California limited liability company

PROPOSED ACTION:

Issuance of a General Lease – Recreational Use

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in Lake Tahoe, adjacent to 4250 West Lake Boulevard, near Homewood, Placer County.

AUTHORIZED USE:

Use and maintenance of an existing pier previously authorized by the Commission; and an existing freshwater intake pipeline and one mooring buoy not previously authorized by the Commission.

TERM:

10 years, beginning February 25, 2022.

CONSIDERATION:

\$1,469 per year, with an annual Consumer Price Index adjustment; and \$1,280 to compensate for the unauthorized occupation of state sovereign land for the period beginning March 23, 2021 through February 24, 2022.

SPECIFIC LEASE PROVISIONS:

- Liability insurance in an amount no less than \$1,000,000 per occurrence.
- Lessee expressly 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 this 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 August 11, 2009, the Commission authorized a 10-year Recreational Pier Lease to Nathan L. Topol for the use and maintenance of an existing pier ([Item 07, August 11, 2009](#)). The lease expired on December 19, 2018. In the prior application, the existing mooring buoy and freshwater intake pipeline were not made known to staff. In 2015, ownership interest in the upland parcel had transferred from Nathan L. Topol to family trusts; ownership interest was then further transferred between several other owners.

On March 23, 2021, ownership of the upland parcel transferred to Team JEM Tahoe, LLC, a California limited liability company. The Applicant is now applying for a General Lease – Recreational Use for the use and maintenance of the existing pier, previously authorized by the Commission, and an existing freshwater intake pipeline and one mooring buoy, not previously authorized by the Commission. On June 8, 2021, TRPA registered the mooring buoy under Permit Number 11310.

The Applicant has agreed to pay compensation for the unauthorized occupation of state land in the amount of \$1,280 for the period beginning March 23, 2021, when ownership was taken through February 24, 2022, the day before the February Commission meeting when the proposed new lease begins. Staff recommends the Commission accept this compensation, and further recommends that the provisions of the lease, including the indemnity provision, be applied to the period of unauthorized occupation.

The Applicant has filed an Initial Statement of Diversion from the State Water Resources Control Board for the existing freshwater intake pipeline. The freshwater intake pipeline is not generally associated with traditional Public Trust uses. However, the pipeline has been in place for many years, and occupies a small area of the lakebed. The owners use the pipeline to provide water to the upland property. The pipeline does not interfere with Public Trust activities at this location at this time.

The Applicant owns the uplands adjoining the lease premises. The subject facilities are privately owned and maintained. The pier and mooring buoy are used for the docking and mooring of boats and facilitate recreational boating. Recreational boating is water-dependent and 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 lands. (Pub. Resources Code, § 6503.5).

The subject facilities have existed for many years at this location. The pier is built on pilings, meaning the public may navigate or walk next to and, at lower water levels, under the pier. The immediate area of the existing pier is a relatively flat beach with small stones and boulders. The 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 payment of annual rent to compensate the people of the State for the occupation of the public land involved.

CLIMATE CHANGE:

Climate change significantly affects inland non-tidal lakes such as Lake Tahoe. The frequency and severity of natural disasters like flooding, wildfire, drought, extreme heat, and storms are increasing throughout the state of California, including the Sierra Nevada mountains, and will continue to accelerate through the end of the century. Structures along the shores of inland lakes are particularly vulnerable to the more frequent and extreme weather events and shifts in seasonal characteristics.

According to California's Fourth Climate Change Assessment, released in 2018, the most significant impacts of climate change in the Sierra Nevada Region are more intense heat, precipitation extremes, declining snowpacks, and changes in streamflow timing. The long-term warming trend will lead to warmer and shorter winters, and longer and dryer summers. Successive dry and warm winters are resulting in minimal snowpack, increased winter streamflows and floods, and decreased spring and summer runoff. Prolonged low lake levels will become

normal. Low lake level conditions can create more expansive beaches and increased shoreline access in dry months. However, these conditions interfere with boat launching and mooring facilities. This impact is most noticeable where the facilities are sited on shallow, low gradient lake bottom locations.

Dry winters will be punctuated with exceedingly wet years where prolonged and excessive precipitation can produce flash floods. High precipitation in these years will result in higher lake levels, causing beaches to narrow and reducing public access. Extra saturation of the soil can increase erosion, especially following intense wildfire seasons. Surface runoff water may carry more sediment into the lake, adversely impacting water quality and clarity.

Climate change may also lead to more intense and unpredictable storm events and winds. These storms may deviate from prevailing wind patterns for the region. These winds can accelerate shoreline erosion in some areas or cause erosion in areas not typically subject to erosion. Additionally, these winds can increase wave damage on structures and boats along the lake.

Shoreline structures authorized under this lease may require more frequent inspection and maintenance to ensure they are not displaced during storm events. Watercraft moored to buoys, piers, or docks are also vulnerable to damage from high wind events and excessive waves.

CONCLUSION:

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

OTHER PERTINENT INFORMATION:

1. Approval or denial of the application is a discretionary action by the Commission. Each time the Commission approves or rejects a use of sovereign land, it exercises legislatively delegated authority and responsibility as trustee of the State's Public Trust lands as authorized by law. If the Commission denies the application, the Applicant may be required to remove the pier, freshwater intake pipeline, and 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” and “Leading Climate Activism” Strategic Focus Areas of the Commission’s 2021-2025 Strategic Plan content.
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 the 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 \$1,280 for the unauthorized occupation of State lands for the period beginning March 23, 2021, through February 24, 2022.

2. Authorize issuance of a General Lease – Recreational Use to the Applicant beginning February 25, 2022, for a term of 10 years, for the use and maintenance of an existing pier previously authorized by the Commission, and an existing freshwater intake pipeline and one mooring buoy not previously authorized by the Commission; as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; annual rent in the amount of \$1,469, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

LEASE 5610

LAND DESCRIPTION

Three parcels of submerged lands situated in the bed of Lake Tahoe, lying adjacent to Lot 3 of fractional Section 36, Township 15 North, Range 16 East, M.D.B.&M., as shown on Official Government Township Plat approved December 20, 1865, County of Placer, State of California, more particularly described as follows:

PARCEL 1 – PIER

All those lands underlying an existing pier and two catwalks lying adjacent to those parcels described in Grant Deed recorded March 23, 2021 as Document Number 2021-0040560-00 in Official Records of said County.

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

PARCEL 2 – WATER INTAKE PIPELINE

All those lands underlying an existing water intake pipeline lying adjacent to those parcels described in Grant Deed recorded March 23, 2021 as Document Number 2021-0040560-00 in Official Records of said County.

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

PARCEL 3– BUOY

A circular parcel of land, being 50 feet in diameter, underlying an existing buoy lying adjacent to those parcels described in Grant Deed recorded March 23, 2021 as Document Number 2021-0040560-00 in Official Records of said County.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared 01/10/2022 by the California
State Lands Commission Boundary Unit.



NO SCALE

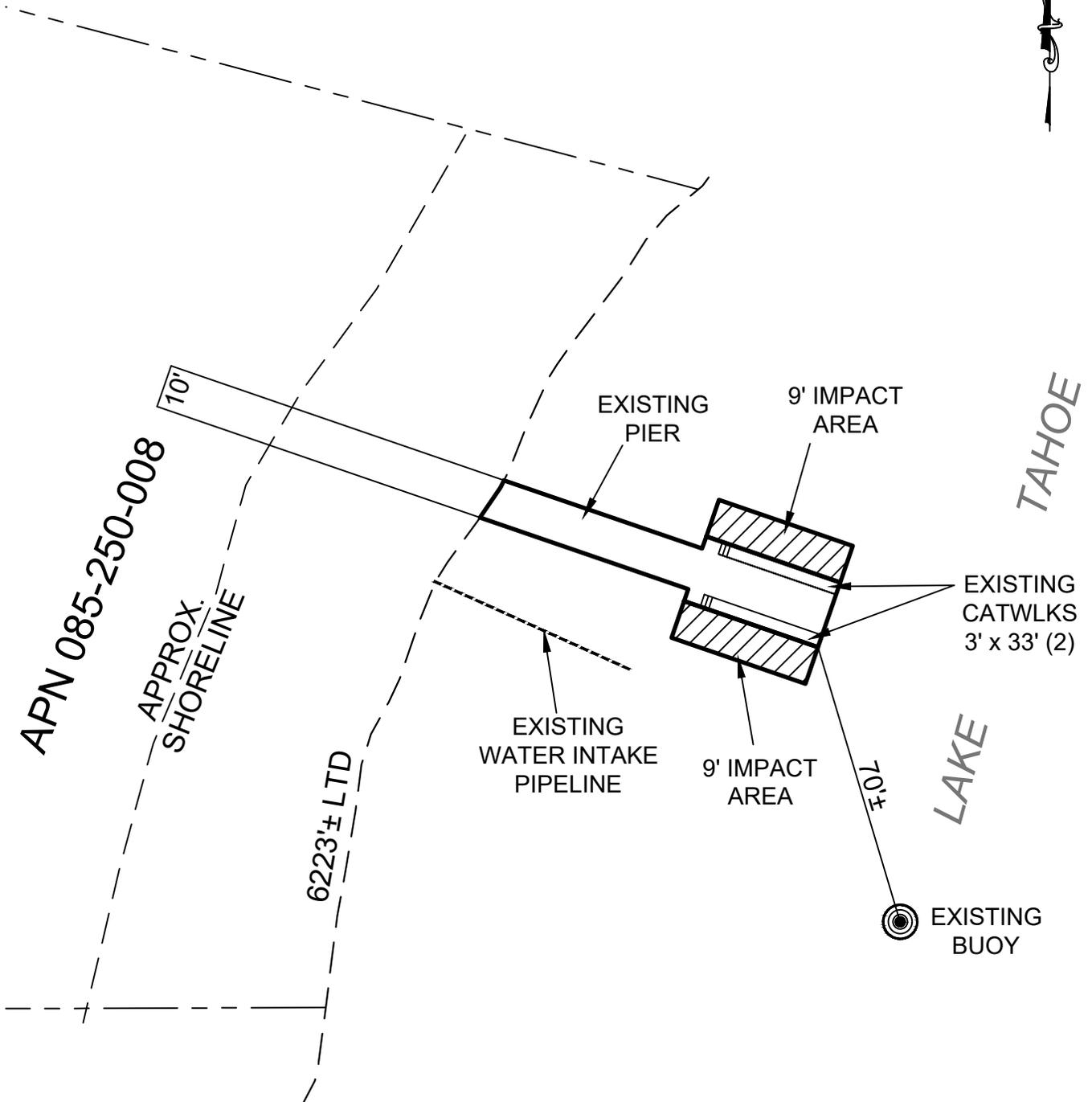


EXHIBIT A

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LAND DESCRIPTION PLAT
 LEASE 5610, TEAM JEM TAHOE LLC
 PLACER COUNTY

CALIFORNIA STATE
 LANDS COMMISSION



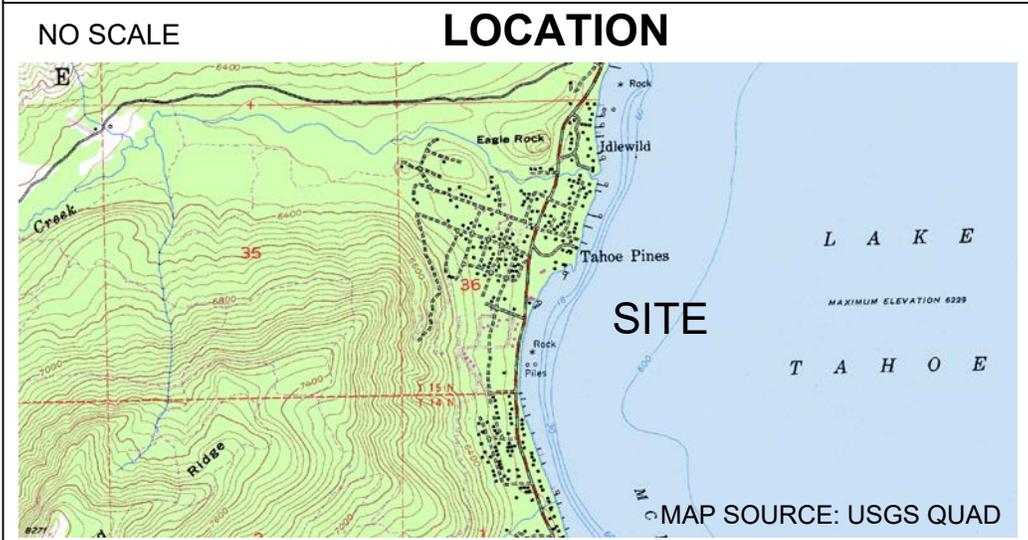
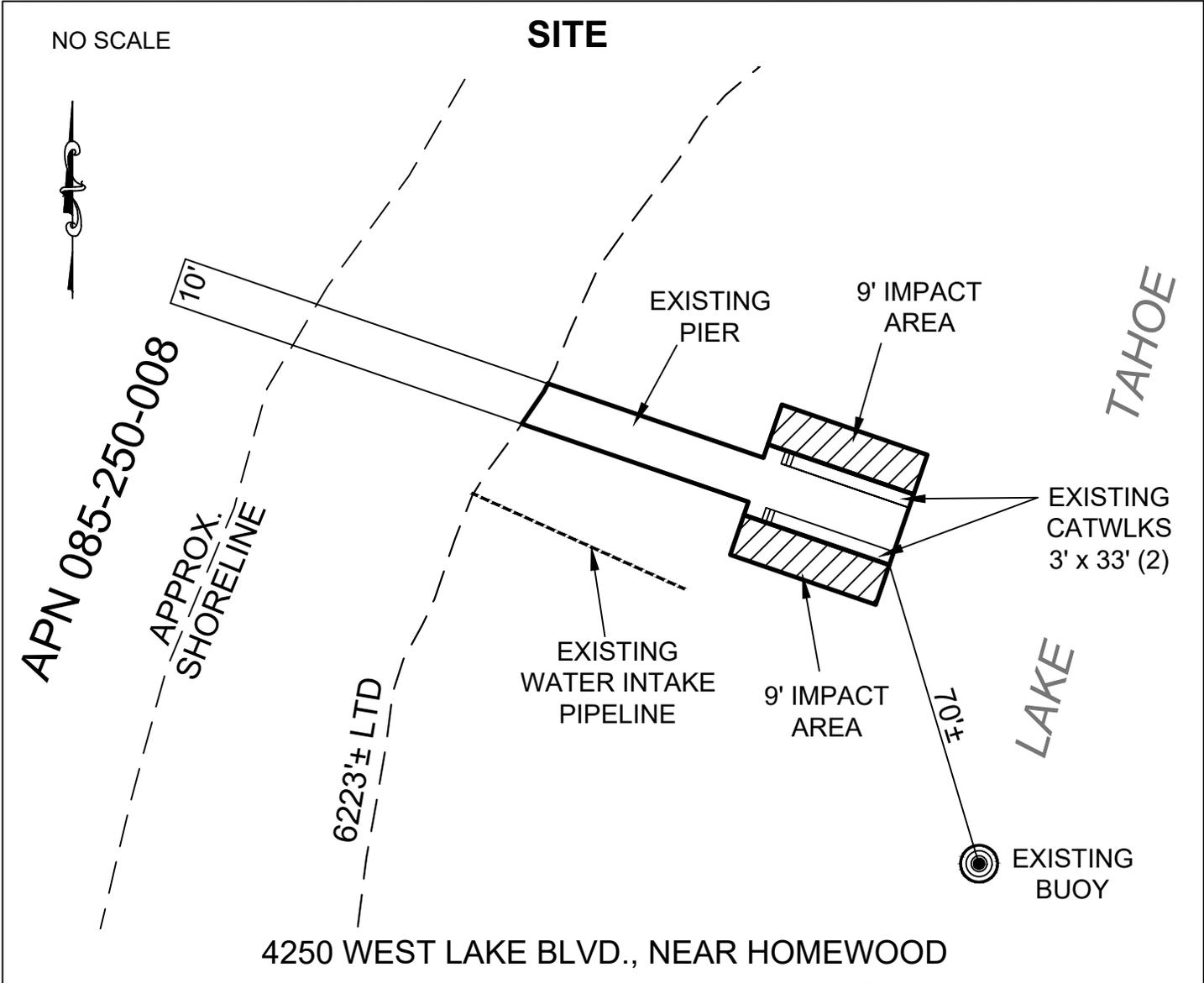
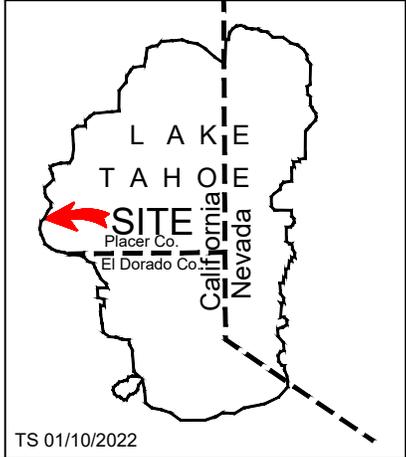


Exhibit B

LEASE 5610
 TEAM JEM TAHOE LLC
 APN 085-250-008
 GENERAL LEASE -
 RECREATIONAL USE
 PLACER COUNTY



TS 01/10/2022

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.