

Staff Report 33

PARTY:

California State Lands Commission

PROPOSED ACTION:

Approve the 2024 Category 2 Solana Beach Benchmark rental rate.

LAND TYPE AND LOCATION:

Sovereign land in Solana Beach, San Diego County.

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.

The California Constitution 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.) 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:

- 9 percent of the appraised value of the leased land.
- A percentage of annual gross income, where the percentage is based on an analysis of the market for like uses and other relevant factors.

- A comparison to rents for other similar land or facilities.
- 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).)

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Benchmarks are used to establish uniform rental rates in specific geographic regions with large concentrations of similar facilities, mostly private recreational improvements within the Commission's jurisdiction. (Cal. Code Regs., tit. 2, § 2003, subd. (a)(5).) The use of benchmarks improves consistency, transparency, and efficiency in how the Commission establishes rent for large numbers of similar leases, saving time, resources, and money for both the applicant and the State. Periodic benchmark adjustments assure that the people of the State are fairly compensated according to current market rates for the private use of State-owned land, consistent with the California Constitution. Generally, staff recommend updates to the benchmarks every 5 years. The Commission's current benchmarks and benchmark map may be found at <https://www.slc.ca.gov/leases-permits/benchmarks/>.

The Commission has two types of benchmarks for rental rates:

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

This staff report addresses the Category 2 benchmark for Solana Beach leases that mostly include shoreline protective structures and other non-water dependent encroachments.

METHODOLOGY:

The Commission has been using the Category 2 Solana Beach benchmark since 2012. The benchmark was last updated in October 2017 when the Category 2 rate was set at \$46.80 per square foot ([Item 72, October 19, 2017](#)). Category 2 benchmarks are based on and associated with nearby upland land values because sovereign lands generally do not sell in the open market. Improvements on sovereign land (for example, cantilevered decks, sundecks, or other non-water dependent encroachments) represent an extension of the private yard of the upland residence – a purpose unrelated to the docking and mooring of boats.

Commission appraisal staff uses the following general process to establish and update a Category 2 benchmark. First, staff conducts research to identify recent nearby upland residential sales. The initial research seeks to identify vacant land sales only because the subject properties within the benchmark area are the underlying sovereign land, not the privately-owned residential improvements. If vacant land sales are unavailable, rather than use comparable sales that do not front the water, which would necessitate adjustments for location, an allocation method is employed. For the improved residential sales deemed similar to the subject properties, the land values are extracted through use of the improvement percentage assigned by the local Assessor's Office. For instance, if a house sold for \$1,000,000 and had an improvement percentage of 40%, then the allocated value of the land is 60%, or \$600,000. For analysis purposes, the unit of comparison used is the price per square foot of land area. Next, staff analyzes the compiled sale data to determine a per-square foot value representative of the area. The benchmark is calculated by applying a 9 percent annual rate of return to the appraised value of the leased land consistent with California Code of Regulations, title 2, section 2003, subdivision (a)(1).

The Category 2 benchmark may then be discounted to reflect that the sovereign land to be leased may not have the same utility or intensity of use as the upland properties from which the data were drawn. While the subject properties contribute to the overall value of the upland properties, they also have significant physical characteristics which limit their development potential including their submerged nature, waterway location with limited access, sloping topography, unavailable offsite improvements, and no public utilities. Therefore, a discount may be warranted.

Using the methodology described above, Commission appraisal staff identified ten home sales on oceanfront lots in the city of Solana Beach. The sales occurred

between February 2020 and October 2023, with a sales range of \$3,500,000 to \$15,000,000 and a corresponding land value range of \$517 to \$1,897 per square foot. Due to the physical uniqueness of each subject property and lack of significant land value trends relating to the comparable sales, the appraisal staff concluded that no particular sale was deemed a better indicator than any other sale in setting a land value benchmark. Therefore, an analysis of the overall dataset was warranted and deemed appropriate in concluding land value for the Category 2 Solana Beach Benchmark. Based on all the data gathered and analyzed, appraisal staff concluded that a unit value between the mean and median was reasonable for the typical upland residential property. The concluded land value based on these sales figures is \$1,017 per square foot. Taking all the previously described inputs into account, the proposed undiscounted rental rate for the Solana Beach Benchmark is calculated as follows:

$\$1,017 \times 9\% = \91.53 per square foot.

The 2017 Category 2 Solana Beach Benchmark was set at \$46.80 per square foot. As proposed, the new benchmark rate of \$91.53 per square foot represents an increase of \$44.73 per square foot. This is a significant increase in the benchmark. However, the methodology used is consistent with all other Category 2 benchmarks and the data used to establish this specific proposed benchmark was derived almost exclusively from the upland land values directly adjacent to the leases covered by these benchmarks. This benchmark increase highlights the strong demand and appreciation in value for exclusive, limited coastal properties. The Commission is required by statute to charge fair market value for the use and occupation of its lands. Staff believes that use of this methodology and the proposed benchmark best achieve that statutory requirement.

The sovereign lands covered by this benchmark have no capacity to be used as residential living space, so a discount to account for a reduced utility or a lower intensity of use as compared to the upland land is appropriate. For features such as shoreline protective structures (primarily seawalls and sea cave infill in the Solana Beach area), staff recommends the application of a discount up to 75 percent to reflect the reduced utility and intensity of use of the sovereign lands occupied. This approach is consistent with how staff apply discounts for similar facilities throughout the state.

Where shoreline protective structures provide a purely private benefit to the lessee, no public benefit discount is warranted. However, rock falls due to undercutting and sea cave collapses along the 50- to 80-foot-high sandstone bluffs that

characterize the Solana Beach shoreline represent a hazard to the beach-going public which those structures help to mitigate. While shoreline protective structures in Solana Beach are primarily for private benefit, some do provide a limited public safety benefit; therefore, staff has applied, and recommends continuing the application of, an additional 33 percent public benefit discount for those shoreline protective structures that provide a public benefit in the area covered by this benchmark. California Code of Regulations section 2003, subdivision (e)(4), provides that “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.” Staff considered an appropriate discount to apply for the portion of recognized public benefit the seawalls provide in Solana Beach and concluded that 33 percent was reasonable based on the circumstances.

Although not considered as part of this methodology, adverse impacts that may be caused by shoreline protective structures both in Solana Beach and throughout California are addressed through conditions imposed through Commission leases, Coastal Development Permits, and various beach nourishment programs conducted by city and regional governing bodies.

CONCLUSION:

Staff’s methodology for setting the proposed Category 2 Solana Beach Benchmark rental rate is consistent with the methodology used for the Commission’s other Category 2 benchmarks, as well as all the relevant statutes and regulations that govern the Commission’s rent-setting authority. Staff believes the recommended benchmark rate represents a fair and equitable rate for the type of use based on the most current and relevant data available. Approval of the new benchmark rental rate will not result in a change in the use of, or substantially interfere with or impact Public Trust resources. Staff believes that the benchmark provides a reasonable and consistent method for determining rent in the geographic coverage area and is in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. In 2014, the Commission adopted amendments to Sections 1900, 2002, and 2003 under articles 1 and 2 of title 2, division 3, chapter 1 of the California Code of Regulations that included regulations on rent-setting methods approving the use

of benchmarks and the application of the Consumer Price Index ([Item 5, January 23, 2014](#)).

2. This action is consistent with Goal 4 of the Commission's Strategic Plan "Meeting Evolving Public Trust Needs," specifically Section 3 – "Maintain fiscal integrity through transparency, accountability", and subheading 3.a. "Efficient and effective management of the revenue-generation portfolio."
3. Approval of the 2024 Category 2 Solana Beach Benchmark rental rate is not a project as defined by the California Environmental Quality Act 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).

EXHIBIT:

A. 2024 Category 2 Solana Beach Benchmark

RECOMMENDED ACTION:

It is recommended that the Commission:

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that approval of the benchmark will not result in a change in the use of, or impact on, Public Trust resources; is consistent with the common law Public Trust Doctrine; and is in the best interests of the State.

AUTHORIZATION:

1. Approve the 2024 Category 2 Solana Beach Benchmark rental rate of \$91.53 per square foot, effective April 4, 2024.
2. Approve the application of up to a 75 percent discount to the Category 2 Solana Beach benchmark to adjust for any reduced utility or intensity of use of the sovereign land subject to this benchmark, effective April 4, 2024.
3. Approve an additional 33 percent discount to the Category 2 Solana Beach benchmark to adjust for the public benefit provided by shoreline protective structures subject to this benchmark, effective April 4, 2024.