

From: [Kate Merriman](#)
To: [CSLC CommissionMeetings](#)
Subject: Craneway pavilion in Richmond
Date: Monday, March 11, 2024 7:12:29 PM

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

Why has a private pickleball club been allowed to take over the Craneway Pavilion in Richmond without approval and in violation of the charter to allow public access to the space? Why are we losing this space for Richmond residents for longstanding annual events?

Kate Merriman
Richmond homeowner

From: [Sandy Tarbet](#)
To: [CSLC CommissionMeetings](#)
Cc: [Sandra Tarbet](#)
Subject: Richmond, CA the Craneway Building
Date: Monday, March 11, 2024 7:05:20 PM

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

Hello, I am a Richmond resident. Many of us residents are upset that our Craneway Pavilion, which as you know is steeped in history and is on the waterfront, is being

leased out (as we speak) to a pickleball corporation based in Newport Beach. Our understanding is that it had to get approval from your Commission and that you did not approve it.

They have presently installed athletic flooring in the whole pavilion, and installed nets, etc also in the whole space. This will be a for-profit enterprise, most probably members only.

Many of us were in the understanding that the Pavilion was for the use of the public, given its historical past, and also in the theme of the bay, ships, WW2, etc.

How can this be done? And is your Commission aware of this? Here is a link of the corporation. <https://www.pbdevgroup.com/craneway>

Thank you
Sandra Tarbet ..

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*Sandy
Tarbet*

sandy.tarbet

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From: [Christina Valli](#)
To: [CSLC CommissionMeetings](#)
Subject: Comment for next virtual meeting
Date: Monday, March 11, 2024 3:30:30 PM

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

Please address what is happening at the Craneway Pavillion in Richmond. The city is supposed to be the steward to this historical spot and maintain its access to the general public. However an expensive pay to play pickleball club has been installed in the historic building. This is not the want of the majority of the population in Richmond. It pushes out yearly community events and prioritizes a sport that many in the community do not participate in. This place should be a library or an indoor soccer field at the least (much more reflective of the people of Richmond). As I understand there was not approval for this pickleball court. Is that true? And what are the steps to ensure this historical gem in Richmond is used as a space for the majority of the people there

From: [Dick Andrews](#)
To: [CSLC CommissionMeetings](#)
Subject: SLC-Please Stop the Class Discrimination in Newport Harbor
Date: Monday, April 1, 2024 2:43:03 PM

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

Dear Commissioners,

As you may be aware, the SLC Staff is currently reviewing a proposed mooring rate increase of up to 500% for offshore mooring and 1000% for shore moorings in Newport Harbor. These moorings are the last affordable access to boating in Newport Harbor. This proposed rate increase will force average boaters out of the submerged tidelands in Newport Harbor which fall under SLC oversight jurisdiction.

Currently, the mooring holders pay **4 times more** than the affluent waterfront homeowners for use of the same submerged tidelands. If the proposed rate increase goes through, the mooring holders will be paying up to **20 times more** than the affluent waterfront homeowners pay, for use of the exact same tidelands. That's not fair and it clearly targets and discriminates against people with moorings.

In pushing this extreme discrimination, the city's Harbor Commission has completely ignored the January 2024 independent appraisal by CBRE which shows the city of Newport Beach's appraisal is way off base and does not even account for the lack of dinghy docks to get out to our moorings, when every other harbor in California provides dinghy docks to get out to a mooring. The independent CBRE appraisal, which is being ignored by the Harbor Commission, shows there is no need for any increase in excess of the CPI.

Fortunately, the granting statute for Newport Bay has a specific clause prohibiting price discrimination in the harbor. This anti-discrimination clause regarding rates in Newport Harbor dates back to the early 1900's. It simply indicates, the city shall not charge one user more than another for the use of the tidelands. Unfortunately, this price discrimination is occurring today and will only be exacerbated ten fold if the proposed rate increase is tolerated by this Commission. Lest there be any doubt, the city code itself states that the people with moorings are to be charged rates similar to other rates charged for users of the tidelands. This clearly flies contrary to that code.

This is how the proposed rate increase will have an impact on me and my family:

My wife and I are both on disability. So we are on a fixed income the imposed increases in Marine rates will make my dream of having my boat go away one of the reasons why I was able to get my boat was due to the Locust Mornings in Newport Harbor. I have worked in Newport Harbor for over 20 years as a service technician on Marine engines and other boats with the proposed rates of that the city has been talking about I will lose my home and my dreams

I ask this commission to perform a thorough investigation of this matter. SLC staff has been provided proof that the City of Newport Beach is using flawed information in the attempt to raise mooring rates up to 500% and higher for shore moorings, which will clearly push average boaters out of Newport Harbor, while leaving the rates of other tidelands users alone. Discrimination can't be tolerated.

We appreciate the State Lands staff for reviewing this matter and we encourage this commission to thoroughly investigate the matter.

discrimination clause regarding rates in Newport Harbor dates back to the early 1900's. It simply indicates, the city shall not charge one user more than another for the use of the tidelands. Unfortunately, this price discrimination is occurring today and will only be exacerbated ten fold if the proposed rate increase is tolerated by this Commission. Lest there be any doubt, the city code itself states that the people with moorings are to be charged rates similar to other rates charged for users of the tidelands. This clearly flies contrary to that code.

I ask this commission to perform a thorough investigation of this matter. SLC staff has been provided proof that the City of Newport Beach is using flawed information in the attempt to raise mooring rates up to 500% and higher for shore moorings, which will clearly push average boaters out of Newport Harbor, while leaving the rates of other tidelands users alone. Discrimination can't be tolerated.

We appreciate the State Lands staff for reviewing this matter and we encourage this commission to thoroughly investigate the matter.

Thank you for your time sincerely Dick Andrews Mooring holder

From: [Richard Ashoff](#)
To: [CSLC Commission Meetings](#)
Subject: Written public comment non-agenda item April 4th SLC-Please Stop the Class Discrimination in Newport Harbor
Date: Saturday, March 30, 2024 11:26:49 AM
Attachments: [image002.png](#)
[image004.png](#)

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

Dear Commissioners,

I am writing to bring to your attention a matter of significant concern regarding the proposed mooring rate increases in Newport Harbor. The current proposal suggests a staggering 500% increase for offshore moorings and an alarming 1000% increase for shore moorings. These moorings serve as the last affordable access point to boating in Newport Harbor. Such a drastic rate hike threatens to exclude average boaters from accessing the submerged tidelands, which fall under the jurisdiction of the State Lands Commission (SLC).

Presently, mooring holders already pay four times more than affluent waterfront homeowners for the use of the same submerged tidelands. If the proposed rate increase is implemented, mooring holders would be subjected to paying up to 20 times more than their waterfront counterparts for the exact same privileges. This disparity is unjust and unequivocally discriminates against individuals with moorings.

Furthermore, it is concerning that the Harbor Commission has disregarded the findings of an independent appraisal conducted by CBRE in January 2024. This appraisal highlights significant discrepancies in the city of Newport Beach's valuation methodology, notably failing to account for essential infrastructure such as dinghy docks, which are standard in other California harbors. The CBRE appraisal concludes that there is no justification for a rate increase beyond the Consumer Price Index (CPI).

It is worth noting that the granting statute for Newport Bay includes a specific clause prohibiting price discrimination within the harbor, dating back to the early 1900s. This clause mandates that the city cannot charge one user more than another for the use of tidelands. Regrettably, the proposed rate increase constitutes blatant price discrimination, directly contravening both the spirit and letter of this statute.

I urge this commission to conduct a thorough investigation into this matter. Evidence suggests that the City of Newport Beach is relying on flawed information to justify exorbitant rate hikes for moorings, effectively pricing out average boaters while leaving the rates for other tideland users unaffected. Such discriminatory practices cannot be tolerated.

I implore the commission to take decisive action in rectifying this issue. We are grateful to the State Lands staff for their attention to this matter and urge the commission to undertake a comprehensive investigation.

Sincerely,

B. Rgds,

Richard Ashoff



To facilitate energy efficiency adoption, products must be developed to save energy, not add to the labor envelope, and use the environment's pre-existing infrastructure.



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The information contained in this electronic message and any attachments to this message are intended for the exclusive use of the addressee(s) and may contain confidential or privileged information. If you are not the intended recipient, or the person responsible for delivering the e-mail to the intended recipient, be advised you have received this message in error and that any use, dissemination, forwarding, printing, or copying is strictly prohibited. Please notify _____ or at _____, and destroy all copies of this message and any attachments. You will be reimbursed for reasonable costs incurred in notifying us.

From: [Cliff Auerswald](#)
To: [CSLC CommissionMeetings](#)
Subject: Urgent Appeal: End Unfair Mooring Rate Hikes in Newport Harbor - Public Comment for April 4 SLC Meeting
Date: Saturday, March 30, 2024 6:53:53 PM

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

Dear Esteemed Commissioners,

I am writing to express my deep concern over the proposed mooring rate increases in Newport Harbor, as outlined by the SLC Staff. These increases, which could rise to 500% for offshore moorings and an unprecedented 1000% for shore moorings, are not just exorbitant—they threaten the very fabric of our boating community, representing the last bastion of affordable access to boating in the harbor.

It's critical to note that mooring holders, a diverse group comprising average-income families and enthusiasts, already bear a disproportionately high cost, paying four times more than affluent waterfront homeowners for access to the same submerged tidelands. Should this proposal pass, our financial burden would skyrocket to 20 times more than our affluent counterparts for identical tideland usage. This stark disparity feels unjust and directly discriminates against middle and lower-income boaters, who are the backbone of Newport Harbor's vibrant maritime culture.

The Harbor Commission's oversight of the January 2024 independent appraisal by CBRE has also raised concerns. This appraisal starkly contrasts with the city's valuation, highlighting significant oversights, including the absence of dinghy docks—a basic amenity provided in every other Californian harbor. Ignoring this appraisal suggests disregarding equitable treatment and failing to justify any increase beyond the Consumer Price Index (CPI).

Moreover, the essence of Newport Bay's granting statute, dating back to the early 20th century, is being overlooked. It explicitly prohibits price discrimination within the harbor, mandating equal charges for all tideland users. The proposed rate hike starkly contravenes this mandate, amplifying existing inequalities.

The impact of these proposed increases on my family and me would be profound. Like many others in the Newport Island community, we primarily own small boats, such as rib boats or 12-foot Boston Whalers, which are modestly valued. These vessels, nestled within the serene channels rather than the open bay, demand far less in terms of maintenance and space from the harbor. Yet, under the proposed scheme, we are lumped together with owners of far larger and more valuable vessels, facing the same punitive rate increases. This one-size-fits-all approach neglects our community's unique characteristics and needs, making it economically unfeasible for us to continue enjoying the harbor's waters. The prospect of relinquishing our mooring permits looms large, as our vessels' modest value and utility cannot justify the increased cost.

In light of these concerns, I implore the Commission to conduct a thorough and fair review of this proposal. The evidence and discrepancies presented by the SLC staff, including the neglect of the CBRE independent appraisal and the infringement of anti-discrimination clauses in the harbor's governing statutes, demand scrutiny. Our request is simple: to uphold the principles of fairness and equity that have long governed the use of Newport Harbor's tidelands.

We are grateful for the State Lands staff's attention to this matter and urge the Commission to reevaluate the proposed rate increases with a lens of fairness and justice, ensuring Newport Harbor remains a welcoming and accessible place for all who cherish its waters.

Regards,

Cliff Auerswald

Shore Mooring

From: [Bacor](#)
To: [CSLC CommissionMeetings](#)
Subject: Written public comment non-agenda item April 4th SLC-Please Stop the Class Discrimination in Newport Harbor
Date: Monday, April 1, 2024 10:59:44 PM

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

Dear Commissioners,

As you may be aware, the SLC Staff is currently reviewing a proposed mooring rate increase of up to 500% for offshore mooring and 1000% for shore moorings in Newport Harbor. These moorings are the last affordable access to boating in Newport Harbor. This proposed rate increase will force average boaters out of the submerged tidelands in Newport Harbor which fall under SLC oversight jurisdiction.

Currently, the mooring holders pay **4 times more** than the affluent waterfront homeowners for use of the same submerged tidelands. If the proposed rate increase goes through, the mooring holders will be paying up to **20 times more** than the affluent waterfront homeowners pay, for use of the exact same tidelands. That's not fair and it clearly targets and discriminates against people with moorings.

In pushing this extreme discrimination, the city's Harbor Commission has completely ignored the January 2024 independent appraisal by CBRE which shows the city of Newport Beach's appraisal is way off base and does not even account for the lack of dinghy docks to get out to our moorings, when every other harbor in California provides dinghy docks to get out to a mooring. The independent CBRE appraisal, which is being ignored by the Harbor Commission, shows there is no need for any increase in excess of the CPI.

Fortunately, the granting statute for Newport Bay has a specific clause prohibiting price discrimination in the harbor. This anti-discrimination clause regarding rates in Newport Harbor dates back to the early 1900's. It simply indicates, the city shall not charge one user more than another for the use of the tidelands. Unfortunately, this price discrimination is occurring today and will only be exacerbated ten fold if the proposed rate increase is tolerated by this Commission. Lest there be any doubt, the city code itself states that the people with moorings are to be charged rates similar to other rates charged for users of the tidelands. This clearly flies contrary to that code.

This is how the proposed rate increase will have an impact on me and my family:

My family has had a morning for about 40 years. Raising the rates up to 500% would force us to sell the morning and boat we own. We love our harbor and want to give our kids the same experience but this increase would prevent that from happening.

I ask this commission to perform a thorough investigation of this matter. SLC staff has been provided proof that the City of Newport Beach is using flawed information in the attempt to raise mooring rates up to 500% and higher for shore moorings, which will clearly push average boaters out of Newport Harbor while leaving the rates of other tidelands users alone. Discrimination can't be tolerated.

We appreciate the State Lands staff for reviewing this matter and we encourage this commission to thoroughly investigate the matter.

From: [nigelb](#)
To: [CSLC CommissionMeetings](#)
Subject: FW: Newport Harbor Mooring fees
Date: Saturday, March 30, 2024 4:46:43 PM

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

From: nigelb@
Sent: Saturday, March 30, 2024 4:42 PM
To: 'cslc.commissionmeeting@slc.ca.cov' <cslc.commissionmeeting@slc.ca.cov>
Subject: Newport Harbor Mooring fees

I will be brief since I suspect you will receive many comments: I have been a mooring holder for 15 years or so. It is the only way I can afford to enjoy our harbor and the ocean beyond. I am an 88 year old, living on social security. Based on the current proposal we (the mooring holders) will be paying far more for our little patch of mud than wealthier dock owners. We are boaters but we aren't wealthy and the proposed cost hike would put many of us out of the harbor. If you attended a harbor department meeting and looked at the audience you would see regular citizens trying to hold on to the privilege of being able to use the harbor and access to the ocean. We have no dinghy docks, no shuttle to get us out to our moorings. We get to our moorings by our own effort. The city provides nothing except consternation over our constant battle to make our moorings affordable to the common man (and woman). A rate hike is unwelcome, the one proposed is unconscionable. Nigel Bailey, Mooring number

From: [Barbara](#)
To: [CSLC CommissionMeetings](#)
Subject: public comment non-agenda item April 4th SLC-Please Stop the Class Discrimination in Newport Harbor
Date: Saturday, March 30, 2024 12:53:38 PM

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

Hello SLC

With so many emails and people contacting you regarding the Mooring issue in Newport Beach I surely hope that you pay attention to the findings. The city continues to use Netzer as an appraisal company. Many believe that there is collusion within the city. There is proof through emails, with city staff members, and the Harbor commissioners, telling Mr. Netzer how to organize and charge the rates for this increase and other increases through the many years that Netzer has worked with the city. You will find that Mr. Netzer has a conflict of interest since he sits on a board in Newport Harbor and has done over many years. He has never once disclosed that matter. Many people in our Newport community believe that we no longer have a say since it is basically run by the very wealthy.

I know Newport Mooring Association, is a trusted and reliable resource that has valuable information and I am sure they have contacted you. When the city contacts SLC I am sure they will persuade you to think as they do, please take a step back. There is something seriously wrong with our city, and the truthfulness of what is actually going on.

Thank you,
Barbara

From: [chris bliss](#)
To: [CSLC CommissionMeetings](#)
Subject: Newport Harbor Mooring Fee Increase
Date: Sunday, March 31, 2024 1:45:14 PM

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

To:
State Lands Commission
Re: Mooring fee increases

Dear Commissioners

My wife and I are avid sailors and have had our mooring for 30 years. During that time, we have dutifully paid all the fees on time, and every 2 years kept up with the required maintenance of the mooring equipment. We have been members of South Shore Yacht Club for 10 years.

My wife, Susan, has been an instructor with a Ph.D. at Saddleback Community College for over 25 years. She has devoted her life to the public good, and by helping the lives of young people, has made Orange County a better place to live.

I am a professional photographer who has worked for many years for the Orange County Museum of Art, Laguna Museu, numerous other Orange County arts institutions, and have been an active exhibitor at the Laguna Beach Festival of Arts for 30 years.

We both are retiring this year and had been planning on spending as much time as possible on our boat and being involved in sailing and boating activities. Now, it seems that the Harbor Commission is considering changes that would dash our hopes and plans, along with those of many of our fellow mooring holders.

If our meeting fees are indeed increased by the amounts proposed by the latest figures (up to 500%) , which were presented at the last Harbor Commission meeting, we simply will not be able to afford to keep the boat and mooring. This, of course, presents another dilemma that most people may face: It may be impossible to sell the boat and mooring, as no one would be able to afford the mooring fees. The market for boats on moorings may just dry up, and many people may be forced to just walk away. Their plans, like our retirement plans, will go down the drain.

It seems outrageous to raise the fees so astronomically, considering that we have no easy access to the mooring, no parking, no water, no power, and no amenities of any kind whatsoever.

The Newport Beach City Council has come up with these numbers by using the Netzer appraisal, which is deeply flawed. When using marinas and slips as a source for comparison, it is like comparing a stay at the Ritz Carlton to camping.

To the wealthy and privileged people who make up much of our local governance, an increase of a few thousand dollars may seem like mere pocket change.

To most mooring owners, 90% of whom are middle class, such an increase will be a devastating blow, forcing them out of boating, and out of the harbor altogether.

I recently phoned the Harbor Departments of all of the harbors from San Francisco south to San Diego that have moorings. I personally spoke with the Harbormaster in each harbor and got exact information on pricing and fees in each mooring area. I found that EVERY ONE of the mooring areas are LESS EXPENSIVE than what we are paying NOW! Additionally, every mooring area has access to a 24 hr dingy dock included, or for a nominal extra fee. NEWPORT BEACH PROVIDES NO ACCESS OR AMENITIES OF ANY KIND FOR MOORING USERS, BUT NONETHELESS WANTS TO RAISE FEES BY AS MUCH AS 500%!!

In addition, there have been instances of blatant price discrimination found, as well as conflicts of interest with people involved with the flawed Netzer appraisal.

I sincerely hope that the State Lands Commission will investigate this clear abuse of the intended use doctrine by the City of Newport Beach.

Thank you,
Christopher Bliss

Also, please see the following report:

Mooring fees in California 2024

Avalon

Moorings are privately owned and are priced on the open market.
A 40' mooring was recently sold for \$275K.
The city takes a 5% transfer fee when the mooring permit is sold.

Yearly fees to the city are \$1.09 per foot x12. (for overall boat size, not mooring size).

**Yearly fee to city for a 40' boat is \$523.20.
24/7 dingy docks provided.**

Morro Bay

Privately owned moorings go for about \$1000 per foot. A 40' Foot mooring was found on Craigs List for sale for 40K.
Mooring tackle is Owner-owned and must be serviced every 2 years.

**Yearly fee to city is \$1320.
24/7 dingy dock provided.**

San Diego America's Cup Harbor

(These are the most expensive moorings in San Diego)

No privately owned moorings in San Diego, all are maintained and run by the city.

**Yearly fee for up to 65' mooring is \$1884.84 plus \$79 application fee.
24/7 dingy dock provided.**

Monterey Bay

The mooring user leases the space in the water and the cement weights from the city.
Owner provides his own chain and buoy, which must be inspected yearly by private contractor. The harbor Master estimates that inspections are around \$300.

**All sizes moorings yearly fee is \$1000.
24/7 dingy dock provided for \$600 per year.**

San Francisco Bay.

There are NO mooring fields in all of San Francisco Bay due to windy conditions.

Conclusion:

**Average fees for moorings in California for a 40 foot boat
with dingy docks provided:**

\$1332.01

We have all been paying way more than this without dingy dock access for years, and it is well

within our rights to ask for a
RATE DECREASE!

From: [Mike Branson](#)
To: [CSLC CommissionMeetings](#)
Subject: Fwd: Written public comment non-agenda item April 4th SLC-Please Stop the Class Discrimination in Newport Harbor
Date: Saturday, March 30, 2024 8:23:02 PM

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

Dear Commissioners,

I am writing due to my deep concern over the proposed mooring rate increase the SLC Staff is currently reviewing. The rate increase of up to 500% for offshore mooring and 1000% for shore moorings in Newport Harbor is of great concern to me because I am a current shore mooring holder and such an increase would place the mooring out of my ability to retain. At their current rates, these moorings are the last affordable access to boating in Newport Harbor. This proposed rate increase will force average boaters like myself out of the submerged tidelands in Newport Harbor which fall under SLC oversight jurisdiction. Furthermore, the money I already paid for my mooring would probably be lost as my ability to recoup my investment would most likely be lost as well since most other people like myself who use the onshore moorings that are limited to small boats and dinghies would most likely find the new rate structure much less palatable, I will explain later.

Currently, mooring holders pay 4 times more than the affluent waterfront homeowners for use of the same submerged tidelands. If the proposed rate increase goes through, the mooring holders will be paying up to 20 times more than the affluent waterfront homeowners pay, for use of the exact same tidelands. That's not fair and it clearly targets and discriminates against people with moorings.

In pushing this extreme discrimination, the city's Harbor Commission has completely ignored the January 2024 independent appraisal by CBRE which shows the city of Newport Beach's appraisal is flawed, missing some basic items that the professional appraisal by CBRE brings to light such as the lack of dinghy docks to get out to channel moorings, when every other harbor in California provides dinghy docks to get out to a mooring or the disparity between the private docks. The independent CBRE appraisal, which is being ignored by the Harbor Commission, shows there is no need for any increase in excess of the CPI.

The granting statute for Newport Bay has a specific clause prohibiting price discrimination in the harbor which cannot be ignored. This anti-discrimination clause regarding rates in Newport Harbor dates back to the early 1900's. It simply indicates, the city shall not charge one user more than another for the use of the tidelands. This price discrimination is occurring today and will only be exacerbated ten fold if the proposed rate increase is tolerated by this Commission and the answer is not to also increase the private docks as the CBRE appraisal supports using other harbors for comparison in California. Lest there be any doubt, the city code itself states that the people with moorings are to be charged rates similar to other rates charged for users of the tidelands. It would smack of discrimination to levy the largest increase to the smaller shore moorings followed by the harbor moorings with no services to the mooring and leave the lowest rates and increases to the most affluent waterfront homes with the most services.

This is how the proposed rate increase will have an impact on me and my family:

We would most likely lose our ability to use the harbor by boat as we could not keep the mooring at the greatly increased rates and furthermore, would stand to lose thousands of dollars as we would not be able to recoup our investments. I believe the mooring would become unmarketable when many others like us find themselves in the same circumstances and people with small boats and dinghies are not willing or are unable to pay the proposed rates that in many cases will exceed the values of the boats stored at those moorings.

I ask this commission to perform a thorough investigation of this matter. SLC staff has been provided proof that the City of Newport Beach is using questionable information in the attempt to raise mooring rates up to 500% and higher for shore moorings, which will clearly push average boaters out of Newport Harbor while leaving the rates of other tidelands users alone. Discrimination would be a terrible thing to lose a lifestyle to in our beloved city.

We appreciate the State Lands staff for reviewing this matter and we encourage this commission to thoroughly investigate the matter.

Thank you,

Michael Branson

From: [Christopher Bridge](#)
To: [CSLC Commission Meetings](#)
Subject: Written public comment non-agenda item April 4th SLC-Please Stop the Class Discrimination in Newport Harbor
Date: Saturday, March 30, 2024 12:51:17 PM

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

Dear Commissioners,

I'm sure you are aware of the proposed dramatic increase in rents for offshore moorings in Newport Beach. I would like to make you aware of how this unexpected and exorbitant increase in the rent would affect my family personally.

I purchased my mooring in Newport Harbor for the significant investment of \$50,000. For my family this purchase price put us into debt, but we rationalized this as we would save money over time in comparison to renting an onshore slip. The use of our mooring has not been easy as access is restricted to a few public docks in Newport Harbor and there is no place to leave a dinghy more than 24 hours, meaning we have significant inconvenience and set up time each and every time we make use of our boat.

With the dramatic increase in rents proposed the benefit of an offshore mooring versus a shoreside slip is significantly reduced. However, there are NO slips available for my vessel, having checked recently from Ensenada to Santa Barbara. As my boat is a catamaran (two hulls) and is therefore wider than your typical sail or powerboat there are no alternative arrangements for my family's pleasure boat.

I do believe if the increase in rents as proposed goes ahead, I (and others in my situation) will be priced out of the Newport Beach harbor market which we have long enjoyed and shared with family members and friends. As there are no alternative possibilities this would very likely result in the sale of my boat and the end of my family's boating lifestyle.

Newport Harbor will become even more the domain of the rich.

I understand there are also legal arguments and challenges to the appraisal methodology, but I will leave that for others to explain in detail.

Please do not allow the Newport Beach City Council the authority to destroy so many Southern Californians' ability to use the harbor and access to the ocean at a reasonable cost.

Thank you for your consideration in this matter.

Yours sincerely

Christopher J Bridge

mooring BYC

From: [Tim Byrne](#)
To: [CSLC CommissionMeetings](#)
Cc: [Tim Byrne](#)
Subject: Written public comment non-agenda item April 4th SLC-Please Stop the Class Discrimination in Newport Harbor
Date: Monday, April 1, 2024 6:09:19 AM

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

Dear Commissioners,

As you may be aware, the SLC Staff is currently reviewing a proposed mooring rate increase of up to 500% for offshore mooring and 1000% for shore moorings in Newport Harbor. These moorings are the last affordable access to boating in Newport Harbor. This proposed rate increase will force average boaters out of the submerged tidelands in Newport Harbor which fall under SLC oversight jurisdiction.

Currently, the mooring holders pay **4 times more** than the affluent waterfront homeowners for use of the same submerged tidelands. If the proposed rate increase goes through, the mooring holders will be paying up to **20 times more** than the affluent waterfront homeowners pay, for use of the exact same tidelands. That's not fair and it clearly targets and discriminates against people with moorings.

In pushing this extreme rate hike, the city's Harbor Commission has completely ignored the January 2024 independent appraisal by CBRE which shows the city of Newport Beach's appraisal is way off base and does not even account for the lack of dinghy docks to get out to our moorings, when every other harbor in California provides dinghy docks to get out to a mooring. The independent CBRE appraisal, which is being ignored by the Harbor Commission, shows there is no need for any increase in excess of the CPI.

Fortunately, the granting statute for Newport Bay has a specific clause prohibiting price discrimination in the harbor. This anti-discrimination clause regarding rates in Newport Harbor dates back to the early 1900's. It simply indicates, the city shall not charge one user more than another for the use of the tidelands. Unfortunately, this price discrimination is occurring today and will only be exacerbated ten fold if the proposed rate increase is tolerated by this Commission. Lest there be any doubt, the city code itself states that the people with moorings are to be charged rates similar to other rates charged for users of the tidelands. This clearly flies contrary to that code.

I ask this commission to perform a thorough investigation of this matter. SLC staff has been provided proof that the City of Newport Beach is using flawed information in the attempt to raise mooring rates up to 500% and higher for shore moorings, which will clearly push average boaters out of Newport Harbor while leaving the rates of other tidelands users alone. Discrimination can't be tolerated.

We appreciate the State Lands staff for reviewing this matter and we encourage this commission to thoroughly investigate the matter.

Tim Byrne

From: [Kenny Calvert](#)
To: [CSLC CommissionMeetings](#)
Subject: Written public comment non-agenda item April 4th SLC-Please Stop the Class Discrimination in Newport Harbor
Date: Wednesday, April 3, 2024 8:10:14 PM

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

Dear Commissioners,

As you may be aware, the SLC Staff is currently reviewing a proposed mooring rate increase of up to 500% for offshore mooring and 1000% for shore moorings in Newport Harbor. These moorings are the last affordable access to boating in Newport Harbor. This proposed rate increase will force average boaters out of the submerged tidelands in Newport Harbor which fall under SLC oversight jurisdiction.

I own and operate a small commercial fishing business, keeping my boat on a mooring in Newport Harbor. Over the past few years, it's been increasingly challenging to remain profitable with operating costs like fuel and parts skyrocketing. Allowing the Harbor Commission to increase the mooring rates by this exorbitant amount would be even more detrimental to my family's livelihood.

The granting statute for Newport Bay has a specific clause prohibiting price discrimination in the harbor. This anti-discrimination clause dates back to the early 1900's and simply indicates that the city shall not charge one user more than another for the use of the tidelands.

Mooring holders currently pay **4 times more** than the affluent waterfront homeowners for use of the same submerged tidelands. If the proposed rate increase goes through, mooring holders will be paying up to **20 times more** than the affluent waterfront homeowners pay for use of the exact same tidelands. That's not fair and it clearly targets and discriminates against people with moorings.

In pushing this extreme discrimination, the city's Harbor Commission has completely ignored the January 2024 independent appraisal by CBRE which shows the city of Newport Beach's appraisal is way off base and does not even account for the lack of dinghy docks to get out to our moorings, when every other harbor in California provides dinghy docks to get out to a mooring. The independent CBRE appraisal shows there is no need for any increase in excess of the CPI.

I appreciate the State Lands staff for reviewing this matter and I encourage this commission to thoroughly investigate the matter to prevent this discrimination.

Regards,

Kenneth Calvert

Calvert Fishing Inc.

From: [Roy Cammarano](#)
To: [CSLC CommissionMeetings](#)
Subject: April 4th Please Stop the Class Discrimination
Date: Saturday, March 30, 2024 11:03:51 AM

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

Dear Commissioners,

As you may be aware, the SLC Staff is currently reviewing a proposed mooring rate increase of up to 500% for offshore mooring and 1000% for shore moorings in Newport Harbor. These moorings are the last affordable access to boating in Newport Harbor. This proposed rate increase will force average boaters out of the submerged tidelands in Newport Harbor which fall under SLC oversight jurisdiction.

Currently, the mooring holders pay **4 times more** than the affluent waterfront homeowners for use of the same submerged tidelands. If the proposed rate increase goes through, the mooring holders will be paying up to **20 times more** than the affluent waterfront homeowners pay, for use of the exact same tidelands. That's not fair and it clearly targets and discriminates against people with moorings.

In pushing this extreme discrimination, the city's Harbor Commission has completely ignored the January 2024 independent appraisal by CBRE which shows the city of Newport Beach's appraisal is way off base and does not even account for the lack of dinghy docks to get out to our moorings, when every other harbor in California provides dinghy docks to get out to a mooring. The independent CBRE appraisal, which is being ignored by the Harbor Commission, shows there is no need for any increase in excess of the CPI.

Fortunately, the granting statute for Newport Bay has a specific clause prohibiting price discrimination in the harbor. This anti-discrimination clause regarding rates in Newport Harbor dates back to the early 1900's. It simply indicates, the city shall not charge one user more than another for the use of the tidelands. Unfortunately, this price discrimination is occurring today and will only be exacerbated ten fold if the proposed rate increase is tolerated by this Commission. Lest there be any doubt, the city code itself states that the people with moorings are to be charged rates similar to other rates charged for users of the tidelands. This clearly flies contrary to that code.

This is how the proposed rate increase will have an impact on me and my family:

_____ Roy F Cammarano _____

_____ C-11 Newport Beach Harbor _____

I ask this commission to perform a thorough investigation of this matter. SLC staff has been provided proof that the City of Newport Beach is using flawed information in the attempt to raise mooring rates up to 500% and higher for shore moorings, which will clearly push average boaters out of Newport Harbor while leaving the rates of other tidelands users alone. Discrimination can't be tolerated.

We appreciate the State Lands staff for reviewing this matter and we encourage this commission to thoroughly investigate the matter.

From: [Pat and Bud C](#)
To: [CSLC CommissionMeetings](#)
Subject: Written Public Comment non-standard Item April 4 - SLC Please stop the inequality of the proposed mooring rate increase in Newport Harbor
Date: Monday, April 1, 2024 12:42:52 PM

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

We are a retired couple with a permit to rent a mooring with a permit to live a board in Newport Harbor. As a couple on a fixed income we do not have the extra wealth to invest that could make us wealthy. The mooring holders around me are teachers, a firefighter, a retired Newport Beach sheriff department employee, numerous veterans, at least two harbor employees, numerous tourism workers, etc. These working people are lucky if their incomes have kept up with inflation. The majority of the approximate 48 live a boards are retired on a fixed income. In today's economy, generally, only the wealthy get wealthier and many of the wealthy can pay the Marina's rising prices (again, nowhere's near 400%). Is it equality that the non-wealthy mooring holders go up even more? However, the homeowners along the harbor's shoreline pay considerably less than the mooring holders for only their pier sq. ft. not even for the vessels moored on the piers. They use far more of the tidelands for far less with no increase proposed. Plus they can rent out the area they're not using and profit 20 times what they pay out. Absolute inequality!

The following is direct from title 17 – the Harbor Code
17.05.090 Local Coastal Program.

C. Where applicable, development in Newport Harbor shall:

2. Provide a variety of berthing opportunities reflecting State and regional demand for slip size and affordability throughout Newport Harbor;
4. Protect shore moorings and offshore moorings as an important source of low-cost public access to the water and harbor;

The other numbered lines 5 thru 8 all use the expression “expand and enhance” various public harbor facilities such as dinghy docks, pump out stations, etc. none of which has changed since the code was written, adding to the question of why the huge increase?

To sum up. In a pure commercial sense, charging whatever can be charged that would create as much revenue as possible might be fair but would not be fair if it goes against the very principles that is stated in it's own Code of purpose and, just as important, the city of Newport Beach is not a commercial enterprise.

It's stated goal is affordability but the perception in the mooring community is the city wants to cleanse the moorings of the poor. If you cannot afford these higher rates, You must be poor and therefore not wanted. If many of the existing mooring permit holders, the non-wealthy “common working people”, the teachers, veterans, firefighters, retirees, leave are they poor? Would that make it unaffordable but somehow still within the cities “affordable” goal? If wealthier people replace them, is it proven to be affordable again but then is that equitable?

We are not poor but had we expected such an increase before we obtained our permit we would have done things financially different. I feel we had made a handshake agreement with the city and the city is going against it doing so extremely unreasonably. If my wife and I decide to remain paying the increase in spite of the strain on our finances because we have too much to lose leaving (like numerous others), does that mean a 400% increase is fair and equitable? If other comparable uses of the tide lands is paying considerably less for essentially the same usage but with more convenience and amenities, is that equality?

Sincerely, Herman Coomans, mooring

April 3, 2024

To the Various Government Agencies Determining a Fair Rental Rate to be Charged the Mooring Permit Holders in Newport Beach Harbor,

As a permit holder of a mooring and a permitted live a board I would like you to consider three interpretations of a "fair and equitable" rental rate as opposed to the Netzer & Associates appraisal being considered by the Newport Harbor Commission.

The Merriam-Webster dictionary defines Fair Market Value as: a price at which buyers and sellers with a reasonable knowledge of pertinent facts and not acting under any compulsion are willing to do business.

My three rental price valuation reasoning considering this definition are:

The purely Capitalist approach which is "what the market will bear". This approach, I contend, is only what the Netzer appraisal and therefore the Newport Beach Harbor Commission is proposing. Fairness and equality are not considered, only at what rental rate that could be charged that would bring the most revenue while fulfilling a demand. Referring back to the definition of Market Value - not acting under compulsion, most present mooring holders will be compelled to pay the increase simply because they have too much invested in both the mooring and the vessel stored on it to decline. Some of that investment was that the city, in 2015, removed the waiting list to rent a mooring and made it official that one had to pay to a private party a sum agreed to by both parties to transfer that permit to the buyer. There was nothing nefarious, underhanded or illegal since then because it was the ONLY way to obtain a permit. It was what the city ruled would be the only way to become a mooring permit holder. However, recently, at least one city council member has stated he "can't get my head around" the transfer process and is questioning the very rule his predecessors put in place and forced us to participate in. By losing our transfer equity it seems we are being punished for something we had no choice in.

Another thought is on Fairness. In early 2018 the then harbor commission considered an appraisal done by the same company, Netzer & Associates, and they then established mooring rental rates. It was stated the rates shall be raised according to CPI. Since then, inflation (CPI) has been about 28% or a 3.5% yearly average. Knowing this and considering our finances at the time and reasonable future expectations, we bought a boat we could comfortably live on and would be proud of. What can possibly be fair about an unexpected 400% plus increase? The appraisal's comparable marinas have not increased that much, nothing has. What has changed in the time between the two appraisals that makes this huge increase fair?

The third possibility would be equality. As a couple on a fixed income we do not have the extra wealth to invest that could make us wealthy. The mooring holders around me are teachers, a firefighter, a retired Newport Beach sheriff department employee, numerous veterans, at least two harbor employees, numerous local tourism workers, etc. These working people are lucky if their incomes have kept up with inflation. The majority of the approximate 48 live a boards are retired on a fixed income. In today's economy, generally, only the wealthy get wealthier and many of the wealthy can pay the Marina's rising prices (again, no where's near 400%). Marinas

are private, for profit entities who's goal is to make as much income as it can, the city is not. Is it equality that the non-wealthy mooring holders go up even more? Meanwhile, the homeowners along the harbor's shoreline pay considerably less than the mooring holders for only their pier sq. ft. not even for the vessels moored on the piers. They use far more of the tidelands for far less with no increase proposed. Plus they can rent out the area they're not using and profit 20 times what they pay out. Absolute inequality!

The following is direct from title 17 – the Harbor Code
17.05.090 Local Coastal Program.

C. Where applicable, development in Newport Harbor shall:

2. Provide a variety of berthing opportunities reflecting State and regional demand for slip size and affordability throughout Newport Harbor;

4. Protect shore moorings and offshore moorings as an important source of low-cost public access to the water and harbor.

The other numbered lines 5 thru 8 all use the expression “expand and enhance” various public harbor facilities such as dinghy docks, pump out stations, etc. none of which has changed since the code was written, adding to the question of why the huge increase?

To sum up. In a pure commercial sense, charging whatever can be charged that would create as much revenue as possible might be fair but would not be fair if it goes against the very principles that is stated in it's own Code of purpose and, just as important, the city of Newport Beach is not a commercial enterprise. It's stated goal is affordability but the perception in the mooring community is the city wants to cleanse the moorings of the poor. If you cannot afford these higher rates, they don't want you. If many of the existing mooring permit holders, the non-wealthy “common working people”, the teachers, veterans, firefighters, retirees, leave are they the poor? Would that make it unaffordable for them yet, somehow, still within the cities “affordable” goal? If wealthier people replace them, is it proven to be affordable again? Is that equitable?

With careful planning we are financially secure but on a fixed income. Had we expected such an increase before we obtained our permit we would have done things financially different. I feel we had made a handshake agreement with the city and the city is going against it, doing so extremely unreasonably. If my wife and I decide to remain paying the increase because we have too much to lose by leaving (like numerous others), does that mean a 400% increase is fair and equitable? If other comparable uses of the tide lands is paying considerably less for essentially the same usage but with more convenience and amenities, is that equality?

Please consider the view point of myself, a retired blue-collar machinist but a viewpoint that I am confident echoes the majority of mooring permit holders in Newport Harbor.

Sincerely, Herman (Bud) Coomans
Mooring H- [REDACTED]

From: diego@marmolusa.com
To: [CSLC CommissionMeetings](#)
Subject: Written public comment non-agenda item April 4th SLC-Please Stop the Class Discrimination in Newport Harbor
Date: Monday, April 1, 2024 10:04:29 AM

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

Dear Commissioners,

As you may be aware, the SLC Staff is currently reviewing a proposed mooring rate increase of up to 500% for offshore mooring and 1000% for shore moorings in Newport Harbor. These moorings are the last affordable access to boating in Newport Harbor. This proposed rate increase will force average boaters out of the submerged tidelands in Newport Harbor which fall under SLC oversight jurisdiction.

Currently, the mooring holders pay **4 times more** than the affluent waterfront homeowners for use of the same submerged tidelands. If the proposed rate increase goes through, the mooring holders will be paying up to **20 times more** than the affluent waterfront homeowners pay, for use of the exact same tidelands. That's not fair and it clearly targets and discriminates against people with moorings.

Another example on how the current practices discriminate mooring holders is by prohibiting to rent the space to 3rd parties even for small periods when it is not in use. The affluent waterfront homeowners can rent to 3rd parties earning profits from this transaction.

In pushing this extreme discrimination, the city's Harbor Commission has completely ignored the January 2024 independent appraisal by CBRE which shows the city of Newport Beach's appraisal is way off base and does not even account for the lack of dinghy docks to get out to our moorings, when every other harbor in California provides dinghy docks to get out to a mooring. The independent CBRE appraisal, which is being ignored by the Harbor Commission, shows there is no need for any increase in excess of the CPI.

Fortunately, the granting statute for Newport Bay has a specific clause prohibiting price discrimination in the harbor. This anti-discrimination clause regarding rates in Newport Harbor dates back to the early 1900's. It simply indicates, the city shall not charge one user more than another for the use of the tidelands. Unfortunately, this price discrimination is occurring today and will only be exacerbated ten fold if the proposed rate increase is tolerated by this Commission. Lest there be any doubt, the city code itself states that the people with moorings are to be charged rates similar to other rates charged for users of the tidelands. This clearly flies contrary to that code.

I ask this commission to perform a thorough investigation of this matter. SLC staff has been provided proof that the City of Newport Beach is using flawed information in the attempt to raise mooring rates up to 500% and higher for shore moorings, which will clearly push average boaters out of Newport Harbor while leaving the rates of other tidelands users alone. Discrimination can't be tolerated.

We appreciate the State Lands staff for reviewing this matter and we encourage this commission to thoroughly investigate the matter

Diego Lopez Peral
CEO

MARMOL
EXPORT, USA

MÁRMOL ST/LED KEDRA INLAID PROJECTS

www.marmolusa.com

From: [Keith Doolittle](#)
To: [CSLC CommissionMeetings](#)
Subject: Written public comment non-agenda item April 4th SLC- Please Stop the Class Discrimination in Newport Harbor
Date: Saturday, March 30, 2024 10:54:03 PM

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

Dear Commissioners,

As you may be aware, the SLC Staff is currently reviewing a proposed mooring rate increase of up to 500% for offshore mooring and 1000% for shore moorings in Newport Harbor. These moorings are the last affordable access to boating in Newport Harbor. This proposed rate increase will force average boaters out of the submerged tidelands in Newport Harbor which fall under SLC oversight jurisdiction.

Currently, the mooring holders pay 4 times more than the affluent waterfront homeowners for use of the same submerged tidelands. If the proposed rate increase goes through, the mooring holders will be paying up to 20 times more than the affluent waterfront homeowners pay, for use of the exact same tidelands. That's not fair and it clearly targets and discriminates against people with moorings.

In pushing this extreme discrimination, the city's Harbor Commission has completely ignored the January 2024 independent appraisal by CBRE which shows the city of Newport Beach's appraisal is way off base and does not even account for the lack of dinghy docks to get out to our moorings, when every other harbor in California provides dinghy docks to get out to a mooring. The independent CBRE appraisal, which is being ignored by the Harbor Commission, shows there is no need for any increase in excess of the CPI.

Fortunately, the granting statute for Newport Bay has a specific clause prohibiting price discrimination in the harbor. This anti-discrimination clause regarding rates in Newport Harbor dates back to the early 1900's. It simply indicates, the city shall not charge one user more than another for the use of the tidelands. Unfortunately, this price discrimination is occurring today and will only be exacerbated ten fold if the proposed rate increase is tolerated by this Commission. Lest there be any doubt, the city code itself states that the people with moorings are to be charged rates similar to other rates charged for users of the tidelands. This clearly flies contrary to that code.

The proposed rate increase will impact my family by raising the monthly rate of our shore mooring by 1,000%. This would make the rental of our shore mooring out of our price range and destroy our ability to be able to use our boat in the harbor.

I ask this commission to perform a thorough investigation of this matter. SLC staff has been provided proof that the City of Newport Beach is using flawed information in the attempt to raise mooring rates up to 500% and higher for shore moorings, which will clearly push average boaters out of Newport Harbor while leaving the rates of other tidelands users alone. Discrimination can't be tolerated.

We appreciate the State Lands staff for reviewing this matter and we encourage this commission to thoroughly investigate the matter.

Keith Doolittle

From: [Karl Drews](#)
To: [CSLC CommissionMeetings](#)
Subject: Written public comment non-agenda item April 4th SLC-Please Stop the Class Discrimination in Newport Harbor
Date: Monday, April 1, 2024 6:11:43 PM

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

Dear Commissioners,

As you may be aware, the SLC Staff is currently reviewing a proposed mooring rate increase of up to 500% for offshore mooring and 1000% for shore moorings in Newport Harbor. These moorings are the last affordable access to boating in Newport Harbor. This proposed rate increase will force average boaters out of the submerged tidelands in Newport Harbor which fall under SLC oversight jurisdiction.

Currently, the mooring holders pay **4 times more** than the affluent waterfront homeowners for use of the same submerged tidelands. If the proposed rate increase goes through, the mooring holders will be paying up to **20 times more** than the affluent waterfront homeowners pay, for use of the exact same tidelands. That's not fair and it clearly targets and discriminates against people with moorings.

In pushing this extreme discrimination, the city's Harbor Commission has completely ignored the January 2024 independent appraisal by CBRE which shows the city of Newport Beach's appraisal is way off base and does not even account for the lack of dinghy docks to get out to our moorings, when every other harbor in California provides dinghy docks to get out to a mooring. The independent CBRE appraisal, which is being ignored by the Harbor Commission, shows there is no need for any increase in excess of the CPI.

Fortunately, the granting statute for Newport Bay has a specific clause prohibiting price discrimination in the harbor. This anti-discrimination clause regarding rates in Newport Harbor dates back to the early 1900's. It simply indicates, the city shall not charge one user more than another for the use of the tidelands. Unfortunately, this price discrimination is occurring today and will only be exacerbated ten fold if the proposed rate increase is tolerated by this Commission. Lest there be any doubt, the city code itself states that the people with moorings are to be charged rates similar to other rates charged for users of the tidelands. This clearly flies contrary to that code.

This is how the proposed rate increase will have an impact on me and my family:

We have had the license for mooring A 226 for over 35 years. The mooring has provided a reasonable cost for access to the boat and ocean. Over this time we have enjoyed sailing to Catalina and cruising the So Cal coast with our children, friends and other family members.

The license fee is not the only cost for boating access. Because the City of Newport Beach doesn't have parking facilities and the dinghy storage/access is sub-standard, Yacht Club Membership is a requirement. In my younger years, before I could join a club, I carried a dinghy to public docks and rowed out to the mooring. This is not a reasonable option at 70 years of age.

The appraisal that was commissioned by the City of Newport Beach is unrealistic considering the available facilities. The methodology of the appraisal is extremely questionable and does not consider the underserved.

The proposed rent increase is of such an extreme magnitude it is prejudicial to the Senior citizen mooring license holders. We are on a fixed income and can not absorb such an increase.

I ask this commission to perform a thorough investigation of this matter. SLC staff has been provided proof that the City of Newport Beach is using flawed information in the attempt to raise mooring rates up to 500% and higher for shore moorings, which will clearly push average boaters out of Newport Harbor while leaving the

rates of other tidelands users alone. Discrimination can't be tolerated.

We appreciate the State Lands staff for reviewing this matter and we encourage this commission to thoroughly investigate the matter.

Thank you for your consideration,

Karl Drews

2nd generation born in Los Angeles, raised in Orange County

From: [Gary Eglolf](#)
To: [CSLC CommissionMeetings](#)
Subject: Please Stop the Class Discrimination in Newport Harbor
Date: Saturday, March 30, 2024 5:51:06 PM

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

Dear Commissioners,

As you may be aware, the SLC Staff is currently reviewing a proposed mooring rate increase of up to 500% for offshore mooring and 1000% for shore moorings in Newport Harbor. These moorings are the last affordable access to boating in Newport Harbor. This proposed rate increase will force average boaters out of the submerged tidelands in Newport Harbor which fall under SLC oversight jurisdiction.

Currently, the mooring holders pay **4 times more** than the affluent waterfront homeowners for use of the same submerged tidelands. If the proposed rate increase goes through, the mooring holders will be paying up to **20 times more** than the affluent waterfront homeowners pay, for use of the exact same tidelands. That's not fair and it clearly targets and discriminates against people with moorings.

In pushing this extreme discrimination, the city's Harbor Commission has completely ignored the January 2024 independent appraisal by CBRE which shows the city of Newport Beach's appraisal is way off base and does not even account for the lack of dinghy docks to get out to our moorings, when every other harbor in California provides dinghy docks to get out to a mooring. The independent CBRE appraisal, which is being ignored by the Harbor Commission, shows there is no need for any increase in excess of the CPI.

Fortunately, the granting statute for Newport Bay has a specific clause prohibiting price discrimination in the harbor. This anti-discrimination clause regarding rates in Newport Harbor dates back to the early 1900's. It simply indicates, the city shall not charge one user more than another for the use of the tidelands. Unfortunately, this price discrimination is occurring today and will only be exacerbated ten fold if the proposed rate increase is tolerated by this Commission. Lest there be any doubt, the city code itself states that the people with moorings are to be charged rates similar to other rates charged for users of the tidelands. This clearly flies contrary to that code.

I have a mooring off Sapphire and I am retired and if this passes I will have to leave. I will have no place to put the family Grady White and will probably have to sell it. What a shame to end my life like this, being forced out of a place that I and family have grown up here.

I ask this commission to perform a thorough investigation of this matter. SLC staff has been provided proof that the City of Newport Beach is using flawed information in the attempt to raise mooring rates up to 500% and higher for shore moorings, which will clearly push average boaters out of Newport Harbor while leaving the rates of other tidelands users alone. Discrimination can't be tolerated.

We appreciate the State Lands staff for reviewing this matter and we encourage this commission to thoroughly investigate the matter.

From: Mike Fleming [REDACTED]
Sent: Thursday, April 4, 2024 2:29 PM
To: CSLC CommissionMeetings <CSLC.CommissionMeetings@slc.ca.gov>
Subject: Newport Harbor mooring fees

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

Hello State lands commission. Today I was the last zoom call speaker but I was technically too challenged to make my comments verbally on zoom. So I will try to make a 3 min email 🗣️. The Newport Beach city management of the tideland harbor has a history of trying to raise funds on its stewardship of the tidelands. The waterfront homeowners were able to shut them down with their famous "Stop the Dock Tax" campaign back around 2010. Back then my mooring rates which were about \$1200/year started increasing going up annually approx to \$1800, then \$2400, then \$3200, then \$4300, and my next year was to be over \$5000. Someone from your commission wrote a letter to the city and the rates dropped back down, however here it is 8 years later and the stop the dock tax folks apparently got themselves a deal so that now only the moorings held by individual citizens (58 percent of mooring holders are not from NB) are grossly undervalued and need a rate increase. I'm not sure why the current mooring rate which is so much higher than your Southern California benchmark rates can be raised without your approval? Now there are other moorings in the harbor that are not owned by citizens, that would be the yacht club owned moorings. The yacht club members pay the YC, interestingly similar rates to the cities newly suggested rates for citizen Individually owned moorings. It is impossible for me to find out what the yacht club pays the city for their moorings. There is a possibility that there is some profit taking in this arrangement. I did not hear that the yacht club would pay the city the newly suggested rates. The yacht club moorings are very privileged in that they are single point moorings, which can swing 360 degrees taking up much more space than the common citizen mooring, the single point mooring is much easier to use to moor and unmoor your boat, they are in sync with the wind and the tidal current which lets you approach like a plane landing and taking off into the wind. The more expensive citizen owned moorings which is two separate fixed moorings that are always in conflict effected by tidal flows and wind in a less accommodating manner. They are an inferior product and less valuable. They take up much less space than the yacht club moorings, and you have to deal with cross wind and adverse tides, yet they are paying more for less. One of the services the YC provides for its members is a shore boat to take you to and from your yacht club car parking lot to your yacht club yacht parking lot. The city provides no such service and wants to increase the cost of the moorings they are in charge of. To get to your moored boat you need another smaller boat, a tender or dingy. There are over 800 moorings and public dock cleats for less than a third of the necessary tenders. If you leave your tender at the public dock more than 72 hours it will be impounded and cost \$200 to get back. Mooring holders go through many hoops to make any sort of regular use of their moorings. The most labor hours booked by the harbor dept employees is to every day 2-3 times a day at every public dock to hand write on bright yellow notices when and where your dingy was, and also photograph the situation and blue tape them onto the boats that have not violated any time limit yet.... but to use to validate if you overstay your time limit, and then they are justified in impounding your boat. There is one side of the public dock for 3 hour time limit, one for 20 mins, two for 24 hours and one for 72 hours. There are limits to size of boats allowed to use the dock. If

you are oversized it's impounded \$200 to get your boat back. In spite of these poor service conditions the harbor commission is trying to get approved a mooring arrangement that pushes all the non yacht club moorings closer together and would allow the city to sell more moorings to generate revenue, to help pay for all this new paperwork service, but there was no discussion of where the new mooring holders would park their dinghy's. Now let's look back at the private waterfront home pier permits, It seems that the real reason that the the price of moorings in Newport are so valuable is that the real "fair market value" for a slip in NB harbor is dictated by the waterfront property owners who are paying \$0.54- \$0.58 cents a sq ft for their docks. Why must some pay \$0.58 when others only pay \$0.54 cents. Well I think you pay the higher rate if you admit to the city that you rent out part of your dock to the Fair market. Many single finger docks have a big daddy 50' powerboat on one side and big mama's electric Duffy party boat on the other side, and still have room to rent out a \$2000/month spot to their neighbor across the street. I know a fella that pays \$4000/ month for his 52' powerboat, parked in front of a rental home. Between the 2- 50' power boats parked there and the two 26' open bow boats and the 4 Duffy boats, the guy renting the condo is making over \$10,000 per month on his private home owner pier marina! I wonder if the city could charge a tax,....oh wait that's right nope can't do that. Imagine it's come down to the end of your 72 hour dingy dock limit and you come down to move your boat, but in this luxurious Newport Beach city run harbor your dingy is sitting in the mud twice a day. Yes you can see how undervalued the moorings are in New Porsche Beach. Please don't let them send the real people back to the inland empire and high desert lakes, we like the ocean too!





Mike Fleming
USCG Master 100 tons

██████████
Newport Beach, Ca. ██████████
██████████

From: [natalie.fogarty](#)
To: [CSLC Commission Meetings](#)
Subject: Newport Beach Mooring issue
Date: Saturday, March 30, 2024 11:42:36 AM

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

The Harbor Commission has ignored the unbiased CBRE appraisal and wishes to push through an unfair increase for the moorings. The mooring owners already pay for all the upkeep of their moorings and the city has no cost for maintaining the moorings. Please prevent this large increase to these mooring rates.
Natalie Fogarty

From: [JOHN and GAY FOTSCH](#)
To: [CSLC CommissionMeetings](#)
Cc: mail@newportmooringassociation.org
Subject: SLC Please Stop The Class Discrimination in Newport Harbor
Date: Sunday, March 31, 2024 4:36:47 PM

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

Dear Commissioners,

As a Newport Beach Shore Mooring Permittee (Mooring #) I'm feeling quite violated at the point and time. I feel as though since the

The city of Newport Beach has obtained operational control over the Newport Harbor Tidelands and Moorings . It has been a battle between the (Haves) and (Have Nots). The City of Newport Beach has on its face chosen to punish mooring permittees with hard handed threats of unrealistic and unfair fee increases all the while being adverse to using the same tactics with Newport Beach Dock owners such as the Irvine Company. These dock holders obtain far more use of the Tide Lands at a much more detrimental environmental effect. This projected fee increase is Totally Unfair and Unjust. The wealthy Newport Harbor homeowners are being given a free pass at the expense of those less fortunate that the California Coastal Commission was created to level the playing field for access to the coastal lands to all of California citizens. (Please Stop this (Unfair) treatment of the less fortunate Mooring Permittees.

Sincerely,

John Fotsch
Shore Mooring Permittee

From: [Cheryl](#)
To: [CSLC CommissionMeetings](#)
Cc: [Joe Stapleton](#); [keith@](#)
Subject: Written public comment non-agenda item April 4th SLC-Please Stop the Class Discrimination in Newport Harbor
Date: Saturday, March 30, 2024 3:17:40 PM

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

Dear Commissioners,

As you may be aware, the SLC Staff is currently reviewing a proposed mooring rate increase of up to 500% for offshore mooring and 1000% for shore moorings in Newport Harbor. These moorings are the last affordable access to boating in Newport Harbor. This proposed rate increase will force average boaters out of the submerged tidelands in Newport Harbor which fall under SLC oversight jurisdiction.

Currently, the mooring holders pay **4 times more** than the affluent waterfront homeowners for use of the same submerged tidelands. If the proposed rate increase goes through, the mooring holders will be paying up to **20 times more** than the affluent waterfront homeowners pay, for use of the exact same tidelands. That's not fair and it clearly targets and discriminates against people with moorings.

In pushing this extreme discrimination, the city's Harbor Commission has completely ignored the January 2024 independent appraisal by CBRE which shows the city of Newport Beach's appraisal is way off base and does not even account for the lack of dinghy docks to get out to our moorings, when every other harbor in California provides dinghy docks to get out to a mooring. The independent CBRE appraisal, which is being ignored by the Harbor Commission, shows there is no need for any increase in excess of the CPI.

Fortunately, the granting statute for Newport Bay has a specific clause prohibiting price discrimination in the harbor. This anti-discrimination clause regarding rates in Newport Harbor dates back to the early 1900's. It simply indicates, the city shall not charge one user more than another for the use of the tidelands. Unfortunately, this price discrimination is occurring today and will only be exacerbated ten fold if the proposed rate increase is tolerated by this Commission. Lest there be any doubt, the city code itself states that the people with moorings are to be charged rates similar to other rates charged for users of the tidelands. This clearly flies contrary to that code.

This is how the proposed rate increase will have an impact on me and my family:

The existing mooring fee structure (and mooring maintenance which the mooring holders pay ourselves) have been factored into our household budgets. The proposed 400% increases make this an unexpected and unaffordable expense. It would very likely mean having to sell our sailboat. If even half of the current mooring holders also had to sell their boats, there would be a huge increase in the number of boats on the market, negatively impacting their values. This creates another hardship. Dock fees are now completely unaffordable by most average households and are not an option. The result of these fee increases would be to greatly reduce access to our public harbor for average income households.

I ask this commission to perform a thorough investigation of this matter. SLC staff has been provided proof that the City of Newport Beach is using flawed information in the attempt to raise mooring rates up to 500% and higher for shore moorings, which will clearly push average boaters out of Newport Harbor while leaving the rates of other tidelands users alone. Discrimination can't be tolerated.

My husband and I have attended the city Harbor Commission meetings and feel that the information submitted regarding the flawed Netzer appraisal methodology and the input of mooring holders about how the proposed rate increases would affect them are not being taken into account. In many cases the Commission treated public input with what can only be described as dismissiveness and disrespect.

We appreciate the State Lands staff for reviewing this matter and we encourage this commission to thoroughly investigate the matter.

Keith and Cheryl Garrison

From: [Gary George](#)
To: [CSLC CommissionMeetings](#)
Cc: [Danita George](#)
Subject: Written public comment non-agenda item April 4th SLC-Please Stop the Class Discrimination in Newport Harbor
Date: Monday, April 1, 2024 12:42:18 PM
Attachments: [ATT00001.png](#)

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

Dear Commissioners,

As you may be aware, the SLC Staff is currently reviewing a proposed mooring rate increase of up to 500% for offshore mooring and 1000% for shore moorings in Newport Harbor. These moorings are the last affordable access to boating in Newport Harbor. This proposed rate increase will force average boaters out of the submerged tidelands in Newport Harbor which fall under SLC oversight jurisdiction.

Currently, the mooring holders pay 4 times more than the affluent waterfront homeowners for use of the same submerged tidelands. If the proposed rate increase goes through, the mooring holders will be paying up to 20 times more than the affluent waterfront homeowners pay, for use of the exact same tidelands. That's not fair and it clearly targets and discriminates against people with moorings.

In pushing this extreme discrimination, the city's Harbor Commission has completely ignored the January 2024 independent appraisal by CBRE which shows the city of Newport Beach's appraisal is way off base and does not even account for the lack of dinghy docks to get out to our moorings, when every other harbor in California provides dinghy docks to get out to a mooring. The independent CBRE appraisal, which is being ignored by the Harbor Commission, shows there is no need for any increase in excess of the CPI.

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This is how the proposed rate increase will have an impact on me and my family:

After 68 years on this planet we finally realized our life long desire to have a boat on a mooring in Newport Harbor, after spending 45,000.00 to acquire a 50' offshore lease, we are fearful that we will not be able to afford these proposed increases on a retirement income.

I ask this commission to perform a thorough investigation of this matter. SLC staff has been provided proof that the City of Newport Beach is using flawed information in the attempt to raise mooring rates up to 500% and higher for shore moorings, which will clearly push average boaters out of Newport Harbor while leaving the rates of other tidelands users alone. Discrimination can't be tolerated.

We appreciate the State Lands staff for reviewing this matter and we encourage this commission to thoroughly investigate the matter.



Gary George | President

www.georgegeneral.com

O: 951-353-8181 | F: 951-353-8184

gary@georgegeneral.com

From: [Leonard Grech](#)
To: [CSLC CommissionMeetings](#); [leonard.grech](#)
Subject: Written Public Comment Non-agender Item April 4th SLC-Please Stop the Class Discrimination in Newport Harbor
Date: Sunday, March 31, 2024 9:48:06 PM

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

----- Forwarded Message -----

From: Admin <mail@newportmooringassociation.org>
To: Admin <mail@newportmooringassociation.org>
Sent: Saturday, March 30, 2024 at 10:38:56 AM PDT
Subject: RE: News Alert for All Mooring Holders

Dear Mooring Holders (and Mooring Supporters),

The California State Lands Commission staff is currently reviewing the Netzer appraisal and the price discrimination concerns regarding the ridiculously high and unprecedented mooring rate increase proposed by the Newport Beach Harbor Commission. The State Lands Commission, which includes Lt. Governor Eleni Kounalakis, State Controller Malia M. Cohen and State Finance Director Joe Stephenshaw, have their quarterly public meeting on April 4th in San Pedro. Here's a link to the meeting info: [April 4, 2024 Commission Meeting Agenda | CA State Lands Commission](#). These meetings are open to public comment and you can also submit written communication.

We need your help! Please email the State Lands Commission your written comment regarding the harmful mooring rate increase that will price many mooring holders out of Newport Harbor. We have shown that the Netzer appraisal is riddled with problems such as:

- Ignoring standard appraising methods for moorings
- Using unreliable and inventive methodology
- Failing to take into account the lack of dinghy dock access
- The Netzer appraisal runs completely contrary to the independent CBRE appraisal submitted to the city

Questions have been raised concerning the motivations for such an extreme recommendation, and questions of bias and/or conflicts of interest are being investigated by some mooring holders as well as at least one law firm. In the wake of these questions, we have now seen Harbormaster Blank being forced to recuse himself from any further involvement in this historic attempt to increase mooring rates after he was found to have a conflict of interest. Conflicts of interest and/or bias are being looked into by the NMA.

There are concerns that even after showing the city all the faults of the Netzer appraisal and even after the city was presented with the independent CBRE appraisal that shows the current rates are already at about market value, the city staff and members of the Harbor Commission are still attempting to rush through a "blessing" by the SLC of this historic and unprecedented rate hike. They want this blessing so that city staff and the Harbor Commission can pass off its devastating rate hike to the City Council for approval and further exacerbate the existing discrimination against people with moorings compared to how the city treats, and rates charged to homeowners with private docks as well as other users of tidelands in the harbor.

Here is an example of one letter being sent by a mooring holder to state lands. If you agree with some of the points raised or if you have other points you would like to share please write to the SLC today. The Commissioners will not be familiar with the nuances of a mooring or this rate increase, so feel free to break it down like you are explaining it to an extended family member at Easter. **The State Lands Commission does care about protecting affordable access to the waterways of California. They also care about making sure there is no class discrimination in the management of harbors in California.**

Here is an example of one letter being sent or under consideration.

Thank you for your continued support!

-NMA

Deadline to send this email to State Lands Commission is Monday April 1st

Email to: CSLC.CommissionMeetings@slc.ca.gov

Email Subject Line: Written public comment non-agenda item April 4th SLC-Please Stop the Class Discrimination in Newport Harbor

Dear Commissioners,

As you may be aware, the SLC Staff is currently reviewing a proposed mooring rate increase of up to 500% for offshore mooring and 1000% for shore moorings in Newport Harbor. These moorings are the last affordable access to boating in Newport Harbor. This proposed rate increase will force average boaters out of the submerged tidelands in Newport Harbor which fall under SLC oversight jurisdiction.

Currently, the mooring holders pay **4 times more** than the affluent waterfront homeowners for use of the same submerged tidelands. If the proposed rate increase goes through, the mooring holders will be paying up to **20 times more** than the affluent waterfront homeowners pay, for use of the exact same tidelands. That's not fair and it clearly targets and discriminates against people with moorings.

In pushing this extreme discrimination, the city's Harbor Commission has completely ignored the January 2024 independent appraisal by CBRE which shows the city of Newport Beach's appraisal is way off base and does not even account for the lack of dinghy docks to get out to our moorings, when every other harbor in California provides dinghy docks to get out to a mooring. The independent CBRE appraisal, which is being ignored by the Harbor Commission, shows there is no need for any increase in excess of the CPI.

Fortunately, the granting statute for Newport Bay has a specific clause prohibiting price discrimination in the harbor. This anti-discrimination clause regarding rates in Newport Harbor dates back to the early 1900's. It simply indicates, the city shall not charge one user more than another for the use of the tidelands. Unfortunately, this price discrimination is occurring today and will only be exacerbated ten fold if the proposed rate increase is tolerated by this Commission. Lest there be any doubt, the city code itself states that the people with moorings are to be charged rates similar to other rates charged for users of the tidelands. This clearly flies contrary to that code.

This is how the proposed rate increase will have an impact on me and my family:

_My wife and I have had this permit for 30 years and have lived aboard on our mooring for 29 years. We have lived on our boat in total for 53 years. We have been paying approximately four times more for our Tidal Land Permits than the rate that the City of Newport Beach charges the home owners for their Tidal Land Permits for their Private Dock. I would like to point out that the Private Dock Permit holders are paying only approximately 55 Cents a square foot for their 50/60 ft docks. The private dock owners are then free to keep two 50/60 ft. vessels tied to each side of that Private Dock taking up additional Tidal Land FREE OF CHARGE??? NOTE: The Private Dock Permit Holders dock dimensions are approximately 60 ft. X 8ft. =480 sq ft, @ 55 cents =\$264.00 A YEAR. One 60 ft vessel with an approximate beam of 20 ft. = 60 ft. X 20 ft. = 1,200 sq. ft. of Tidal Land is being taken away from the general public use, with no compensation. If by chance a Private Dock Permit Holder wish to tie up two 60 ft x 20 ft. vessels then the private dock permit holder will be taking 2,400 sq. ft. and @ 55 cents, he will be able to do that, NOT PAYING \$1,300.00 A YEAR. While a 65 ft. Offshore Mooring will cost \$1,884.00 A YEAR.

This absolutely outrageous increase in Offshore Mooring fees would mean that my wife and I would be forced to become homeless and would have to live on the street.

_Thank you for your time to review my comments and to carefully study the extreme discrimination of the fees

for Offshore Mooring Permits when compared to Private Docks and most other Permit Fees for use over the Tidal Lands. _____

_Very Best Regards

Leonard Grech _____

I ask this commission to perform a thorough investigation of this matter. SLC staff has been provided proof that the City of Newport Beach is using flawed information in the attempt to raise mooring rates up to 500% and higher for shore moorings, which will clearly push average boaters out of Newport Harbor, while leaving the rates of other tidelands users alone. Discrimination can't be tolerated.

We appreciate the State Lands staff for reviewing this matter and we encourage this commission to thoroughly investigate the matter.

From: [bariffith](#) [REDACTED]
To: [Dept - City Council](#)
Cc: [CSLC Commission Meetings](#)
Subject: Newport Beach Mooring Increase -
Date: Monday, April 1, 2024 2:08:29 PM

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

Hello City Council,

When considering the rate increase for the mooring holders, please consider the following.

I believe it is around 750 private pier permits that pay around \$300k to the city compared to around 800 moorings that pay around \$1.3 million.

This is where many believe that discrimination has taken place over the years. Please investigate why there is such a big difference in the fees.

Barbara

From: [Eric Hilgeman](#)
To: [CSLC CommissionMeetings](#)
Subject: FW: News Alert For ALL Mooring Holders
Date: Saturday, March 30, 2024 2:43:40 PM

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

Dear Commissioners,

I am a mooring lease holder in Newport Beach, CA. I received a copy of the email below from the Mooring Association. I do not know the exact reason for the proposed rates increases. It may be the extra cost for the over staffed harbor department.

I purchased the mooring lease for \$40,000 and paid \$1,380 to transfer the lease to my name. Newport Harbor requires a mooring service every 2 years for about \$2,500. Shore boat service to get to my boat is \$70/month.

I pay Newport Beach \$165/month to keep the lease. This is the portion the Harbor Commission wants to raise sixfold (or more). Not taking the cost to purchase the lease into consideration, my monthly cost to have the boat on the mooring is \$339/month. This would jump to \$1,164. I receive no services from the city of Newport or the Harbor Commission. I maintain the mooring.

I feel the Newport Beach Harbor Commission needs to be transparent about this rate increase and their overall plan for the harbor. Something is going on that does not seem right.

Thank you for reviewing this matter.

Sincerely,

Eric Hilgeman

From: Admin <mail@newportmooringassociation.org>
Sent: Saturday, March 30, 2024 10:14 AM
To: Admin <mail@newportmooringassociation.org>
Subject: Re: News Alert For ALL Mooring Holders

Dear Mooring Holders (and Mooring supporters),

The California State Lands Commission staff is currently reviewing the Netzer appraisal and the price discrimination concerns regarding the ridiculously high and unprecedented mooring rate increase proposed by the Newport Beach Harbor Commission. The State Lands Commission, which includes Lt. Governor Eleni Kounalakis, State Controller Malia M. Cohen and State Finance Director Joe Stephenshaw, have their quarterly public meeting on April 4th in San Pedro. Here's a link to the meeting info: [April 4, 2024 Commission Meeting Agenda | CA State Lands Commission](#). These meetings are open to public comment and you can also submit written communication.

We need your help! Please email the State Lands Commission your written comment regarding the harmful mooring rate increase that will price many mooring holders out of Newport Harbor. We have shown that the Netzer appraisal is riddled with problems such as:

- Ignoring standard appraising methods for moorings
- Using unreliable and inventive methodology

- Failing to take into account the lack of dinghy docks
- The Netzer appraisal runs completely contrary to the independent CBRE appraisal which was submitted to the City of Newport Beach

Questions have been raised concerning the motivations for such an extreme recommendation, and questions of bias and/or conflicts of interest are being investigated by some mooring holders as well as at least one law firm. In the wake of these questions, we have now seen Harbormaster Blank being forced to recuse himself from any further involvement in this historic attempt to increase mooring rates after he was found to have a conflict of interest. Conflicts of interest and/or bias are being looked into by the NMA.

There are concerns that even after showing the city all the faults of the Netzer appraisal and even after the city was presented with the independent CBRE appraisal that shows the current rates are already at about market value, the city staff and members of the Harbor Commission are still attempting to rush through a "blessing" by the SLC of this historic and unprecedented rate hike. They want this blessing so that city staff and the Harbor Commission can pass off its devastating rate hike to the City Council for approval and further exacerbate the existing discrimination against people with moorings compared to how the city treats, and rates charged to homeowners with private docks as well as other users of tidelands in the harbor.

Here is an example of one letter being sent by a mooring holder to state lands. If you agree with some of the points raised or if you have other points you would like to share please write to the SLC today. The Commissioners will not be familiar with the nuances of a mooring or this rate increase, so feel free to break it down like you are explaining it to an extended family member at Easter. **The State Lands Commission does care about protecting affordable access to the waterways of California. They also care about making sure there is no class discrimination in the management of harbors in California.**

Here is an example of one letter being sent or under consideration.

Thank you for your continued support! We look forward to seeing you at the April 10th Harbor Commission Meeting @ 5:00pm.

-NMA

Deadline to send this email to State Lands Commission is Monday April 1st

Email to: CSLC.CommissionMeetings@slc.ca.gov

Email Subject Line: Written public comment non-agenda item April 4th SLC-Please Stop the Class Discrimination in Newport Harbor

Dear Commissioners,

As you may be aware, the SLC Staff is currently reviewing a proposed mooring rate increase of up to 500% for offshore mooring and 1000% for shore moorings in Newport Harbor. These moorings are the last affordable

access to boating in Newport Harbor. This proposed rate increase will force average boaters out of the submerged tidelands in Newport Harbor which fall under SLC oversight jurisdiction.

Currently, the mooring holders pay **4 times more** than the affluent waterfront homeowners for use of the same submerged tidelands. If the proposed rate increase goes through, the mooring holders will be paying up to **20 times more** than the affluent waterfront homeowners pay, for use of the exact same tidelands. That's not fair and it clearly targets and discriminates against people with moorings.

In pushing this extreme discrimination, the city's Harbor Commission has completely ignored the January 2024 independent appraisal by CBRE which shows the city of Newport Beach's appraisal is way off base and does not even account for the lack of dinghy docks to get out to our moorings, when every other harbor in California provides dinghy docks to get out to a mooring. The independent CBRE appraisal, which is being ignored by the Harbor Commission, shows there is no need for any increase in excess of the CPI.

Fortunately, the granting statute for Newport Bay has a specific clause prohibiting price discrimination in the harbor. This anti-discrimination clause regarding rates in Newport Harbor dates back to the early 1900's. It simply indicates, the city shall not charge one user more than another for the use of the tidelands. Unfortunately, this price discrimination is occurring today and will only be exacerbated ten fold if the proposed rate increase is tolerated by this Commission. Lest there be any doubt, the city code itself states that the people with moorings are to be charged rates similar to other rates charged for users of the tidelands. This clearly flies contrary to that code.

This is how the proposed rate increase will have an impact on me and my family:

I ask this commission to perform a thorough investigation of this matter. SLC staff has been provided proof that the City of Newport Beach is using flawed information in the attempt to raise mooring rates up to 500% and higher for shore moorings, which will clearly push average boaters out of Newport Harbor while leaving the rates of other tidelands users alone. Discrimination can't be tolerated.

We appreciate the State Lands staff for reviewing this matter and we encourage this commission to thoroughly investigate the matter.

From: [George Kagan](#)
To: [CSLC CommissionMeetings](#)
Subject: Written public comment non-agenda item April 4th SLC-Please Stop the Class Discrimination in Newport Harbor
Date: Saturday, March 30, 2024 10:35:38 AM

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

Dear Commissioners,

As you may be aware, the SLC Staff is currently reviewing a proposed mooring rate increase of up to 500% for offshore mooring and 1000% for shore moorings in Newport Harbor. These moorings are the last affordable access to boating in Newport Harbor. This proposed rate increase will force average boaters out of the submerged tidelands in Newport Harbor which fall under SLC oversight jurisdiction.

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In pushing this extreme discrimination, the city's Harbor Commission has completely ignored the January 2024 independent appraisal by CBRE which shows the city of Newport Beach's appraisal is way off base and does not even account for the lack of dinghy docks to get out to our moorings, when every other harbor in California provides dinghy docks to get out to a mooring. The independent CBRE appraisal, which is being ignored by the Harbor Commission, shows there is no need for any increase in excess of the CPI.

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This is how the proposed rate increase will have an impact on me and my family:

The financial burden with a rate increase will force me to sell our mooring that my family has been using for many years. The fee hike is simply unreasonable for an average household income to be able to afford and enjoy the waterways of Newport Beach.

I ask this commission to perform a thorough investigation of this matter. SLC staff has been provided proof that the City of Newport Beach is using flawed information in the attempt to raise mooring rates up to 500% and higher for shore moorings, which will clearly push average boaters out of Newport Harbor while leaving the rates of other tidelands users alone. Discrimination can't be tolerated.

We appreciate the State Lands staff for reviewing this matter and we encourage this commission to thoroughly investigate the matter.

Best regards,

George Kaganovich

[Sent from Yahoo Mail for iPhone](#)

From: [Pit Kaz](#)
To: [CSLC CommissionMeetings](#)
Subject: Re: Discrimination and unjustified rent hike Newport Beach Mooring
Date: Thursday, April 4, 2024 10:41:04 AM

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

To be honest, we are taking this class A lawsuits for discrimination and appears to be corruption to the Court no matter what... to block and prevent them from future attempts to manipulate the system. Right now they are begging for your blessings so they won't be alone in courtroom of law. So they are already appears to be in deep trouble..

Thanks again

On Thu, Apr 4, 2024, 9:25 AM Pit Kaz [REDACTED] wrote:

Please note the city of Newport Beach has not taken to consideration 3rd party rent evaluation.. also they are insisting on using evaluation made from an insider person that is giving them a favor in return on low or no rent in harbor. There is a huge conflict of interest and coordination in the city of Newport Beach..

There have been emails and evidence between city harbor masters and city commission with evaluation agency..

Please note we are already paying more than other moorings, for example San Diego.. and San Diego has 27/7 public dinghy and much better parking...

Please protect us from this unjustified and discriminated rate hikes..

You are the only chance before we take the matter to the court as we have secured an attorney/lawyer with lots of evidence already.

Thanks
Peter Kaz

From: [Jon Kosoff](#)
To: [CSLC CommissionMeetings](#)
Subject: Written public comment non-agenda item April 4th SLC-Please Stop the Class Discrimination in Newport Harbor
Date: Sunday, March 31, 2024 8:40:39 PM

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

Dear Commissioners,

As a Mooring owner I am ashamed and appalled what the Newport Harbor Commission is trying to do. This isn't fair, or just and is flat out completely wrong. It is discrimination, and we appreciate your team reviewing the facts of this case.

As you may be aware, the SLC Staff is currently reviewing a proposed mooring rate increase of up to 500% for offshore mooring and 1000% for shore moorings in Newport Harbor. These moorings are the last affordable access to boating in Newport Harbor. This proposed rate increase will force average boaters out of the submerged tidelands in Newport Harbor which fall under SLC oversight jurisdiction.

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In pushing this extreme discrimination, the city's Harbor Commission has completely ignored the January 2024 independent appraisal by CBRE which shows the city of Newport Beach's appraisal is way off base and does not even account for the lack of dinghy docks to get out to our moorings, when every other harbor in California provides dinghy docks to get out to a mooring. The independent CBRE appraisal, which is being ignored by the Harbor Commission, shows there is no need for any increase in excess of the CPI.

Fortunately, the granting statute for Newport Bay has a specific clause prohibiting price discrimination in the harbor. This anti-discrimination clause regarding rates in Newport Harbor dates back to the early 1900's. It simply indicates, the city shall not charge one user more than another for the use of the tidelands. Unfortunately, this price discrimination is occurring today and will only be exacerbated ten fold if the proposed rate increase is tolerated by this Commission. Lest there be any doubt, the city code itself states that the people with moorings are to be charged rates similar to other rates charged for users of the tidelands. This clearly flies contrary to that code.

This is how the proposed rate increase will have an impact on me and my family:

We recently bought our mooring and saved a long time do to so. We plan on sharing it with our 3 children for a long time. It took us 3 years to find the mooring and we had to pay a Significant amount of money up front to buy the mooring. We did it the right way. And don't think it is fair for this increase which will crash the value of our investment. More importantly our ability to use the harbor with our family and friends.

It is completely wrong and fraudulent. I understand a small cost of living increase and have no problem paying it but this would essentially make our investment disappear. It is a complete money grab and discrimination. We have no services on our mooring and pay for all the maintenance and work done. The appraisal methodology is 100% flawed, and not fair.

I ask this commission to perform a thorough investigation of this matter. SLC staff has been provided proof that the City of Newport Beach is using flawed information in the attempt to raise mooring rates up to 500% and higher for shore moorings, which will clearly push average boaters out of Newport Harbor while leaving the rates of other tidelands users alone. Discrimination can't be tolerated.

We appreciate the State Lands staff for reviewing this matter and we encourage this commission to thoroughly investigate the matter.

Thank you,

Jon Kosoff

**California State Lands Commission Meeting - 04/04/2024
Public Comment, Re: Newport Beach Offshore Mooring Rents:**

Dear Commissioners,

Some Newport Beach (Hereafter NPB) Civil Servants have interpreted public comment opposing their proposed offshore mooring rent increases of 300, to over 500%, as people stating that charging Fair Market Value Rent is not necessary. I've attended numerous local meetings on the matters, and don't recall any specific remarks I've interpreted that way. A primary issue seems to be though, that a number of City Officials/Personnel, are defining "fair", in other than customary terms.

As you know, The California State Lands Commission (Hereafter "SLC"), calculates annual rental rates for the lease of State tide and submerged lands approximately every 5 years, the last time being less than two years ago, in June of 2022. The current SLC Benchmark rate for Orange County is .451 cents per square foot per year. Newport Beach data was used in determining that rate. Associated SLC Staff Report 39, for purposes of comparing commercial marinas to buoys/mooring poles states:

"These facilities offer many of the same amenities as a commercial marina, such as a place for the docking and mooring of boats and the loading and unloading of passengers and equipment".

Offshore Moorings in Newport Harbor, are clearly lacking in the amenities of docking, and the loading and unloading of passengers and equipment. A lack of onshore parking, and dinghy/tender storage have also been cited as impediments

Offshore mooring permittees face in Newport.

SLC Staff Report 39 uses the words "fair"; "equitable"; "reasonable"; "consistent"; and "appropriate" to describe the current Benchmark rate. The formula The State used to set that "fair" rate, is clearly outlined (Please see attached Exhibit A).

The Fee Schedule currently on The NPB City website, indicates that residential piers, aka docks over State owned, City managed tide/submerged lands adjacent to residential properties, incur annual rental fees of .56 cents per square foot. Please recall that piers and docks offer much more convenient, walk-on access, than do offshore moorings. Various City Resolutions setting past and present rent for these land users in Newport, describe rates as "**fair**

market value rent". That being the case, The City's current Pier rate of .56 cents per square foot, must be considered to be fair (Please see attached Exhibit B).

A CBRE Appraisal Report of 2024, determined fair annual rent amounts for offshore moorings, closely in line with what they are presently (Please see Attached Exhibit C). The City commissioned Netzer and Associates Appraisal Report of 12/2023 on the other hand, concluded that Offshore Mooring rents should increase exponentially. Netzer's conclusions, appear based on inappropriate/flawed methodology; comparisons to dry-land real properties; for-profit Marina slips; etc.; etc., which do not so closely compare to offshore moorings as is implied. That Report also evidences some discrepancy about how many offshore mooring fields exist in Newport Harbor, **and** contradicts a 2016 determination made by the very same firm (Please see Attached Exhibit D). In memos included with the 03/18/2024 NPB Harbor Commission Special Meeting Agenda, Mr. Netzer seems to try and explain contradictions between himself in 2016 and 2023, and himself in 2023, and CBRE in 2024. These memos raise additional questions/concerns, which are addressed in an addendum to these remarks.

Appraisers have indicated that 40' is a typical/common/average size of offshore mooring in NPB. (Netzer, and CBRE Reports). Currently, an Offshore Mooring permittee pays to The City annual rent of about \$1,600 (Please see Attached Exhibit E).

The Appraisers have indicated that a boat on a 40' mooring could **drift** over an area of about 1,200 to 1,326 sq. ft. (Note that moored vessels do not occupy a singular fixed space 24x7, in the same way that vessels in slips/berths do, and That NPB appears not to assess fees on the actual space occupied by vessels at permitted docks/piers). Dividing the calculated offshore mooring drift space, by the annual rent of \$1,600, gives us a rate range of around \$1.21 to \$1.33 per square foot. The substantial financial outlay to acquire a permit allowing a party to rent from The City, and the bi-annual mooring service, averaging about \$700 per year, are not included in these figures.

So, a 40' offshore mooring permittee in NPB, for use of the **same** State resource as other permittees, is currently paying around 216-237% **more** than someone being charged City Pier Permit fees, and 268-294% **more** than someone being charged State fees.

The NPB Harbor Commission subcommittee, which I understand consists of Mistery Beer; Cunningham; and Scully, think that that's unfair, and that it would be **more** fair, for 40' offshore mooring permittees, to pay 435-480% higher rates!

The SLC Meeting Agenda for April 4, 2024, includes a multitude of lease proposals for individuals in Huntington Harbor. The rates within these proposals, as well as the State's current Benchmark rate for Orange County are presumed to be fair. The City of Newport Beach's very **own** Pier Permit fee schedule is presumed to be fair. Highly regarded appraisal firm CBRE, and a **vast** number of members of the public are in **consensus** on what **fair** is. The Netzer Report NPB wishes to rely on, is an **extreme**, and I say errant outlier. It would be "**fair**" to go with logic, and the **preponderance** of data.

If NPB decisionmakers however, continue to find themselves tempted by all the **\$\$\$\$\$\$** signs that going with the outlier could generate, and The SLC condones this, I think there's a way in which the parties could seek actual fairness, and "split-the-baby" as the saying goes. City of Newport Beach RESOLUTION NO. 2015 -10 (Attached Exhibit F), indicates that Council can choose not to adjust Rent across the class of permit, and can:

"... adjust the Rent of only those individual Permits that transfer ownership following each appraisal".


Implementing this standard **would** be fair, **and** logical. It would serve to mitigate the potential of exorbitant rent increases current City permit holders would be unexpectedly saddled with, and would allow **all** stakeholders, present and future, opportunity to make/have made **informed** decisions. The fact that existing permittees, when having chosen to become tenants of The State, through the City, have relied on a historical, predictable, and well-established pattern of rents, CPI adjustments, and trends for at least 15 years, warrants accommodation. Multiple individuals have suggested a Prop-13 type of mindset as a possible means to achieve fairness. The fact that The City has, and does rely on CPI adjustments, and reasonable % increase caps, is indicative that such a mindset has been an acceptable practice within City governance for some time. RESOLUTION NO. 2015 -10 shows foresight, and establishes that that Prop-13 style approach is not new in relation to tideland lessees.

Importantly too, NPB Harbor Commissioners recently inquired of, and were told by Harbor Master Paul Blank, that parties purchasing mooring permits have **not** been being informed of potential forthcoming **immense** increases in rent. Harm caused by this lack of transparency, could be somewhat mitigated by acting in accordance with what's previously been defined by The City as permissible, i.e.:

“... adjust the Rent of only those individual Permits that transfer ownership following each appraisal”.

The City **choosing** to, and The SLC endorsing, excessive, across the board rent increases for offshore moorings, far beyond what other users are paying, and **after** delinquency/inability to pay having been codified as grounds for permit revocation/confiscation, would be unjust, unfair, wrongful, and potentially litigious.

Regards,

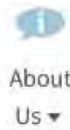


Adam Leverenz

Attached Exhibits:

- A: State Lands Commission materials w highlights.
- B: City Fee Schedule/e-mail/RESOLUTION Reference w highlights.
- C: CBRE Report excerpts.
- D: Netzer Report excerpts w highlights.
- E: Offshore Mooring Rent Statement.
- F: RESOLUTION 2015-10 Reference w highlights
- G: Harbor Department Data.

Public Comment Re:
Offshore Mooring
Proposed FMV Rent.
Attachment A:
California State Lands
Commission Material:
25 pgs.



▶ **Category 1** benchmarks are applied to private docks, piers, and buoys.

▶ **Category 2** benchmarks are applied to cantilevered decks, sundecks, or other non-water-dependent encroachments.

Note: Benchmarks are generally updated every five years.

Category 1

Location	Rental Rate (\$/SF)	Last Updated	Proposed Update
Sacramento River	\$0.214	April 2020	2025
Delta Area	\$0.168	April 2020	2025
Tomales Bay berths	\$0.133	December 2020	2025
Tomales Bay buoys*	\$140.00	December 2020	2025
Lake Tahoe berths	\$0.814	December 2021	2026
Lake Tahoe buoys*	\$273.00	December 2021	2026
San Francisco Bay Area	\$0.227	February 2022	2027
Southern California	\$0.451	June 2022	2027
Colorado River	\$0.217	February 2023	2028

*per buoy

Staff Report 39

PARTY:

California State Lands Commission

PROPOSED ACTION:

Approve the 2022 Category 1 Southern California Benchmark rental rate and the Category 2 Huntington Harbour Benchmark rental rate.

LAND TYPE AND LOCATION:

Sovereign land in Ventura, Los Angeles, Orange, and San Diego Counties.

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 the 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 assures 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 recommends updates to the benchmarks every 5 years.

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 cantilevered decks, sundecks, or other non-water dependent uses.

This staff report addresses the Category 1 benchmark for the Southern California coastal region for Ventura, Los Angeles, Orange, and San Diego Counties, and the Category 2 benchmark for Huntington Harbour recreational use leases that include cantilevered decks.

METHODOLOGY:

The Commission has been using the Category 1 Southern California benchmark since the early 1980s and the Category 2 Huntington Harbour benchmark since 2004. Both benchmarks were last updated in October 2016, when the Category 1 rate was set at \$0.374 per square foot, and the Category 2 rate was set at \$31.50 per square foot.

CATEGORY 1 SOUTHERN CALIFORNIA BENCHMARK

Leases are issued by the Commission for private recreational facilities such as docks, piers, and buoys/mooring poles. These facilities offer many of the same amenities as a commercial marina, such as a place for the docking and mooring of boats and the loading and unloading of passengers and equipment. In this manner, these privately owned facilities represent a substitute for a commercial marina berth/buoy. Accordingly, the method of valuation used in estimating a fair return and a fair rental value is based on what an individual would pay for a similar substitute site in a commercial marina (principle of substitution). Since a Commission-leased site for a privately-owned pier or dock is a reasonable substitute for a marina berth, a lessee occupying state land should pay a similar rate for the leased site as the state would receive for leasing the land to a commercial marina. The current methodology for setting rent for berthing vessels at docks and piers occupying state-owned sovereign land is based on the principle of substitution described above.

The first step in setting a Category 1 berthing rate benchmark is to survey local marinas to determine their rental rates. Marinas usually rent their berths on a per-linear-foot basis, based on the length of the berth or vessel. For benchmark purposes, the average surveyed rental rate is used. The rate is multiplied by the average or typical berth length as indicated in the survey data. Based on these inputs, the annual gross income is calculated. For Category 1 benchmarks, the State's rent is based on a 5 percent rate of return of this annual gross income, which represents a comparable fair market compensation rate for the use of State-owned sovereign land. The State's rent is then converted to a per-square-foot basis using a table calculated by the California State Parks Division of Boating and Waterways 2005 publication titled "Layout and Design Guidelines for Marina Berthing Facilities" (DBW berthing publication). This publication provides formulas and tables for calculating the submerged land area needed to accommodate various sizes and layouts of berths in marinas. Among other variables, the formulas account for the berth length, berth layout (single or double), and the type of vessel (powerboat or sailboat). The publication can be requested from the Department of Boating and Waterways (<http://dbw.parks.ca.gov/pages/28702/files/Guide05.pdf>).

The Southern California Benchmark appraisal survey, attached as Exhibit A, consists of 42 marinas located in the four counties covered by the benchmark. The survey found that the average berth/slip size in the coverage area is approximately 37 linear feet. A 37-foot length was also used in the 2016 benchmark. Staff believes that marina layouts have not changed significantly since the last benchmark.

Berthing rates are reported on a per-linear-foot basis. The berthing rate, based on survey data collected within the coverage area, ranged from \$11.90 to \$65.86 per

linear foot with an average of \$23.40 per linear foot. The benchmark rental rate for berths is calculated by multiplying the average berth length by the average rental rate. This product is then multiplied by 12 months to arrive at the gross annual income. The gross annual income is then multiplied by 5 percent to arrive at the income attributable to the submerged land. That amount is then converted to a per square foot basis for rent-setting purposes using the DBW berthing publication described above. The submerged land area used in this benchmark analysis is based on a double berth layout, which represents the typical and most economically efficient marina berth layout in the area, and represents an average of the powerboat and sailboat areas.

From DBW berthing publication data, a submerged area of 1,153 square feet is needed to accommodate the 37-foot average slip length. Taking all the previously described inputs into account, the rental rate for the proposed Southern California Benchmark is calculated as follows:

$$\$10,389.60/\text{berth}/\text{year} \times 5 \text{ percent of gross income} = \$519.48$$

$$\$519.48 \div 1,153 \text{ square feet} = \$0.451/\text{square foot}$$

Proposed Category 1 Southern California Benchmark Rental Rate = \$0.451 per square foot

The 2016 Benchmark was set at \$0.374 per square foot. As proposed, the new benchmark rate of \$0.451 per square foot represents an overall increase of just under 8 cents (\$0.077) per square foot.

Impact Area:

The impact area is an additional area, beyond the physical footprint of a structure, where a lessee seeks authorization to conduct activities. For recreational structures used for the docking and mooring of boats within the benchmark's coverage area, the impact area is generally a nine-foot-wide strip along the mooring areas or under a boat lift. In Huntington Harbour, it is generally the area between the bulkhead and the pierhead line that is not covered by the dock, because of the occupation of the improvements, these are areas that are generally viewed by the public as private and where the lessee generally enjoys exclusive use. Accordingly, these areas are included in a lease and rent is charged thereon. The Commission's leasing regulations explicitly allow for this. (Cal. Code Regs., tit. 2, § 2003, subd. (e) (2)).

CATEGORY 2 HUNTINGTON HARBOUR BENCHMARK

Category 2 benchmarks are based on nearby upland land values because the improvements (cantilevered decks, sundecks, or certain other non-water

dependent encroachments) represent an extension of the private backyard 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 property sales. The initial research seeks to identify land value only because the property being leased is the underlying sovereign land, as well as the area above the sovereign land, and not the privately-owned improvements. If vacant land sales are not available, then the assessed improvement values are subtracted from sales price of improved properties to reflect the land value of the sale property. Next, staff analyzes the sales data and determines 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 pursuant to title 2, California Code of Regulations, 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, due to topography or other physical characteristics, the nature of the sovereign land use, certain legal constraints, or the upland owner's decision, but nevertheless still contributes to the value of the upland property.

Using the methodology described above, Commission appraisal staff researched 19 home sales adjoining sovereign land along the Main and Midway Channels within Huntington Harbour. The sales occurred between February 2018 and December 2021, with a sales range of \$1,175,000 to \$6,650,000 and a corresponding land value range of \$110 to \$697 per square foot. The concluded average land value based on these sales figures is \$458 per square foot. Taking all the previously described inputs into account, the proposed undiscounted rental rate for the Huntington Harbour Benchmark is calculated as follows:

$$\$458 \times 9\% = \$41.22 \text{ per square foot}$$

Proposed Category 2 Huntington Harbour Benchmark Rental Rate = \$41.22 per square foot

The 2016 Benchmark was set at \$31.50 per square foot. As proposed, the new benchmark rate of \$41.22 per square foot represents an increase of \$9.72 per square foot.

The undiscounted rate applies to features such as enclosed cantilevered decks because, unlike an open deck, an enclosed deck has the full capacity to be utilized as residential living space, and thus should be given no reduction in utility or intensity of use as compared to the upland land value. For features such as an

unenclosed cantilevered deck, Commission staff recommends the application of a discount of up to 75 percent to reflect the intensity of use of the sovereign lands occupied. This approach is consistent with how staff applies discounts for similar facilities throughout the state.

CONCLUSION:

Staff's methodologies for setting the proposed Category 1 Southern California and Category 2 Huntington Harbour Benchmark rental rates are consistent with the methodology used for the Commission's other similar benchmarks, as well as all the relevant statutes and regulations that govern the Commission's rent-setting authority. Staff's recommended benchmark rates represent a fair and equitable rate for each type of use based on the most current and relevant data available.

Approval of the new benchmark rental rates will not result in a change in the use of, or substantially interfere with or impact Public Trust resources. Staff believes that each benchmark provides a reasonable and consistent method for determining rents in their geographic coverage areas and are in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. In 2011, Chapter 585, Statutes of 2011 became law and repealed Public Resources Code section 6503.5 that had allowed rent-free use of state land by certain private parties for their recreational piers. It replaced the former section with a new section 6503.5 which provides that the Commission "shall charge rent for a private recreational pier constructed on state lands."
2. 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](#)).
3. This action is consistent with Goal 4 of the Commission's Strategic Plan "Meeting Evolving Public Trust Needs," Section 3 - "Maintain fiscal integrity through transparency, accountability, and: a. Efficient and effective management of the revenue-generation portfolio." This action is also consistent with Goal 6 "Committing to Collaborative Leadership," Section 2 - Advance innovation and create clarity of direction by offering continual, robust opportunities for stakeholder and public engagement, and institutionalizing this relationship building so that the process and relationships live through the Commission and not just through individual staff members or leaders.

4. Approval of the 2022 Category 1 Southern California and Category 2 Huntington Harbour Benchmark rental rates 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).

EXHIBITS:

- A. 2022 Category 1 Southern California Benchmark Appraisal
- B. 2022 Category 2 Huntington Harbour Benchmark Appraisal

RECOMMENDED ACTION:

It is recommended that the Commission:

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that approval of the benchmarks will not result in a change in the use of, or impacts to, 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 2022 Category 1 Southern California Benchmark rental rate of \$0.451 per square foot, effective June 23, 2022.
2. Approve the 2022 Category 2 Huntington Harbour Benchmark rental rate of \$41.22 per square foot, effective June 23, 2022.

State of California


State Lands Commission

Memorandum

Date: May 6, 2022

To: Brian Bugsch, Chief
Land Management Division

Grace Kato, Assistant Chief
Land Management Division

From: Chaun Wong 
Associate Property Appraiser
Land Management Division

Subject: Southern California Category 1 Benchmark 2022
Ventura, Los Angeles, Orange, San Diego Counties

The Southern California Category 1 Benchmark was last updated by staff of the California State Lands Commission (Commission) in 2016. The current update follows essentially the same methodology as used in the prior benchmark. Reference is made to the 2016 study for additional background material that may be needed for the reader to more fully understand what the benchmark is used for and how it is set.

The recommended benchmark is summarized in the following table with the 2016 benchmark.

Table 1. Southern California Benchmark Summary

Benchmark Date	2016	2022
Rental Rate (Per Sq. Ft.)	\$0.374	\$0.451

An appraisal is the act or process of developing an opinion of value that must be numerically expressed as a specific amount, as a range of numbers, or as a relationship to a previous value opinion or numerical benchmark. This report constitutes an appraisal as defined by the Uniform Standards of Professional Appraisal Practice (USPAP). Accordingly, this appraisal has been performed and the report has been prepared in substantial compliance with USPAP. The compiled research, analyses, and conclusions presented in this appraisal represent a correlation of market rents into benchmark rental rates for private recreational facilities (e.g., docks and piers) located on Southern California. The benchmark is intended to be used by Commission staff for rent setting purposes.

Benchmarks establish uniform rental rates in specific geographic regions with concentrations of similar facilities within the Commission's jurisdiction. (Cal. Code Regs., tit. 2, § 2003, subd. (a)(5).) For proposed leases involving certain types of

Southern California Category 1 Benchmark

improvements or uses in regions where benchmarks have been approved, staff will recommend an annual rent based on the applicable benchmark and the lease area. Benchmark rental rates are based on an analysis of similar uses or substitute facilities in the local area. Generally, staff recommends updates to the benchmarks every 5 years. The use of benchmarks improves consistency and transparency throughout a geographic region, improves staff efficiency in setting and adjusting rent for large numbers of leases, and saves time and money for both the applicant and the State.

Introduction

Leases are issued by the California State Lands Commission for private recreational facilities – such as docks and piers – located on sovereign lands. These facilities offer a substitute for the essential functions of a commercial marina, such as a place for the docking and mooring of boats and the loading and unloading of passengers and equipment. In a market where there is significantly more demand than supply, these private structures afford the upland owners guaranteed access to mooring facilities that they may not otherwise be able to obtain from commercial marinas. In this manner, these privately-owned facilities represent a substitute for a commercial marina slip. Accordingly, the method of valuation used in estimating a fair rental value in this analysis is based on what an individual would pay for a similar substitute site in a commercial marina.

Since a Commission-leased site for a privately-owned pier or dock substitutes for the essential functions of a marina slip, a lessee of the state land should pay a similar amount for the leased site as the state would receive for leasing the land to a commercial marina.

Scope

The scope of the research included the following:

- Identifying marinas with boat slips in the Southern California area.
- Surveying the number and type of moorings at marinas (berths / slips), occupancy rate, mooring sizes, and rates.
- Compiling the survey results into averages for slip size and rate.
- Using the “Layout and Design Guidelines for Marina Berthing Facilities” publication (last updated July 2005) from the State Department of Boating and Waterways to determine the amount of submerged land area necessary to accommodate a given mooring size.
- Calculating the annual rental rate(s) using the above information and State valuation guidelines.

There are estimated to be 118 total marinas in the Southern California area. In statistics, for very large populations, a random sampling method provides the best chance of an unbiased representative sample. Random marinas throughout the regions were contacted during the course of the survey. Marinas were contacted via phone

Southern California Category 1 Benchmark

and/or email. Some marina operators did not want to participate in the survey. Some marina operators did not provide a clear breakdown of their berthing rental rates and/or berth sizes. Other marinas contacted during the course of the survey do not rent their berths on a long-term basis. As of April 11, 2022, a total of 42 marinas responded to the survey. Each of these marinas cooperated to varying degrees and provided relevant information for study purposes. A deliberate effort was made to make the samples representative of each target population. **While not comprehensive, this survey is believed to be representative of the total marinas within each study area.**

Methodology

In order to determine the benchmark rent for a leased area (pier, dock, etc.), it is necessary to determine the income that can typically be generated by a commercial marina; the area occupied by the average or typical marina slip in a well-designed marina; and the rent for that average or typical sized boat. **An annual rate of return is then applied to the product of the above.**

The Commission typically charges 5 percent of gross income for boat berthing for sites leased to commercial marina operators.

Berth / Slip Rent

The Southern California Benchmark consists of 42 marinas located in Ventura, Los Angeles, **Orange**, and San Diego Counties (see Tables 2.1 and 2.2). For purposes of this benchmark, the boundaries of the Southern California region are generally defined as the Ventura / Los Angeles County lines to the north, the Los Angeles / **Orange** / San Diego County lines to the east, the San Diego County line to the south, and the Pacific Coast of Ventura / Los Angeles / **Orange** / San Diego Counties to the west.

The average berth size of the marinas surveyed in the Southern California region is approximately 37 linear feet. Similarly, a 37-foot length was also used in the 2016 Southern California Benchmark.

The responding marinas reported a total of 14,235 slips, or an average of 339 slips per marina. The average occupancy was reported at 96.3%, a moderate increase from the 88.5% reported in 2016.

Berthing rates are reported on a per linear foot basis. For all of the areas listed above, the berthing rate, based on data collected, ranged from \$11.90 to \$65.86 per linear foot. The lower rents were generally found in marinas located in Oxnard and City of Ventura of Ventura County; Marina del Rey and Wilmington of Los Angeles County; and City of San Diego of San Diego County. The higher rents were generally found in marinas located in Newport Beach of Orange County. The average rent overall is \$23.40 per linear foot. This represents a 20.62% increase over the \$19.40 per linear foot used in the 2016 Benchmark.

Southern California Category 1 Benchmark

The benchmark rental rate for berths is calculated by multiplying the average berth length by the average monthly rental rate. This product is then multiplied by 12 months to arrive at the gross annual income. The gross annual income is multiplied by 5% to get the income attributable to the submerged land. The income attributable to the submerged land is then divided by the amount of submerged land needed to accommodate the average berth length within a marina.

The submerged land area needed to accommodate an average berth is found in a publication entitled "[Layout and Design Guidelines for Small Craft and Berthing Facilities](#)" by the California Department of Boating and Waterways last updated in 2005. This publication provides formulas and tables for calculating the submerged land area needed to accommodate various sizes and layouts of berths in marinas. Among other variables, the formulas take into account the berth length, berth layout (single vs. double), and the type of vessel (powerboat vs. sailboat). The submerged land area used in this benchmark analysis is based on a double berth layout (on the premise that it represents the typical marina berth layout in the area and is the most economically efficient for the marina operator) and represents an average of the powerboat and sailboat areas.

From the tables in the publication, a submerged area of 1,153 square feet is shown as being necessary to accommodate the 37-foot average slip length indicated by the survey for Southern California. Taking all of the aforementioned into account, the current benchmark rental rate for Southern California is calculated as follows:

- Average berth rate: \$23.40
- Average boat length: 37 linear feet
- Submerged land area necessary to accommodate a 37-foot boat slip: 1,153 SF
- Percent of income attributable to the submerged land: 5 percent

$$37' \times \$23.40/\text{linear foot} \times 12 \text{ months} = \$10,389.60$$

$$\$10,389.60 \times 5\% \text{ of gross income} = \$519.48$$

$$\$519.48 \div 1,153 \text{ square feet} = \$0.451 \text{ per square foot rental rate}$$

Benchmark Rental Rate = \$0.451 per sq. ft.

The indicated benchmark rental rate for Southern California area is \$0.451 per square foot. In contrast, the 2016 benchmark was \$0.374 per square foot. The 2022 benchmark therefore represents an overall increase of \$0.077 (20.6%) from the 2016 benchmark.

Southern California Category 1 Benchmark

Table 2.1. Marina Survey - Southern California

Number	Name	Total Slips	Occupancy Rate	Occupied Slips	Average Length	Average Rate
	Ventura					
1	Bahia Marina	84	96%	81	38	\$17.61
2	Channel Islands Harbor Marina	418	90%	376	38	\$16.39
3	Peninsula Yacht Marina	310	87%	270	35	\$13.82
4	Vintage Marina	384	98%	376	35	\$14.30
5	Westport Marina	61	87%	53	30	\$11.90
6	Ventura Harbor Village Marina	103	100%	103	63	\$13.44
7	Ventura Isle Marina	570	100%	570	40	\$18.03
8	Ventura West Marina	542	94%	509	36	\$16.64
	Averages		94.0%		39	\$15.27
	Los Angeles					
9	Alamitos Bay Marina	1,634	96%	1,569	36	\$18.06
10	Long Beach Shoreline Marina	1,605	93%	1,493	37	\$18.39
11	Rainbow Harbor and Marina	89	89%	79	35	\$17.67
12	Anchorage 47	253	90%	228	29	\$19.17
13	Catalina Yacht Anchorage	120	88%	106	27	\$16.05
14	Dolphin Marina	424	97%	411	32	\$19.12
15	Esprit Marina	216	94%	203	46	\$31.81
16	Holiday Harbor Marina	182	94%	171	25	\$14.12
17	Marina del Rey Marina	304	85%	258	44	\$31.41
18	Neptune Marina	161	81%	130	32	\$20.10
19	Panay Way Marina	139	96%	133	30	\$17.82
20	The Boat Yard Marina	106	100%	106	31	\$20.71
21	Villa del Mar Marina	189	100%	189	41	\$21.45
22	California Yacht Marina - Cabrillo Marina	884	75%	663	36	\$16.28
23	Pacific Yacht Landing	174	100%	174	31	\$12.17
24	Yacht Haven Marina	161	99%	159	39	\$12.02
	Averages		92.3%		34	\$19.15

Southern California Category 1 Benchmark

Table 2.2. Marina Survey - Southern California

Number	Name	Total Slips	Occupancy Rate	Occupied Slips	Average Length	Average Rate
	Orange					
25	Dana West Marina	846	100%	846	30	\$24.48
26	Huntington Harbor Marina	188	100%	188	35	\$23.47
27	Sunset Aquatic Marina	229	100%	229	33	\$16.67
28	Balboa Yacht Basin	172	100%	172	36	\$35.95
29	Bayside Village Marina	124	100%	124	28	\$34.38
30	Lido Marina Village	28	100%	28	56	\$65.86
31	Newport Dunes Resort and Marina	405	97%	393	30	\$48.52
	Averages		99.6%		35	\$35.62
	San Diego					
32	California Yacht Marina - Glorietta Bay Marina	100	98%	98	39	\$22.00
33	Pier 32 Marina	246	100%	246	43	\$23.74
34	Oceanside Harbor	763	100%	763	32	\$16.96
35	Dana Landing Marina	78	100%	78	36	\$14.34
36	Half Moon Marina	128	100%	128	37	\$21.42
37	Kona Kai Marina and Resort	526	99%	521	47	\$33.12
38	Marina Village Marina	611	100%	611	30	\$16.95
39	Marriott Marquis San Diego Marina	394	100%	394	43	\$25.77
40	Point Loma Marina	42	100%	42	57	\$37.93
41	Shelter Cove Marina	143	94%	134	38	\$25.57
42	Sun Harbor Marina	99	100%	99	45	\$21.38
	Averages		99%		41	\$23.56
	Overall Averages		96.3%		37	\$23.40

State of California


State Lands Commission

Memorandum

Date: May 6, 2022

To: Brian Bugsch, Chief
Land Management Division

Grace Kato, Assistant Chief
Land Management Division

From: Chaun Wong 
Associate Property Appraiser
Land Management Division

Subject: Huntington Harbour Category 2 Benchmark 2022 - Rental rate for non-water dependent use areas extending on and over sovereign land in Huntington Harbour, Orange County, California

As requested, I have conducted research relevant to establishing a benchmark rental rate for non-water dependent use areas extending onto and over sovereign land in Huntington Harbour, Orange County, California. These non-water dependent uses consist of private decks and other residential-related improvements that extend onto and over sovereign lands and essentially represent extensions of the usable area of the adjoining residential lots.

An appraisal is the act or process of developing an opinion of value that must be numerically expressed as a specific amount, as a range of numbers, or as a relationship to a previous value opinion or numerical benchmark. This report constitutes an appraisal as defined by the Uniform Standards of Professional Appraisal Practice (USPAP). The compiled research, analyses, and conclusions presented in this appraisal represents a correlation of residential land values into benchmark rental rates for non-water dependent use areas located on Huntington Harbour. The benchmark is intended to be used by Commission staff in negotiations with lessees. It should also be noted that this appraisal has been performed and the report has been prepared in substantial compliance with USPAP as it relates to value of sovereign land. Presented on the following pages are the introduction, the scope of the research, and discussions of the pertinent findings resulting in the benchmark rental rate.

Benchmarks establish uniform rental rates in specific geographic regions with concentrations of similar facilities within the Commission's jurisdiction. (Cal. Code Regs., tit. 2, § 2003, subd. (a)(5).) For proposed leases involving certain types of improvements or uses in regions where benchmarks have been approved, staff will recommend an annual rent based on the applicable benchmark and the lease area. Benchmark rental rates are based on an analysis of similar land uses or substitute facilities in the local area. Generally, staff recommends updates to the benchmarks

Huntington Harbour Category 2 Benchmark

every 5 years. The use of benchmarks improves consistency and transparency throughout a geographic region, improves staff efficiency in setting and adjusting rent for large numbers of leases, and saves time and money for both the applicant and the State. The Huntington Harbour Category II benchmark was last updated on September 23, 2016.

Introduction

The State Lands Commission is responsible for leasing sovereign lands at Huntington Harbour. Huntington Harbour is an exclusive waterfront development located in the City of Huntington Beach in northwestern Orange County. The development is predominantly single family residential in nature and consists of several man-made islands and peninsulas situated around a series of channels. The islands and peninsulas have been developed with high-end waterfront homes, many of which have boat docks and cantilevered decks.

The development was originally designed by the Huntington Harbour Corporation in the early 1960s. It was created by dredging and filling the sloughs and marshlands lying in and around Sunset Bay. Prior to commencement of the project, the developer entered into two agreements (BLA 18 and SLL 34) with the State Lands Commission. From these agreements, the State Lands Commission retained fee ownership of the Main and Midway Channels, while most of the remaining water-covered and land areas are privately owned.

Within the Main and Midway Channels of Huntington Harbour there are private decks and other non-water dependent uses that extend onto and over sovereign lands. This benchmark is intended to address these improvements and uses. The rent for the boat dock improvements is covered separately by the Southern California Category 1 benchmark.

Methodology

The Commission's authority to lease lands and charge rent comes from the California State Constitution, the Public Resources Code, and the California Code of Regulations.

The Commission's mandate to charge rent comes from the Gift Clause of the California State Constitution, which states in part that:

"The Legislature shall have no power to...make any gift or authorize the making of any gift, of any public money or thing of value to any individual, municipal or other corporation whatever..." Cal. Const. Art. XVI -6.

Section 6503 of the Public Resources Code states that:

"The Commission shall appraise the lands and fix the annual rent or other consideration thereof."

Huntington Harbour Category 2 Benchmark

The California Code of Regulations¹ provides the Commission with broad discretion in all aspects of leasing.

“Leases or permits may be issued to qualified applicants and the Commission shall have broad discretion in all aspects of leasing including category of lease or permit and which use, method or amount of rental is most appropriate...based on what it deems to be in the best interest of the State”

The Regulations then outlines the types of leases and the methods of setting rent for each. Of these, the “9% of the appraised value of the leased land”² method is considered the most directly applicable. The land to be leased is sovereign land located waterward of the low water mark. Since there is not an active real estate market for sovereign land, the basis for the benchmark rental rate is the adjoining upland property. At Huntington Harbour, the adjoining upland property generally consists of single-family homes on residential lots. The rent to be set is based on the value of the underlying land and does not include the value of any improvements. Thus, for valuation purposes, the value of waterfront residential lots at Huntington Harbour is the basis of the rental rate.

The market value of residential land is typically estimated through use of the Sales Comparison Approach. In this approach, recent sales and current listings of similar properties are compared to the subject on the basis of pertinent factors such as location, size, shape, etc. Typically, an indication of value is then concluded based on a comparative analysis of these factors. Waterfront residential lots are typically valued on either a per-lot or on a per-waterfront-foot basis. However, because the lease areas generally do not represent a full residential lot, the unit of comparison used is the price per square foot of land area. Per Regulations, rent is then set based on 9% of the appraised value of the leased land. It should be noted that because this is a benchmark appraisal – intended to be applied to a number of different lease areas – there is no specific subject property or lease area. Accordingly, there are no specific adjustments (for location, size, shape, etc.) made. Instead, the benchmark rental rate is intended to represent the general characteristics of the benchmark’s geographic area.

Market Value of Upland Property

On LandVision³, a search was made to find recent sales of vacant residential lots, typical in size, fronting the Main or Midway Channels of Huntington Harbour in Orange County. However, due to its built-up nature, no comparable sales of vacant waterfront

¹ Title 2, Administration, Division 3, State Property Operations, Article 2 Section 2000, General (b).

² Title 2, Administration, Division 3, State Property Operations, Article 2 Section 2003(a)(1).

³ LandVision is a map-based real estate application that provides real estate, government, and many other industries with comprehensive map-based property search, analysis, management, and presentation capabilities.

Huntington Harbour Category 2 Benchmark

residential lots were found. Rather than use comparable sales that do not front the water, which would necessitate adjustments for location, an allocation method⁴ is employed. In this analysis, residential land values are removed from recent sales of single-family houses in the Huntington Harbour area through use of the improvement percentage assigned by the Orange County 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.

Summarized in the Comparable Sales Table (see Table 2) are the pertinent details of 29 sales of single-family residences fronting the Main or Midway Channels of Huntington Harbour in Orange County. The sales took place between February 2018 and December 2021. According to the Indications of Comparable Sales Table (see Table 3), the lot sizes range from 2,820 to 9,000 square feet, with a mean of 6,088 square feet and a median of 6,000 square feet. The sale prices for the waterfront lots ranged from a low of \$1,175,000 to a high of \$6,650,000, with a mean of \$3,588,034, and a median of \$3,350,000. According to the Assessor's allocations, the value of the land in these transactions accounted for between 48.93% and 97.35% of the total price. Based on these percentages, the value of unimproved residential waterfront land lies between \$110 and \$697 per square foot. The mean unit value is \$456 per square foot, while the median is \$460 per square foot.

Analysis of the sales revealed no recognizable trends relating to typical lot area and land value relationships (i.e., unit prices decreasing as sizes increase). The lack of a size/price relationship is illustrated in the following table. The presentation of the sales is based on the lot area (SF) of the sales, going from smallest to largest.

⁴ Allocation is the general process of separating value between the component parts of a property. A method of estimating land value in which sales of improved properties are analyzed to establish a typical ratio of land value to total property value and this ratio is applied to the property being appraised or the comparable sale being analyzed.

Huntington Harbour Category 2 Benchmark

Table 1. Lot Area to Land Value Per SF Table

Lot Area (SF)	Land Value Per SF
2,820	\$406
4,590	\$483
4,590	\$433
5,000	\$673
5,000	\$332
5,000	\$697
5,000	\$525
5,120	\$367
5,200	\$494
5,500	\$373
6,000	\$458
6,000	\$542
6,000	\$463
6,000	\$458
6,000	\$515
6,039	\$337
6,480	\$483
6,480	\$506
6,480	\$390
6,480	\$426
6,840	\$392
6,882	\$379
6,900	\$460
7,020	\$563
7,080	\$531
7,560	\$409
7,680	\$484
7,800	\$526
9,000	\$110

As mentioned earlier, lease areas impacted by the Huntington Harbour Category 2 Benchmark are of various lot areas, waterfrontages, locations, shapes, topographies, zonings, etc. Due to the uniqueness of each lease area and the lack of significant land value trends relating to the above elements of comparison; no particular sale is deemed a better indicator in concluding a land value benchmark. Therefore, an analysis of the overall dataset is warranted and deemed appropriate in concluding land value for the Huntington Harbour Category 2 Benchmark. As previously stated, the value of the unimproved land lies between \$110 and \$697 per square foot. The mean unit value is \$456 per square foot, while the median is \$460 per square foot. Based on all the data

Huntington Harbour Category 2 Benchmark

gathered and analyzed, a unit value of \$458 per square foot is concluded as reasonable for the typical upland residential property.

Market Value of Upland Property \$458 per square foot

Benchmark Rental Rate

Applying the 9% annual rate of return to the previously concluded market value of the upland property results in an annual rental rate of \$41.22 per square foot⁵.

Benchmark Rental Rate

\$41.22 per square foot

The concluded value is based on the leased land having the same utility as the adjoining upland. If the leased land does not have the same utility, then a discounted benchmark rental rate may be warranted.

⁵ Calculated as $\$458 \times 0.09 = \41.22 .

Huntington Harbour Category 2 Benchmark

Table 2. Comparable Sales Table

Number	APN	Address	Sale Date	Lot Area (SF)	Sale Price	% Assessed Land Value	Land Value	Land Value Per SF
1	178-652-24	3585 Courtside Cir	12/1/2021	7,020	\$5,600,000	70.57%	\$3,952,057	\$563
2	178-731-20	3322 Venture Dr	9/20/2021	6,480	\$3,860,000	81.15%	\$3,132,438	\$483
3	178-652-23	3581 Courtside Cir	8/27/2021	7,080	\$6,200,000	60.58%	\$3,756,120	\$531
4	178-652-18	3551 Courtside Cir	6/21/2021	9,000	\$1,475,000	66.86%	\$986,190	\$110
5	178-315-34	17011 Bolero Ln	6/16/2021	5,000	\$4,600,000	73.10%	\$3,362,749	\$673
6	178-421-34	3262 Gilbert Dr	6/10/2021	6,882	\$3,550,000	73.44%	\$2,607,134	\$379
7	178-691-31	3622 Venture Dr	6/2/2021	6,000	\$3,350,000	82.05%	\$2,748,718	\$458
8	178-791-11	3186 Portofino Cir	4/23/2021	5,120	\$2,500,000	75.18%	\$1,879,556	\$367
9	178-402-18	3402 Gilbert Dr	4/13/2021	5,000	\$2,500,000	66.34%	\$1,658,383	\$332
10	178-444-03	16402 Grimaud Ln	2/1/2021	7,800	\$5,600,000	73.33%	\$4,106,552	\$526
11	178-652-29	16642 Coral Cay Ln	2/1/2021	6,000	\$6,650,000	48.93%	\$3,254,143	\$542
12	178-713-03	3532 Venture Dr	12/15/2020	6,000	\$3,200,000	86.86%	\$2,779,623	\$463
13	178-791-10	3182 Portofino Cir	11/4/2020	4,590	\$2,725,000	81.32%	\$2,215,914	\$483
14	178-731-24	3362 Venture Dr	10/9/2020	6,480	\$3,895,000	84.16%	\$3,278,030	\$506
15	178-532-43	16921 Park Ave	9/4/2020	2,820	\$1,175,000	97.35%	\$1,143,895	\$406
16	178-402-19	3392 Gilbert Dr	6/4/2020	5,500	\$2,225,000	92.13%	\$2,049,937	\$373
17	178-421-33	3282 Gilbert Dr	11/13/2019	6,039	\$2,520,000	80.84%	\$2,037,256	\$337
18	178-053-06	16681 Carousel Ln	9/19/2019	5,000	\$4,368,000	79.77%	\$3,484,230	\$697
19	178-411-08	16522 Somerset Ln	9/16/2019	6,000	\$3,000,000	91.50%	\$2,745,041	\$458
20	178-371-09	16795 Bolero Ln	8/1/2019	5,200	\$2,850,000	90.08%	\$2,567,324	\$494
21	178-653-38	16872 Coral Cay Ln	1/7/2019	6,840	\$3,151,000	85.10%	\$2,681,599	\$392
22	178-791-09	3176 Portofino Cir	10/30/2018	4,590	\$2,395,000	83.00%	\$1,987,782	\$433
23	178-713-09	3502 Venture Dr	10/18/2018	6,000	\$3,734,000	82.78%	\$3,091,109	\$515
24	178-713-19	3382 Venture Dr	9/10/2018	6,480	\$3,000,000	84.25%	\$2,527,571	\$390
25	178-654-18	16936 Coral Cay Ln	5/17/2018	7,680	\$4,900,000	75.81%	\$3,714,598	\$484
26	178-652-37	16722 Coral Cay Ln	4/25/2018	6,900	\$4,645,000	68.26%	\$3,170,875	\$460
27	178-653-36	16852 Coral Cay Ln	4/20/2018	7,560	\$3,460,000	89.47%	\$3,095,556	\$409
28	178-731-22	3342 Venture Dr	3/20/2018	6,480	\$3,300,000	83.66%	\$2,760,678	\$426
29	178-315-33	17021 Bolero Ln	2/8/2018	5,000	\$3,625,000	72.39%	\$2,624,053	\$525

Huntington Harbour Category 2 Benchmark

Table 3. Indications of Comparable Sales Table

Indications	Lot Area (SF)	Sale Price	% Assessed Land Value	Land Value	Land Value Per SF
Low	2,820	\$1,175,000	48.93%	\$986,190	\$110
High	9,000	\$6,650,000	97.35%	\$4,106,552	\$697
Mean	6.088	\$3,588,034	78.63%	\$2,737,900	\$456
Median	6,000	\$3,350,000	81.15%	\$2,748,718	\$460

**STAFF REPORT
INFORMATIONAL**

92

A Statewide

06/28/19

S Statewide

G. Kato

NEW MINIMUM ANNUAL RENTS

BACKGROUND:

The Commission is required to recalculate minimum annual rents every 5 years for the various surface use lease and permit categories it authorizes. The minimum annual rent applies when the calculated rent is lower than the minimum rent. These rents do not apply to the exploration or extraction of natural resources such as minerals, oil, gas, or other hydrocarbons, or geothermal resources.

The regulatory provision mandating the recalculated rents is contained in section 2003, subdivision (c), of title 2 of the California Code of Regulations:

Effective July 1, 2014, the minimum annual rents for the various lease/permit categories will be recalculated every five (5) years, at the end of June, using the adjustment formula identified in section 1900(m). Regardless of whether the application of the Adjustment Formula results in an adjusted minimum annual rent that is greater or lesser value than the previous year's rent, the adjusted minimum annual rent will never be lower than the minimum annual rents set in section 2003(b).

The adjustment formula in section 1900(m) uses the Consumer Price Index published periodically by the California Department of Industrial Relations.

The Commission has broad discretion in all aspects of leasing State-owned lands, including sovereign and school lands under its jurisdiction. Sovereign land generally includes natural, navigable waterways, and tide and submerged lands within the State's boundaries. School lands include lands granted to California in 1853 by the federal government to benefit public education.

The California Constitution, article XVI, section 6, expressly prohibits the Legislature from making or authorizing any gift of public money or thing of value to any individual, municipality, or corporation. A "thing of value" includes the use of State-owned land, and to allow its use for private benefit with no rent or consideration would constitute an impermissible gift.

STAFF REPORT NO. **92** (CONT'D)

The calculation method or amount of rent that is most appropriate, and how rent should be adjusted during the lease term, must be in the best interests of the State, and is generally based on one or more of the following methods:

- 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 based on an analysis of similar or substitute facilities in the local area;
- Other methods or information that are based on commonly accepted appraisal practices and principles; and
- For leases for recreational piers or buoys, rent is based on local conditions and local fair annual rental values.

In the event that calculated rent does not reach the threshold of the minimum rent for the relevant lease category, the minimum rent would apply. More information about the Commission's leasing and rent-setting authority may be found in the Public Resources Code, sections 6501.1, 6503, and 6503.5; and in the California Code of Regulations, title 2, sections [2000](#) and [2003](#)

RECALCULATION OF MINIMUM ANNUAL RENTS:

The minimum annual rents for the various lease and permit categories are set forth in section 2003, subdivision (b) of title 2, the California Code of Regulations.

The new, recalculated minimum annual rents have been established as prescribed in the regulations, using the most recently published California Consumer Price Index, as shown in the table below.

Lease Category	Current	Effective July 1, 2019
Commercial	\$600	\$671
Industrial	\$600	\$671
Right-of-Way	\$450	\$503
Grazing	\$600	\$671
Agricultural	\$600	\$671
Recreational	\$125	\$140
Public Agency	\$125	\$140
Protective Structure	\$125	\$140
Dredging	\$125	\$140
Other	\$125	\$140

STAFF REPORT NO. **92** (CONT'D)

The new minimum annual rents will be in effect for 5 years, until June 30, 2024, when they will be recalculated again.

Public Comment Re:
Offshore Mooring
Proposed FMV Rent.

Attachment B:
City of Newport Beach
Fee Setting Materials:
6 pgs.

City of Newport Beach Schedule of Rents, Fines, and Fees (SRFF) - Detailed

Note: The Consumer Price Index (CPI) percentage by which applicable fees will increase effective 7/1/23 is reflected in the SRFF.
 Note: The fees include a rounded down amount consistent with policy.

	SERVICE NAME	DESCRIPTION	Previous Charges		Current Charges			REFERENCE	TYPE	
			Total or Base Fee	Incremental - (if applicable)	Total or Base Fee	Incremental - (if applicable)	Total or Base Fee			Incremental - (if applicable)
748	Oceanfront Encroachment Annual Permit	Depth Of Encroachment 0-5.0 Feet	408.00		\$ 423.00		15.00	-	Council Policy L-12 Reso 91-80 & 2005-42	Policy
749	Oceanfront Encroachment Annual Permit	Depth Of Encroachment 5.0-7.5 Feet	612.00		\$ 635.00		23.00	-	Council Policy L-12 Reso 91-80 & 2005-42	Policy
750	Oceanfront Encroachment Annual Permit	Depth Of Encroachment 7.5-10 Feet	816.00		\$ 847.00		31.00	-	Council Policy L-12 Reso 91-80 & 2005-42	Policy
751	Oceanfront Encroachment Annual Permit	Depth Of Encroachment 10-15 Feet	1,226.00		\$ 1,272.00		46.00	-	Council Policy L-12 Reso 91-80 & 2005-42	Policy
752	Parcel Map Check		3,169.00		\$ 3,286.00		117.00	-	M.C. 3.36.030	COS-Fee
753	Plan Check	Engineering Plan Check Fee - Charged hourly	207.00		\$ 215.00		8.00	-	M.C. 3.36.030	COS-Fee
754	Street Closure Permit with Engineering Review	Temporary Closure Of Public Property	79.00		\$ 82.00		3.00	-	M.C. 12.62.020(E)	COS-Fee
755	Street Closure Permit without Engineering Review	Temporary Closure Of Public Property	31.00		\$ 32.00		1.00	-	M.C. 12.62.020(E)	COS-Fee
756	Street Easement and Vacation Processing Fee		1,035.00		\$ 1,073.00		38.00	-	M.C. 3.36.030	COS-Fee
757	Temporary No Parking Signs	Temporary No Parking Signs	0.80		\$ 0.80		-	-	M.C. 3.36.030	Pass Thru
758	Tract Plan Check	Up To \$100,000 improvement cost	see notes		see notes		-	-	M.C.19.56.020(C)	COS-Fee
759	Tract Plan Check	\$100,000 To \$400,000 improvement cost	8,680.00		\$ 8,680.00		-	-	M.C.19.56.020(C)	COS-Fee
760	Tract Plan Check	Over \$400,000 improvement cost	28,710.00		\$ 28,710.00		-	-	M.C.19.56.020(C)	COS-Fee
761	Traffic Control Plan Check	8 1/2" x 11"/11" x17"; per sheet	79.00		\$ 82.00		3.00	-	M.C. 3.36.030	COS-Fee
762	Traffic Control Plan Check	24" x 36"; per sheet	177.00		\$ 183.00		6.00	-	M.C. 3.36.030	COS-Fee
763	Traffic Study	Utilizes outside consultant	see notes		see notes		-	-	M.C. 15.40.050E	Pass Thru
764	Traffic Subdivision Plan Check	Charged hourly	171.00		\$ 177.00		6.00	-	M.C. 3.36.030	COS-Fee
Deposits										
765	Crane Deposit	Refundable	1,000.00		\$ 1,000.00		-	-	12.62.030	Deposit
766	Improvements Required By City	Refundable	mined by Public Works		Determined by Public Works		-	-	19.36.030	Deposit
Fees with "Yes" under CPI column increased by CPI, unless noted otherwise										
PUBLIC WORKS - HARBOR RESOURCES										
Piers										
767	Residential		\$0.55 per square foot		\$0.56 per square foot		-	-	Resolution 2015-10	Rental
Plan Review										

From: I W
Sent: March 02, 2024 11:03 AM
To: Revenue Help <RevenueHelp@newportbeachca.gov>
Subject: Fee Schedule

Hi,

I'm trying to learn a bit about Pier Permit fees. I've found a current rate of .56 cents per sq. ft. on the city's fee schedule.
Could you please tell me over what area that measurement is calculated? And is there a specific procedure you can refer me to, used determine applicable square footage?

Thanks loads :)

From: Miller, Chris <CMiller@newportbeachca.gov>
Sent: Thursday, March 7, 2024 1:37 AM
To: igowestoften@
Subject: RE: Fee Schedule

Hi There,

I am responding to your question below concerning the methodology for calculating the square footage. Fortunately, it is easy.

It is simply the overall square footage of the pier, gangway and float times \$0.56. Also, this pier permit rate only applies to docks over City Tidelands.

I hope this answers your question.

Thank you,



Chris Miller
Manager
Public Works Department
Office: 949-644-3043

100 Civic Center Dr.
Newport Beach, CA 92660

RESOLUTION NO. 2016-17

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, SETTING THE FAIR MARKET VALUE RENT FOR MOORINGS LOCATED UPON TIDELANDS IN NEWPORT HARBOR

WHEREAS, pursuant to the 1978 Beacon Bay Bill, as amended, ("Beacon Bay Bill") the City of Newport Beach ("City") acts on behalf of the State of California as the trustee of tidelands located within the City's limits, including Newport Harbor;

WHEREAS, the Beacon Bay Bill and Chapter 17.60 of the Newport Beach Municipal Code ("NBMC") allow the City to issue permits to third parties to construct/maintain moorings upon tidelands;

WHEREAS, the City offers two types of moorings, onshore and offshore, that provide an affordable option allowing residents of California to use and enjoy the tidelands in Newport Harbor;

WHEREAS, onshore moorings are located on the perimeter of the shore within Newport Harbor, and offshore moorings are located offshore within the waters of Newport Harbor;

WHEREAS, the mooring permits issued by the City do not convey any underlying property interest, and instead only allow for the temporary mooring of a vessel upon the waters of Newport Harbor;

WHEREAS, the Beacon Bay Bill, California Constitution Article 16, Section 6, NBMC Subsection 17.60.060(D) and City Council Policy F-7(D) require the City to receive fair market value rent from third parties using the tidelands;

WHEREAS, the City Council has the exclusive discretion to determine fair market value rent based, in part, upon the findings of a City-selected appraiser;

WHEREAS, an appraisal report was prepared by Netzer & Associates and delivered to the City and has been reviewed and considered by the City Council, which report is made a part of the record for this matter;

WHEREAS, on November 23, 2010, the City Council adopted Resolution No. 2010-132, which established fair market value rental rates for onshore and offshore moorings in Newport Harbor;

WHEREAS, the City Council is committed to periodically reviewing tidelands rent to ensure the rent is reflective of fair market value;

WHEREAS, on June 16, 2015, the City Council held a special meeting to receive and consider a comprehensive study conducted by the City's Harbor Commission regarding various aspects of mooring permits, including, but not limited to, **fair market value rental rates**;

WHEREAS, at the City Council's special meeting, the City Council considered the feedback and ideas gathered during the Harbor Commission's study and outreach meetings, and directed staff to bring back the **mooring fair market value rental amounts in this resolution**; and

WHEREAS, the City Council has considered all documents and comments in the record in connection with this resolution.

NOW, THEREFORE, the City Council of the City of Newport Beach resolves as follows:

Section 1: The Recitals provided above are true and correct and are incorporated into the substantive portion of this resolution.

Section 2: Resolution No. 2010-132 is hereby repealed. The City Council finds that the rent provisions contained in this resolution provide for the charging of fair market value rent and that the rental rate (and adjustments) constitutes fair market value rent for moorings located upon tidelands, which **findings are made by the City Council in its exclusive discretion but are based, in part, on the information in the appraisal of its City-selected appraiser and, in addition, on other testimony and documents in the record for this matter.** The City Council further finds and determines the rent for moorings located upon tidelands, operating under a permit, shall be set in accordance with the provisions of this resolution. The rent established in this resolution shall only be applicable to permittees with a mooring located over City managed tidelands. **The fair market value rent for moorings** located upon tidelands in Newport Harbor shall be set and adjusted as follows:

Onshore Mooring	\$17.50* linear foot	*Adjusted annually by the U.S. Department of Labor, Bureau of Labor Statistics, Consumer Price Index for All Urban Consumers ("CPI"), Los Angeles-Riverside-Orange County Region or 2%, whichever is less.
-----------------	----------------------	--

The City **may** conduct a new appraisal of mooring rental rates in Newport Harbor after March 1, 2018, and every fifth (5th) year thereafter, as part of the appraisal required by Resolution No. 2012-96, or any successor resolution.

Offshore Mooring	\$35.00* linear foot
------------------	----------------------

Section 3: The City Council finds the setting of fair market value rent for moorings located upon tidelands is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly. Alternatively, the City Council finds the setting of fair market value rent for moorings located upon tidelands is entitled to a Class 1 Categorical Exemption pursuant to CEQA Regulation Section 15301 because the mooring rent contemplates the continued use of existing facilities, with no expansion of the proposed use. Further, the City Council finds the setting of fair market value rent for moorings located upon tidelands is entitled to a Statutory Exemption pursuant to CEQA Regulation Section 15273(a)(1) because the fair market value rent established by the City Council will be used to meet operating expenses within the tidelands. Lastly, the City Council finds the setting of fair market value rent for moorings located upon tidelands is not a project under CEQA Regulation Section 15061(b)(3) because it has no potential for causing a significant effect on the environment.

Section 4: If any section, subsection, sentence, clause or phrase of this resolution is, for any reason, held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this resolution. The City Council hereby declares that it would have passed this resolution, and each section, subsection, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

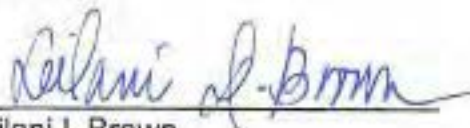
Section 5: This resolution shall take effect immediately upon its adoption by the City Council and the City Clerk shall certify the vote adopting the resolution.

ADOPTED this 26th day of January, 2016.



Diane B. Dixon
Mayor

ATTEST:



Leilani I. Brown
City Clerk



City of Newport Beach

STATE OF CALIFORNIA
COUNTY OF ORANGE
CITY OF NEWPORT BEACH

}
}
}
ss.

I, Leilani I. Brown, City Clerk of the City of Newport Beach, California, do hereby certify that the whole number of members of the City Council is seven; that the foregoing resolution, being Resolution No. 2016-17 was duly and regularly introduced before and adopted by the City Council of said City at a regular meeting of said Council, duly and regularly held on the 26th day of January, 2016, and that the same was so passed and adopted by the following vote, to wit:

AYES: Council Member Peotter, Council Member Duffield, Council Member Petros,
Mayor Pro Tem Muldoon, Mayor Dixon
NAYS: Council Member Selich, Council Member Curry

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the official seal of said City this 27th day of January, 2016.



City Clerk
Newport Beach, California

(Seal)



City of Newport Beach

Public Comment Re:
Offshore Mooring
Proposed FMV Rent
Attachment C:
CBRE Report Excerpts:
6 pgs.

CBRE VALUATION & ADVISORY SERVICES

APPRAISAL REPORT

NEWPORT HARBOR OFFSHORE MOORING FIELDS -
TIDELANDS FAIR USE FEES
NEWPORT HARBOR
NEWPORT BEACH, CALIFORNIA 92662

NEWPORT MOORING ASSOCIATION, INC.

CBRE

February 12, 2024

Mr. L. Scott Karlin
Policy and Legal Affairs on behalf of Newport Mooring Association, Inc.
NEWPORT MOORING ASSOCIATION, INC.
P.O. Box 1118
Newport Beach, California 92659

RE: Appraisal of: Newport Harbor Offshore Mooring Fields - Tidelands Fair Use Fees
Newport Harbor, Newport Beach, Orange County, California

Dear Mr. Karlin:

At your request and authorization, CBRE, Inc. has prepared an appraisal of the market rental value of the referenced property. Our analysis is presented in the following Appraisal Report.

The subject property consists of the State-owned State of California Tidelands submerged in Newport Harbor that are currently utilized to accommodate individual offshore moorings. The Tidelands are currently held in Trust by the City of Newport Beach. There are approximately 740 offshore moorings, approximately 579 of which are in mooring fields A, B, C, D, F, G, H, J and K, and which excludes approximately 79 moorings in the Balboa Yacht Club mooring field and 73 moorings in the Newport Harbor Yacht Club mooring field which are not administrated by the City. The Harbor Patrol also has 6 moorings.

Although requested, updated precise sourced detailed information including the exact number of moorings, intended boat length for each mooring, and the amount of tidelands encumbered or utilized within each mooring field for use by individual moorings was not available. We have estimated / filled in any missing data and figures based on available information including mooring area maps, 6 years of detailed mooring transfer logs, Landvision aerial measuring tool, and calculations based on typical vessel sizes and mooring equipment. From these resources we have estimated 579 moorings in 9 mooring fields ranging from 18 moorings to 133 moorings, with average intended boat lengths ranging from 40' to 50' and average beam (width) of 15 feet, each of which is extended on average 12 feet from the boat to the buoy at the bow, and 12 feet from the stern to the stern buoy. In the case of mooring using only one buoy, the extra area at the stern would not be added. The mooring fields within which the individual moorings are located comprise just over 82 acres of tidelands. Note that we independently estimated the area of the mooring fields with an aerial measuring tool which indicated actual mooring fields of around 73 acres; however, the Harbor Department-provided-data was relied upon for the purposes of the appraisal, despite being unsourced. The areas within the mooring fields outside the areas occupied by, or which could be occupied by a vessel on the individual moorings is not an area used exclusively by the owners of vessels on the individual moorings. These areas are generally used by the public inclusive of kayakers, paddle boarders, small craft

such as Duffy Boats, as well as the occasional use by the owner of a vessel using a tender to access an individual mooring.

Our analysis is of the tidelands used by the individual moorings within the mooring fields. Actual fees or fair market rent would vary from mooring to mooring. For example, a mooring on the perimeter of a moorings field would have superior unobstructed views, easier access, and/or mooring fields are closer to the harbor entrance, etc. This, however, is offset by a generally inferior mooring which may be very far from the harbor entrance, have difficult or crowded access, be located near a gas dock or a “louder” area in the harbor, etc. Accordingly, for this assignment, and in order to provide as balanced and equitable an analysis of the tidelands in a harbor-wide context as possible, we based the valuation of market rent for the subject tidelands upon a “typical” mooring.

Based on the analysis contained in the following report, and certain assumptions based on the typical area of tidelands used by a vessel on a mooring, and the lack of additional services or areas of tidelands available to mooring holders to access these moorings, the market value of the subject is concluded as follows:

TIDELANDS FAIR USE FEES / FAIR MARKET RENT			
Appraisal Premise	Date of Value	Market Rent / Lineal Foot / YR for Tidelands (\$3.36 LF per mo)	Annual Rent per 40' Mooring Based on 1,326SF of Tidelands used for individual mooring
As Is	January 15, 2024	\$41.00	\$1,640

Compiled by CBRE

Summary Table – Various Size Moorings

Mooring Size	Sq Ft with Max Swing Factor	Annual Fee Per Lineal Foot (rounded to full dollar)	Annual Fee Based on Sq Ft Tidelands (without Rounding)	Annual Fee Per Lineal Foot (rounded to full dollar)
30	843	\$35	\$1,045.32	\$1,050
40	1,326	\$41	\$1,644.24	\$1,640
50	1,857	\$46	\$2,302.68	\$2,300
60	2,322	\$48	\$2,879.28	\$2,880
70	2,840	\$50	\$3,521.60	\$3,500

If the City was to provide additional services to provide access to the moorings (such as shore boat service) or set aside areas of the tidelands for reasonable access to the moorings (such as in water motorized dinghy/tender boat dockage), an adjustment in the value may be appropriate,



depending on the nature and extent of such additional services or additional tideland used for such access.

The report, in its entirety, including all assumptions and limiting conditions, is an integral part of, and inseparable from, this letter.

The following appraisal sets forth the most pertinent data gathered, the techniques employed, and the reasoning leading to the opinion of value. The analyses, opinions and conclusions were developed based on, and this report has been prepared in conformance with, the guidelines and recommendations set forth in the Uniform Standards of Professional Appraisal Practice (USPAP), and the requirements of the Code of Professional Ethics and Standards of Professional Appraisal Practice of the Appraisal Institute.

The intended use and user of our report are specifically identified in our report as agreed upon in our contract for services and/or reliance language found in the report. As a condition to being granted the status of an intended user, any intended user who has not entered into a written agreement with CBRE in connection with its use of our report agrees to be bound by the terms and conditions of the agreement between CBRE and the client who ordered the report. No other use or user of the report is permitted by any other party for any other purpose. Dissemination of this report by any party to any non-intended users does not extend reliance to any such party, and CBRE will not be responsible for any unauthorized use of or reliance upon the report, its conclusions or contents (or any portion thereof).

It has been a pleasure to assist you in this assignment. If you have any questions concerning the analysis, or if CBRE can be of further service, please contact us.

Respectfully submitted,

CBRE - VALUATION & ADVISORY SERVICES



Robert Jacobson, MAI
Executive Vice President
California State Certification No. AG035731
Expiration Date: July 7, 2025

Reconciliation of Market Rent

The rent indications from the two methodologies are summarized as follows:

SUMMARY OF MARKET RENT ESTIMATES	
	Annual Rent
California State Tidelands Commission Methodology	\$1,613
Inflation Methodology Based on City's Prior Benchmark	\$1,670
Ratio Method	\$1,920
Reconciled Market Rent Estimate	\$1,640
Based on Typical 40 Lineal Foot Boat	\$41.00
Compiled by CBRE	

As discussed throughout the report, the ratio method is deemed the least reliable methodology illustrated in the appraisal. We have placed equal approximate emphasis on the first two methodologies utilized in the preceding chart.

Based on the foregoing, the market rent of the subject tidelands has been concluded as follows:

TIDELANDS FAIR USE FEES / FAIR MARKET RENT			
Appraisal Premise	Date of Value	Market Rent / Lineal Foot / YR for Tidelands (\$3.36 LF per mo)	Annual Rent per 40' Mooring Based on 1,326SF of Tidelands used for individual mooring
As Is	January 15, 2024	\$41.00	\$1,640
Compiled by CBRE			

Tidelands Fair Use Fees / Fair Market Rent – Other Size Moorings

Based on Methodologies Used in This Report the Value per Square Foot is \$1.24 per Square Foot of Tidelands Used Per Annum. The square foot valuation would not change in relation to the size of mooring, only the square foot used and resulting adjustment to the total rate would change.

Sq Ft of Tidelands Used – No Swing Factor

Boat Size	+	Lines + Buoys*	x	Beam	Total Sq Ft
30	+	24	x	12	648
40	+	28	x	15	1,020
50	+	34	x	17	1,428
60	+	34	x	19	1,786
70	+	34	x	21	2,184

Rates without a Swing Factor

Boat Size	Sq Ft with Lines etc	x	Total Sq Ft	Fee Per Year at \$1.24 sq ft	Fee Per Year Per Lineal Foot
30	648	x	648	\$803.52	\$26.79
40	1,020	x	1,020	\$1,264.80	\$31.62
50	1,428	x	1,428	\$1,770.72	\$35.42
60	1,786	x	1,786	\$2,214.64	\$36.91
70	2,184	x	2,184	\$2,708.16	\$38.69

Add Swing Factor at 20%

Boat Size	Sq Ft with Lines etc	x	20%	Total Sq Ft with Swing	Fee Per Year at \$1.24 sq ft	Fee Per Year Per Lineal Foot
30	648	x		778	\$964.72	\$32.16
40	1,020	x		1,224	\$1,517.76	\$37.95
50	1,428	x		1,714	\$2,125.36	\$42.51
60	1,786	x		2,144	\$2,658.56	\$44.31
70	2,184	x		2,621	\$3,250.04	\$46.43

Add Swing Factor at 25%

Boat Size	Sq Ft with Lines etc	x	25%	Total with Swing	Fee Per Year at \$1.24 sq ft	Fee Per Year Per Lineal Foot
30	648	x		810	\$1,004.40	\$33.48
40	1020	x		1,275	\$1,581.00	\$39.53
50	1428	x		1,785	\$2,213.40	\$44.27
60	1786	x		2,233	\$2,768.92	\$46.15
70	2184	x		2,730	\$3,385.20	\$48.36

Add Swing Factor at 30%

Boat Size	Sq Ft with Lines etc	x	30%	Total with Swing	Fee Per Year at \$1.24 sq ft	Fee Per Year Per Lineal Foot
30	648	x		843	\$1,045.32	\$34.85
40	1,020	x		1,326	\$1,644.24	\$41.11
50	1,428	x		1,857	\$2,302.68	\$46.06
60	1,786	x		2,322	\$2,879.28	\$47.99
70	2,184	x		2,840	\$3,521.60	\$50.31

* Variations with Summary results from rounding square foot calculations.

Public Comment Re:
Offshore Mooring
Proposed FMV Rent
Attachment D:
2023 & 2016 Netzer
Report Excerpts:
6 pgs.

APPRAISAL REPORT

**FAIR MARKET RENT
OFFSHORE MOORINGS
NEWPORT BEACH, CALIFORNIA**

**DATE OF VALUE
DECEMBER 26, 2023**

PREPARED FOR

**LAUREN WOODING WHITLINGER
REAL PROPERTY ADMINISTRATOR
COMMUNITY DEVELOPMENT DEPARTMENT
CITY OF NEWPORT BEACH
100 CIVIC CENTER DRIVE
NEWPORT BEACH, CALIFORNIA 92660**

PREPARED BY

**NETZER & ASSOCIATES
170 E. SEVENTEENTH STREET, SUITE 206
COSTA MESA, CALIFORNIA 92627
FILE NO. 2023-025**

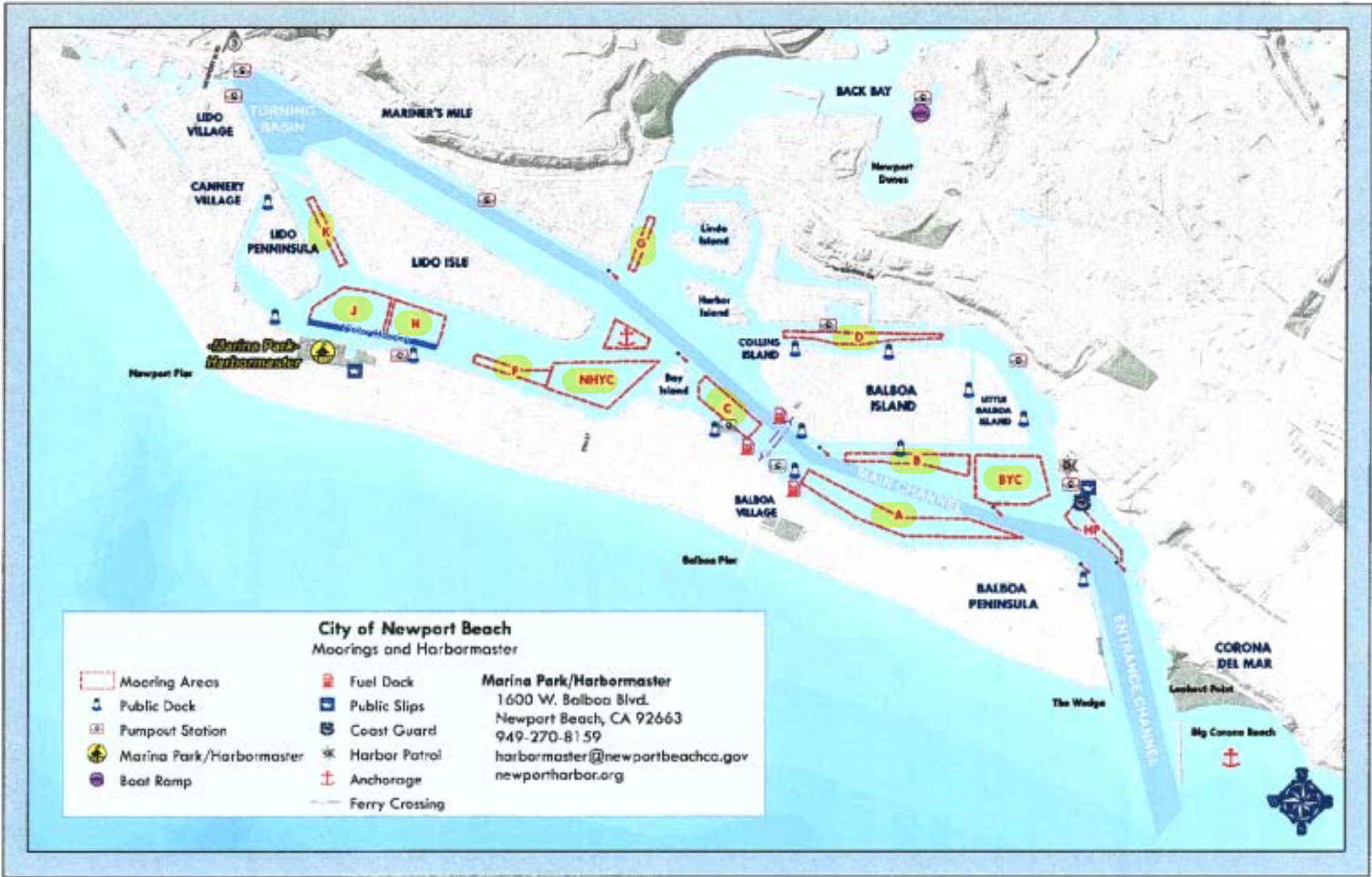
Bay as most of the Back Bay is an ecological preserve with limited boating facilities (Newport Dunes, Newport Aquatic Center, U.C.I. Rowing base, Bayside Village and Dover Shores). The Balboa Peninsula consists of all the contiguous land east of 45th Street extending to Peninsula Point and the jetty at the mouth of Newport Harbor. The south side of the Peninsula consists of sandy beaches on the Pacific Ocean while the north side of the Peninsula forms the southern perimeter of Newport Harbor.

MOORING DESCRIPTION

Within Newport Harbor there are “onshore” and “offshore” moorings occupying the tidelands that are managed by the City of Newport Beach. There are approximately 1,159 on-shore and off-shore moorings in Newport Harbor. The offshore moorings are located at ten locations throughout the harbor with two additional locations located proximate to Newport Harbor Yacht Club and Balboa Yacht Club. These two locations are largely for the exclusive use of the yacht club membership. The onshore moorings are located surrounding Balboa Island, along various sections on the bay side of the peninsula from Peninsula Point to 20th Street, surrounding Newport Island and on sections of Lido Isle. A map showing the location of the moorings is included on the next page. The following table is a summary of the mooring areas based on information provided by the Harbor Department.

Mooring Area	Mooring Type	Area (Sq.Ft.)	No. of Moorings	Location
A	Offshore	964,786	133	N/S of Peninsula between A Street & L Street
B	Offshore	367,221	61	S/O Balboa Island between Collins & Grand Canal
BYC	Offshore	852,008	79	W/O Balboa Yacht Club – members & +17 private
C	Offshore	385,811	54	N/S of Peninsula between Medina Way & Adams Street
D	Offshore	319,247	56	N/S of Balboa Island between Emerald & Onyx
E	Onshore	--	32	E/S of Little Balboa Island
F	Offshore	N.A.V.	22	N/S of Peninsula between 9 th Street & 12 th Street
G	Offshore	102,130	18	E/O Bayshores Community
H	Offshore	458,738	91	N/S of Peninsula between 13 th Street & 15 th Street
J	Offshore	672,686	122	N/S of Peninsula between 15 th Street & 18 th Street
K	Offshore	138,265	22	S/O Lido Isle between Via Genoa & Via Barcelona
L	Onshore	--	46	Lido Isle Community Association onshore moorings
LN	Onshore	--	15	N/S of Lido Isle
LS	Onshore	--	7	S/S of Lido Isle
N	Onshore	--	136	N/S of Balboa Island
NHYC	Offshore	N.A.V.	73	N/O Newport Harbor Yacht Club – members only
S	Onshore	--	155	S/S of Balboa Island
W	Onshore	--	37	Newport Island/Marcus Ave./River Ave./Finley Avenue
	Offshore - Subtotal		731	
	Onshore - Subtotal		428	
	Total Moorings:		1,159	

This report addresses the Fair Market Rent for the offshore moorings.



APPRAISAL REPORT

FAIR MARKET RENT
OFF-SHORE & ON-SHORE MOORINGS
NEWPORT BEACH, CALIFORNIA

DATE OF VALUE

JANUARY 6, 2016

PREPARED FOR

CHRIS MILLER
HARBOR MANAGER
CITY OF NEWPORT BEACH, HARBOR DEPARTMENT
829 HARBOR ISLAND DRIVE
NEWPORT BEACH, CALIFORNIA 92660

PREPARED BY

NETZER & ASSOCIATES
170 E. SEVENTEENTH STREET, SUITE 206
COSTA MESA, CALIFORNIA 92627
FILE NO. 2015-024

most of the tidelands within Newport Harbor. The Beacon Bay Bill authorizes the City to allow third parties to use the tidelands. The Beacon Bay Bill, California Constitution Article 16, Section 6, the Municipal Code, and City Council Policy F-7(D) require the City to receive fair market value rent from persons using tidelands.

The City currently issues approximately 1,200 annual permits for onshore and offshore moorings in Newport Harbor. Onshore moorings allow persons to store smaller vessels off of harbor beaches, while offshore moorings allow for the storage of larger vessels in the center of the harbor. Moorings consist of "tackle" (buoys, weights, chains) placed within designated mooring fields. Mooring permit holders own and maintain their own tackle, but they do not have any ownership rights in the underlying tidelands.

The City's General Plan speaks to a broad goal that onshore and offshore moorings should remain an affordable method of bringing boating to the general public compared to berthing in a traditional marina environment. Onshore moorings are charged 50% of the offshore mooring rate because onshore moorings are intended for smaller vessels with an 18 foot maximum length.

At the June 16, 2015 special meeting, the City Council considered a Harbor Commission mooring report, and then directed staff to return with recommended changes, including a re-evaluation of the current fair market rent for moorings. At the City Council's direction, staff discussed the proposed mooring changes with their counterparts at the State Lands Commission ("SLC"). The SLC expressed two recommendations regarding the City's mooring proposal: (1) the SLC recommended the City provide, in no uncertain terms, that the mooring permits do not convey a real property interest in the underlying tidelands; and (2) the SLC recommended the City obtain a current appraisal to assist with the establishment of fair market value mooring rental rates. Based upon the SLC's recommendations, staff added a provision to the Resolution establishing fair market value mooring rental rates reiterating the annual permits do not convey a real property interest. Staff will also add/strengthen similar language in the actual mooring permits. Staff also retained Netzer and Associates to conduct a current appraisal of the moorings in Newport Harbor, which is attached hereto as Attachment B. The mooring appraisal established a recommended range for fair market value mooring rental rates:

Annual Fair Market Rent for Offshore Moorings:

\$32.00 to \$38.00 per linear foot of mooring

Annual Fair Market Rent for the Onshore Moorings:

\$16.00 to \$19.00 per linear foot of mooring

Based upon the attached appraisal, the recommendation of the Harbor Commission, and the good work of the Newport Mooring Association, staff recommends a fair market

moorings are rented based on the maximum mooring length not the vessel length. The quality and quantity of the market data upon which I have based my direct market comparison is considered good; however, it did warrant adjustments for location and lack of access to dinghy storage. The Balboa Yacht Club mooring data is included for informational purposes as it is not offered on the open market but shows the demand within a closed market and defines an upper limit of the mooring rental range.

The CPI analysis is a trending of the rental rates established at various times (1975 & 1995) for the subject moorings. It is based on the assumption that the rental rates in the base years (1975 & 1995) are market based and that the change in CPI reflects the change in market conditions for moorings in Newport Harbor. The CPI is typically included as an annual adjustment to a lease, with periodic "market rent" adjustments applied to account for changes in market conditions as opposed to a trending of values based on a basket of goods. On the basis of my research, the 1995 figure was determined to be "Fair Market Rent" and is judged to be a more reliable indicator than the 1975 figure. The change in mooring rates at BYC between 2006 and 2015 suggests that the change in CPI may understate the change in market conditions for moorings in Newport Harbor. The CPI analysis using the rent established in 1995 is judged to be more reliable than the 1975 figure and helps define the lower limit of the Fair Market Rent range.

The Ratio analysis attempts to estimate the market rent for moorings as compared to the rent for similar slip spaces in the same marina or harbor. As shown in the analysis, the ratio can vary dramatically (25% to 92%) and, while a potential renter could take this into consideration (cost of a slip v. cost of a mooring), it is not judged to be a reliable measure of Fair Market Rent. This analysis is given little weight in the final reconciliation.

The Tidelands analysis is based on the premise that the Fair Market Rent for an individual mooring is tied to the market rent for the encumbered tidelands. This approach has its merits and the information and assumptions used in the analysis are well supported; however, the typical user of an individual mooring would not complete this analysis to determine market rent. In the final reconciliation this approach is given secondary emphasis.

Given the indications from the four approaches utilized, and the quality and quantity of the available market data, I have given each approach some consideration with primary emphasis placed on the Comparable Rental and CPI approaches. Based on my analysis of the market data uncovered, I have concluded that the subject off-shore moorings have an Annual Fair Market Rent, as of January 6, 2016, of: \$32.00 to \$38.00 per Linear Foot of Mooring.

The above discussion relates to the off-shore moorings throughout Newport Harbor. There is a limited number of on-shore moorings and I did not uncover any information regarding lease rates for on-shore moorings at other harbors. The maximum vessel length is limited on the on-shore

Public Comment Re:
Offshore Mooring
Proposed FMV Rent
Attachment E:
City of Newport Beach
40' Offshore Mooring
Rent Statement:

1 pg.



City of Newport Beach

Revenue Division
P.O. Box 4923
Whittier, CA 90607
www.newportbeachca.gov

MUNICIPAL SERVICES STATEMENT

ACCOUNT SUMMARY

Name: [REDACTED]
 Account # [REDACTED]
 Customer # [REDACTED]
 Service Address: MOORING: H [REDACTED]
 Statement Date: 2/5/2024
 Due Date: 3/1/2024
 Total Amount Due: \$133.60

IMPORTANT INFORMATION

March 2024 Payment must be received on or before the due date. Payments not received by the due date are subject to a 10% penalty and revocation. You can avoid penalties by signing up for the City's AutoPay plan.

BILLING DETAILS

Water Conservation Route: MRG

CHARGES:	TOTAL:
MOORING OFFSHORE (MONTHLY)	\$133.60

BILLING SUMMARY

Previous/Beginning Balance	\$133.60
Payments Applied - THANK YOU	\$133.60
Total Adjustments	\$0.00

TOTAL AMOUNT DUE	\$133.60
-------------------------	-----------------



City of Newport Beach

Revenue Division
P.O. Box 4923
Whittier, CA 90607

Go online to pay your bills at www.newportbeachca.gov/payments
RETURN THIS PORTION WITH YOUR PAYMENT

Please provide/update the e-mail address and phone number so the City may contact you about water service problems.

Phone:	[REDACTED]
E-mail:	[REDACTED]

Account #:	[REDACTED]
Notice Date:	2/5/2024
	3/1/2024
Total Amount Due:	\$133.60
Amount Enclosed:	

[REDACTED]

[REDACTED]

Public Comment Re:
Offshore Mooring
Proposed FMV Rent
Attachment F:
City of Newport Beach
Resolution 2015-10:
9 pgs.

RESOLUTION NO. 2015-10

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, ADJUSTING THE RENTAL CALCULATION AND APPROVING A REVISED MODEL PERMIT TEMPLATE FOR RESIDENTIAL PIERS LOCATED UPON TIDELANDS

WHEREAS, pursuant to the 1978 Beacon Bay Bill, as amended, ("Beacon Bay Bill") the City of Newport Beach ("City") acts on behalf of the State of California as the trustee of tidelands located within the City's limits, including Newport Harbor;

WHEREAS, the Beacon Bay Bill and Chapter 17.60 of the Newport Beach Municipal Code ("NBMC") allow the City to authorize third parties to construct/maintain residential piers upon tidelands;

WHEREAS, the Beacon Bay Bill, California Constitution Article 16, Section 6, NBMC Section 17.60.060(D) and City Council Policy F-7(D) require the City to receive fair market value rent from third parties using the tidelands;

WHEREAS, the City Council has the exclusive discretion to determine fair market value rent based, in part, upon the findings of a City-selected appraiser;

WHEREAS, an appraisal report by Rasmuson Appraisal Services, and an appraisal report by Netzer & Associates, were prepared and delivered to the City and have been reviewed and considered by the City Council, which reports are part of the record for this matter;

WHEREAS, on November 26, 2013, the City Council adopted Resolution No. 2013-88, approving a model residential pier permit for residential piers located upon tidelands and establishing fair market value rent;

WHEREAS, on January 27, 2015, the City Council considered, at its regularly scheduled study session, the current status of the City's tidelands regulations and rents for moorings, commercial piers and residential piers and directed staff to bring back certain amendments contained in this resolution to improve the tidelands rent process;

WHEREAS, the City Council has considered all documents and comments in the record in connection with this resolution; and

WHEREAS, all previous resolutions, or portions thereof, and actions regarding the fair market value rent for residential piers and the model pier permit template for residential piers that are in conflict with the provisions in this resolution are hereby repealed.

NOW, THEREFORE, the City Council of the City of Newport Beach resolves as follows:

Section 1: The Recitals provided above are true and correct and are incorporated into the substantive portion of this resolution.

Section 2: The City Council finds that the rent provisions contained in the attached Adjusted Residential Pier Tidelands Rent Calculations, which is incorporated by reference, provide for the charging of fair market value rent and that the rental rate (and adjustments) in the attachment constitute fair market value rent for residential piers located upon tidelands, which findings are made by the City Council in its exclusive discretion but are based, in part, on the information in the appraisals of its City-selected appraisers and, in addition, on other testimony and documents in the record for this matter. The City Council further finds and determines the rent for residential piers located upon tidelands, operating under a permit, shall be set in accordance with the attached Adjusted Residential Pier Tidelands Rent Calculations. The rent established in this resolution shall only be applicable to permittees with a residential pier located over tidelands.

Section 3: The City Council adopts the revised model residential pier tidelands permit attached to this resolution, and incorporated by this reference, for use by residential pier tidelands users. The City Council finds that the residential tidelands users subject to the attached model permit are not subject to the open bid process found in City Council Policy F-7 because redevelopment/reuse of the tidelands by a third party would require excessive time, resources and costs which would outweigh other financial benefits.

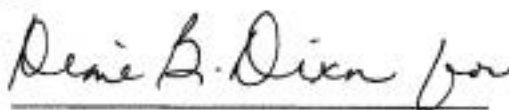
Section 4: The City Council finds the adjustment of residential pier rent and the approval of a revised model permit template for residential piers located upon tidelands is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly. Alternatively, the City Council finds the adjustment of residential pier rent and the approval of a revised model permit template for residential piers located upon tidelands is entitled to a Class 1 Categorical Exemption pursuant to CEQA Regulation Section 15301 because the residential pier rent and permit contemplate the continued use of existing facilities, with no expansion of the proposed use. Further, the City Council finds the adjustment of residential pier rent for piers located upon tidelands is entitled to a Statutory Exemption pursuant to CEQA Regulation Section 15273(a)(1) because the fair market value rent established by the City Council will be used to meet operating expenses within the tidelands. Lastly, the City Council finds the adjustment of residential pier rent and the approval of a revised model permit template for residential piers located upon tidelands is not a project under

CEQA Regulation Section 15061(b)(3) because it has no potential for causing a significant effect on the environment.

Section 5: If any section, subsection, sentence, clause or phrase of this resolution is, for any reason, held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this resolution. The City Council hereby declares that it would have passed this resolution, and each section, subsection, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared invalid or unconstitutional.

Section 6: This resolution shall take effect immediately upon its adoption by the City Council and the City Clerk shall certify the vote adopting the resolution.

ADOPTED this 10th day of February, 2015.



Edward D. Selich,
Mayor

ATTEST:



Leilani I. Brown,
City Clerk

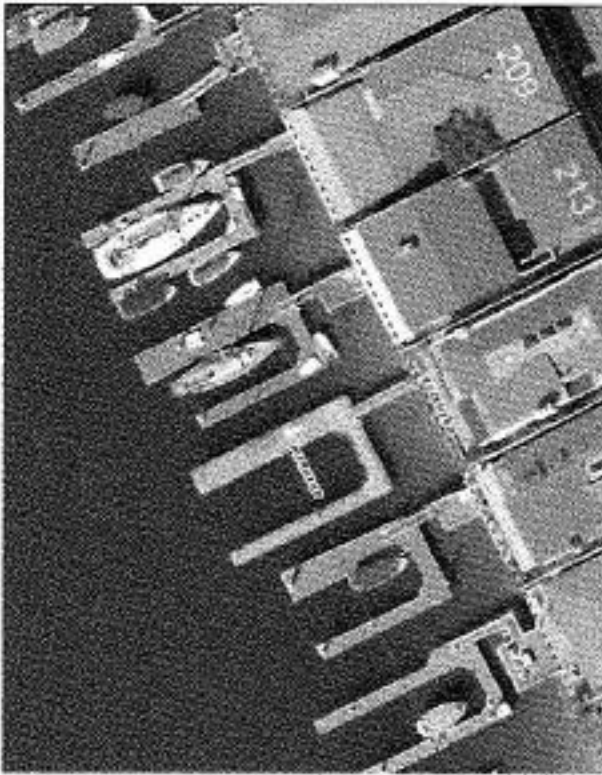


Attachments: (1) Adjusted Residential Pier Tidelands Rent Calculations
(2) Revised Model Permit Template for Residential Piers

Adjusted Residential Pier Tidelands Rent Calculations

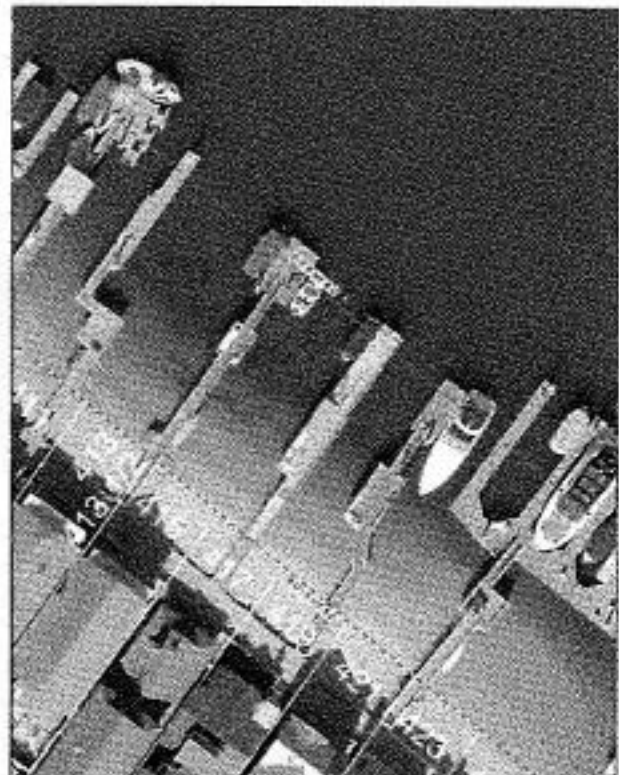
Residential Pier Rent

- (1) Residential Pier Permittees shall pay as Rent Fifty Cents (\$0.50) per square foot of the Premises, as phased in and adjusted pursuant to this resolution. Two (2) examples of the Rent calculation are provided below for illustrative purposes:



Proposed - 215 VIA LIDO SOUD

Total Permit Area = 992 sq. ft.
2017 Rental Fee = **\$496**
(\$0.50/sq. ft.)



Proposed - 417 EDGEWATER PL

Total Permit Area = 637 sq. ft.
2017 Rental Fee = **\$318.95**
(\$0.50/sq. ft.)

- (2) Permittees that desire to rent/lease their Residential Pier shall notify the City in writing. Permittees that rent/lease their Residential Pier, either in whole or in part, shall pay the Rent applicable to Small Commercial Marinas as established in Resolution No. 2012-98, or any successor resolution, for the Premises.
- (3) To the extent a Residential Pier is shared by two (2) or more Permittees, the Rent shall be apportioned equally among the Permittees (*i.e.*, if a

Residential Pier is shared by two (2) Permittees, half (1/2) of the Rent shall be billed to one (1) Permittee and the other half (1/2) of the Rent shall be billed to the other Permittee). The Permittees shall be jointly and severally liable for the Rent. Each Permittee shall receive a permit from the City indicating the percentage of the Premises apportioned to the Permittee.

Periodic Adjustments of Rent and Phase In

Rent for Residential Piers provided by this resolution, shall be phased-in and adjusted as follows in the table below. In the table, "A" represents the calculated rent based on the known square footage under permit in 2012, multiplied by Fifty Cents a square foot (\$0.50/SF):

Fifty Cents (\$0.50) Rent Phase-in Table and Adjustment

Examples	2012	2013	2014	2015	2016	2017
	\$100	$\frac{[A-\$100]}{5} + \100	$\frac{[A-\$100]}{5} + 2013 \text{ Rent}$	$\frac{[A-\$100]}{5} + 2014 \text{ Rent}$	$\frac{[A-\$100]}{5} + 2015 \text{ Rent}$	Fully Phased-In Rent (A)
Example #1: 1,139 SF	\$100	\$194	\$288	\$382	\$476	\$570
Example #2: 1,426 SF	\$100	\$223	\$345	\$468	\$590	\$713
Example #3: 3,480 SF	\$100	\$428	\$756	\$1,084	\$1,412	\$1,740

A = square footage x \$0.50

Rent for Residential Piers of one hundred ninety square feet (190') or less shall pay the fully phased in Rent immediately and be subject to CPI adjustment beginning in 2018. During the phase-in period there shall be no adjustment by the U.S. Department of Labor, Bureau of Labor Statistics, Consumer Price Index for All Urban Consumers ("CPI"), Los Angeles-Riverside-Orange County region or otherwise.

Beginning in 2018 and indefinitely beyond, the rental rate shall be adjusted by the change in the CPI or two percent (2%) whichever is less. The City may conduct a new appraisal of residential pier rental rates in Newport Harbor after March 1, 2018, and every fifth (5th) year thereafter, as part of the appraisal required by Resolution No. 2012-96, or any successor resolution. The City Council, at its discretion, may use the appraisal to adjust Rent for the following year (i.e., the Rent determined by the appraisal following March 1, 2018 shall be effective March 1, 2019). **If the City Council chooses not to adjust Rent across the Class of Permit, it shall use the appraisal's results to adjust the Rent of only those individual Permits that transfer ownership following each appraisal.** Once adjusted, these transferred Permits shall be adjusted by the change in CPI or two percent (2%), whichever is less, until such time that a new appraisal applies to this Permit or Class of Permit.

Definitions

Unless otherwise provided, the terms provided in the Newport Beach Municipal Code ("NBMC") shall apply to this resolution. The singular of any term also includes the plural.

- (1) Class of Permit means all Permits for Residential Piers in Newport Harbor.
- (2) Permit refers to a permit issued by the City authorizing a Residential Pier upon the Premises.
- (3) Permittee means a person who has a permit from the City to construct/maintain a Residential Pier.
- (4) Premises means those Tidelands which are subject to the applicable permit and are more particularly described and depicted in the applicable permit, excluding any Private Waterways and improvements owned by the Permittee or Tidelands subject to recorded easements for pier and slip purposes. The Premises shall include only the portion of the Tidelands located under a Residential Pier and shall exclude the interior U-Shape of a slip.
- (5) Private Waterways means privately owned submerged lands or submerged lands subject to recorded easements for pier and slip purposes.
- (6) Rent means the annual fair market rent charged on a square footage basis for the use of the Premises.
- (7) Residential Pier means a pier used by the owner(s), occupant(s), guest(s) or lessee(s) of the abutting residentially zoned upland property. A Residential Pier shall include the entire pier system, including, but not limited to, the float, gangway, gangway landing, pier, and pier platform. The Residential Pier shall specifically exclude the interior U-Shape of a slip.
- (8) Tidelands mean certain tidelands and submerged land (whether filled or unfilled), located in the City of Newport Beach, County of Orange, State of California, granted to the City of Newport Beach, as trustee, by the State of California, pursuant to the Tidelands Grant.
- (9) Tidelands Grant means uncodified legislation related to the State of California's grant of certain rights in the Tidelands to the City of Newport Beach, including, without limitation, the Beacon Bay Bill (Chapter 74 of the Statutes of 1978, as amended [citations omitted]).

ATTACHMENT B

Residential Tidelands Pier Permit

- (1) **Permittee:** This Permit is issued on _____ to _____ ("Permittee") to construct/maintain a residential pier located upon City of Newport Beach ("City") tidelands, as more particularly described and depicted in Attachment 1 ("Premises"), which is attached hereto and incorporated by reference. By acceptance of this Permit, the Permittee agrees to be bound by the terms contained in this Permit.
- (2) **Term:** This Permit shall be valid for a period of ____ year(s) beginning on March 1, 20__ and expiring on February __, 20__, unless terminated earlier as provided herein. A new permit may be automatically issued upon expiration, provided rent is paid and the pier is maintained. The City's longstanding policy is to re-issue residential permits to the upland property owner, who also owns the physical dock associated with the Premises.
- (3) **Rent:** Rent shall be calculated pursuant to Resolution No. 2015-__ or any successor/amended resolution. Resolution No. 2015-__ and any successor/amended resolution are automatically incorporated by reference into this Permit, without any further action by the parties, when adopted by the Newport Beach City Council.
- (A) **Payment of Rent:** All rent shall be annually prorated and billed through Permittee's Municipal Services Statement ("MSS"). All rent shall be due and payable pursuant to the terms of Permittee's MSS.
- (B) **Late Charges:** A ten percent (10%) late charge shall be added to all payments due but not received by City by the due date.
- (C) **Third-Party Use:** This Permit allows / does not allow (check one) the Permittee to rent/lease the Premises to a third-party.
- (4) **Utilities and Taxes:** The Permittee is solely responsible for obtaining all utilities and paying all taxes (including possessory interest tax, if applicable), fees and assessments for the Premises or improvements located thereon.
- (5) **Maintenance:** The Permittee assumes full responsibility for operation and maintenance and repair of the Premises and associated improvements throughout the term of this Permit at its sole cost, and without expense to the City.
- (6) **Transfer/Assignment:** This Permit may be transferred or assigned by the Permittee as provided in the Newport Beach Municipal Code.
- (7) **Property Right Protection:** The residential pier maintained under this Permit is private property and shall be protected to the maximum extent under the law from unlawful seizure.
- (8) **Settlement Agreement:** This Permit is in full compliance with the February 21, 2014 Settlement Agreement entered into between the City and the Newport Beach Dock Owners Association.

ATTACHMENT B

Attachment 1

Description & Depiction of Premises

Premise's Address (or description of general location):

Premise's Square Footage:

Premise's Depiction:

STATE OF CALIFORNIA }
COUNTY OF ORANGE }
CITY OF NEWPORT BEACH } ss.

I, Leilani I. Brown, City Clerk of the City of Newport Beach, California, do hereby certify that the whole number of members of the City Council is seven; that the foregoing resolution, being Resolution No. 2015-10 was duly and regularly introduced before and adopted by the City Council of said City at a regular meeting of said Council, duly and regularly held on the 10th day of February, 2015, and that the same was so passed and adopted by the following vote, to wit:

AYES: Council Member Peotter, Council Member Petros, Council Member Muldoon,
 Mayor Pro Tem Dixon
NAYS: Council Member Curry
RECUSED: Council Member Duffield, Mayor Selich

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the official seal of said City this 11th day of February, 2015.



City Clerk
Newport Beach, California

(Seal)



Public Comment Re:
Offshore Mooring
Proposed FMV Rent
Attachment G:
City of Newport Beach
Harbor Department
data:
3 pgs.

Screenshot: 03/25/2024

Harbor Department Service Requests
City of Newport Beach

 Select a date
Last 30 Days

 Service Requests Mapped?
Show All

Total Service Requests

1,721

Total Mapped Service Requests

1,399

Code Type	Count
Anchorage - 3 D...	1
Anchorage - Imp...	4
Anchorage - Una...	3
Anchorage Dye T...	13
Assisting Vessels ...	6
Assisting Vessels ...	5
Boat Maintenance	17
Code Enforcement	90
Daily Anchorage ...	37
Dewatering Vessel	16
Discharge/Pollution	2
Emergency	1
General Assist	58
Hazards/Debris	120
Human Lift Use R...	2
Impound	18
Impound Relocat...	4
Incident	10
Marina Park Dock...	20
Mooring Assist	5
Mooring Check	47
Mooring Field Va...	114
Paddleboard/Kayak	1
Proactive Patrol	51
Public Contact	90
Public Dock Enfo...	859
Public Dock/Pier/...	34

Status	Count
COMPLETED	1,600
IN PROGRESS	9
OPENED	93
UPDATED	19

Total Service Requests by Month

Month	Total Service Requests
2024 (Jan)	2,026
Feb	1,730
Mar	1,414

Screenshot: 03/29/2024

Harbor Department Service Requests
City of Newport Beach

 Select a date
Last 30 Days

 Service Requests Mapped?
Show All

Total Service Requests

1,657

Total Mapped Service Requests

1,338

Status	Count
COMPLETED	1,551
IN PROGRESS	6
OPENED	88
UPDATED	12

Total Service Requests by Month

Month	Total Service Requests
2024 (Jan)	2,026
Feb	1,730
Mar	1,567

Code Type	Count
Dewatering Vessel	15
Discharge/Pollution	2
Emergency	1
General Assist	61
Hazards/Debris	119
Human Lift Use Requ...	2
Impound	15
Impound Relocation	4
Incident	10
Marina Park Dock Ma...	22
Mooring Assist	5
Mooring Check	47
Mooring Field Vacan...	108
Paddleboard/Kayak	2
Proactive Patrol	47
Public Contact	96
Public Dock Enforce...	827
Public Dock/Pier/Brid...	34
Pumpout	2
Registration & Insura...	20
Sea Lions	14
Speeding	14
Spreader Line	1
Subpermit Dye Tab	1
Training	4
Trash	20
Vessel inspection	4

Code Type

Not Mapped

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California's largest public pay and pension database

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'paul blank' search results

20 employee records found

Sponsor this agency:

[Sponsor](#)

Search within these records:

paul blank Year Search

[Download search results](#)

This data was made available by:

Your name here

Name	Job title	Regular pay	Overtime pay	Other pay	Total pay	Benefits	Pension debt	Total pay & benefits
Paul A Blank	Harbormaster Newport Beach, 2022	\$132,310.00	\$0.00	\$5,477.00	\$137,787.00	\$26,534.00	\$38,411.54	\$202,732.54

Name	Job title	Regular pay	Overtime pay	Other pay	Total pay	Benefits	Pension debt	Total pay & benefits
Matthew Cosylian	Code Enforcement Supervisor Newport Beach, 2022	\$125,512.00	\$0.00	\$21,588.00	\$147,100.00	\$9,299.00	\$27,835.79	\$184,234.79

Name	Job title	Regular pay	Overtime pay	Other pay	Total pay	Benefits	Pension debt	Total pay & benefits
Madison Vitarelli	Permit Technician I Newport Beach, 2022	\$61,432.00	\$202.00	\$1,384.00	\$63,018.00	\$17,303.00	\$17,831.79	\$98,152.79

Name	Job title	Regular pay	Overtime pay	Other pay	Total pay	Benefits	Pension debt	Total pay & benefits
Ryan Sanford	Harbor Services Worker, Lead Newport Beach, 2022	\$50,618.00	\$171.00	\$0.00	\$50,789.00	\$4,909.00	\$14,694.69	\$70,392.69

Name	Job title	Regular pay	Overtime pay	Other pay	Total pay	Benefits	Pension debt	Total pay & benefits
Joseph White	Harbor Services Worker, Lead Newport Beach, 2022	\$40,812.00	\$126.00	\$259.00	\$41,197.00	\$3,951.00	\$11,826.99	\$56,974.99

Name	Job title	Regular pay	Overtime pay	Other pay	Total pay	Benefits	Pension debt	Total pay & benefits
Cynthia Shintaku	Department Assistant Newport Beach, 2022	\$36,066.00	\$0.00	\$0.00	\$36,066.00	\$3,497.00	\$10,467.98	\$50,030.98

California State Lands Commission Meeting - 04/04/2024
Public Comment, Re: Newport Beach Offshore Mooring Rents
A. Leverenz Public Comment Addendum:

Dear Commissioners,

Addressing two Memos from Mr. Netzer, included as “Attachment B” and “Attachment C” within the Newport Beach Harbor Commission agenda materials for their Meeting of March 18, 2024:

The Cover Sheet with “Attachment B”, is titled: **“Netzer & Associates memo regarding 2016 vs. 2021 and 2023 Appraisal Rates”**. That title seems accurate to me. I am supposing that the cover sheet was prepared by City staff. I am further supposing that the year **“22014”** in Mr. Netzer’s associated Memo, is simply a typo. However, in the Memo, Mr. Netzer repeatedly speaks to conclusions made in 2024. The Appraisal Reports from Netzer and Associates that I have seen to date, are from 2023 and prior. As has been indicated, his 2023 report seemed to evidence some confusion about how many mooring fields are in Newport Harbor. Other deficiencies in the 2023 report have been noted by various members of the public. The repeated references by Mr. Netzer to **“2024”** conclusions in the Attachment B Memo, seem not to be in relation to The CBRE Appraisal Report, which is from 2024. Mr. Netzer’s apparent inaccuracies and inconsistencies I think, warrant concern, as does his apparent intimate past involvement with The City, in relation to obtaining lucrative lease agreements for The Newport Aquatic Center, and being Secretary there of.

Mr. Netzer’s Memo states:

“In 2016 it was concluded that the offshore mooring rental programs in other harbors were not comparable to Newport Harbor”.

The contention now, that they have conveniently become comparable, seems suspect to me.

The Memo, like Netzer’s 2023 Appraisal report, continues to suggest “private market” mooring rental “asking” prices are a reliable data point. I have found that advertising alone, is not a reliable reference for accurate/factual determinations, and that black market style pricing can vary widely.

The Memo notes a multitude of slip to mooring comparisons. As the record indicates, proponents dispute how closely Netzer and The Harbor Commission claim these things actually compare.

And as far as current City Pier Permit fee comparisons between 2016 and 2023, Mr. Netzer writes:

“I did not complete this analysis in my 2024 report;”

What 2024 report!?!?! He goes on to indicate, that were the analysis included, it would have resulted in a tideland rent of \$1.83 per square foot. Mr. Netzer then uses that square footage figure, multiplied by the supposed area an offshore mooring would drift over, to calculate a monthly rental amount. The State and City calculate square footage rental amounts per annum! Moreover, The Harbor Commission’s proposed Offshore Mooring Rental rate of 24% of Balboa Yacht Basin, pencils out to rent of about \$4.80 per square foot per year, far above the \$1.83 figure that would result, IF Mr. Netzer’s ***“this analysis”*** had been done.

He makes a number of comparative remarks about dinghies/storage. He notes a storage option at Marina Park. The Harbor Department says that there’s a 27-person waitlist for that.

The Memo’s comments about space at Marina Park for Newport Mooring Association (NMA) members to tie up one 8’ rowboat to access their moorings, I thought comical. How many NMA members do you think can safely fit in an 8-foot rowboat, and row to the A, B, or D Mooring Fields in a safe/timely manner?

The Memo indicates that in 2016, ***“a ‘global’ monthly mooring rent per linear foot that applied to all moorings”*** was used, and that this is what’s been done “historically”. Netzer and The NPB Harbor Commission though, seem to have chosen to disregard historical process.

The Memo explains that harbor specific information, and City adopted and resolved rates and ratios were given less emphasis in ***“2024”*** (Again, does he mean his **2023** Report?). And does The City/State really want to open the door, to being this dismissive of City/State enacted Resolution/Code/Benchmark/Etc. going forward?

The Cover Sheet with “Attachment C”, is titled: **“Netzer & Associates memo regarding CBRE Newport Harbor Offshore Mooring Fields – Tidelands Fair Use Fees Appraisal Report dated February 12, 2024”**.

In this memo, Mr. Netzer notes an absence in The CBRE Report of comparable rental data that applies to individual offshore moorings. Comparable rental data for multiple Newport Beach locations (Slips), was used by The State Lands

Commission in setting their current Benchmark Rate applicable to Orange County (.451 cents per square foot per year).

SLC Staff Report 39, even states:

“The higher rents were generally found in marinas located in Newport Beach of Orange County”

CBRE, in relying on data used by The State of California to make determination on Fair Market Value Rent, **has** factored in comparable rental data that applies to individual offshore moorings.

Mr. Netzer writes about The SLC – Impact Area, and provides the following definition:

“IMPACT AREA: The impact area is an additional area, beyond the physical footprint of a structure, where a lessee seeks authorization to conduct activities...”

He contemplates that mooring rents should be applied to a wider area. As I have read, The City of Newport Beach has discretion in determining what’s “fair” as far as tideland/submerged land rents go. I believe The City excludes the “U Shaped area” between docks/piers from the fee calculation footprint of residential piers, while at the same time, considers charging offshore mooring permittees for the supposed total square footage a moored vessel **may** drift over.

And what ***“physical footprint of a structure”*** do floats and/or buoys, attached by chain, to sunken railroad wheels or engine blocks, truly create? “Structure”?

Mr. Netzer’s statement that vessels at the ***“12 public docks located throughout Newport Harbor”*** are limited to 9-feet, is untrue. There **are** dock **sections** with that 9’ limitation, but there are also sections that allow longer vessels. And according to the current General Harbor Map’s legend, I count 15 public docks (Please see Attached Exhibit H). Again, errant statements made by Netzer, **should** be a matter of concern.

Mr. Netzer seems to fault CBRE for not using more Marinas to determine average slip rate and length, while he himself, used a limited number in his **2023** Appraisal Report. He goes on to imply that The SLC rate may be inaccurate, as it used a broader range of data, and opines that if ***“all”*** marinas

in Newport Harbor were used in the calculation, the rate would be substantially higher. I find an apparent, singular focus on obtaining higher rates suspect.

Mr. Netzer's Memo calls into question a 6% rate of return, stating that there's a **"mandated' annual rate of return" of "9-percent of the appraised value of the leased land"**. This again, seems to evidence some level of confusion on the part of Mr. Netzer. His citing of Code, and a 9% **"mandated' annual rate of return"**, are rates calculated based upon the **"appraised value of the leased land"**. The 2024 CBRE report pages he's contradicting (Pgs. 17 & 18), are based upon a percentage of gross annual income generated by a marina slip. SLC Staff Report 39, which includes The SLC Memo of May 6, 2022 referenced by CBRE, has this clearly worded. How can Mr. Netzer confuse a basis of 9% of the appraised value of leased land, with the smaller percentages used for calculating annual gross income return for boat berthing sites?

And even if we bump The SLC's annual rate(s) of return of gross income to 9%, and then calculate for the most common type of Offshore Mooring, i.e., a 40', rent being set at that 9% gross annual rate of return of Balboa Yacht Basin's 2023-2024 prices, would be far and away more equitable than the obscene increases that Mr. Netzer and The Harbor Commission subcommittee have proposed. Here's a breakdown of the math:

Balboa Yacht Basin **"2023-2024 Slip Rate (Per foot, per month)"**
(Please see Attached Exhibit I)

\$50.09 = (BYB 2023-2024 Slip Rate Per foot, per month)

x 40' = \$2,003.60 per month

x 12 months = \$24,043.20 (Gross annual rate of return per boat berthing site)

x .09 (9%) = \$2,163.89

/ 12 Months = **\$180.33** per month for 40' Offshore Mooring Rent


This amount, though **substantially** increasing the gross annual rate of return percentage beyond current SLC standards, is still **nowhere** near what Netzer and The NPB Harbor Commission subcommittee want.

Mr. Netzer addresses the "apples to oranges" remarks that have been heard/read a number of times locally, and speaks to the principal of substitution. I'm

sorry, but you can't directly substitute the appraised value of leased land, for gross annual slip rent. Nor can you directly substitute multi-million-dollar dry land sales, for submerged, undevelopable, limited access, utility and service challenged, leased "lands". And based on my decades of **personal experience**, moorings and marina slips, or docks, differ in value and utility, by far more than The NPB Harbor Commission subcommittee and Netzer are contending.

I **do** appreciate Mr. Netzer's acknowledgement that the scenarios he's relied on in his analysis, relating to moorings in San Diego, are scenarios that have not actually occurred, and that consequently, it cannot be determined what the market reaction will be. However, I feel that governmental agencies choosing to overlook multiple irregularities, and accept suppositions as actionable data, may open up a Pandora's Box of random unpredictability.

Regards,



Adam Leverenz

Attached Exhibits:

- H: NPB General Harbor Map
- I: Balboa Yacht Basin 2023-2024 Rates
- J: Netzer Memo of 03/04/2024 w Highlights
- K: Netzer Memo of 03/05/2024 w Highlights

Public Comment

A. Leverenz Addendum

Re: Offshore Mooring

Proposed FMV Rent

Attachment H:

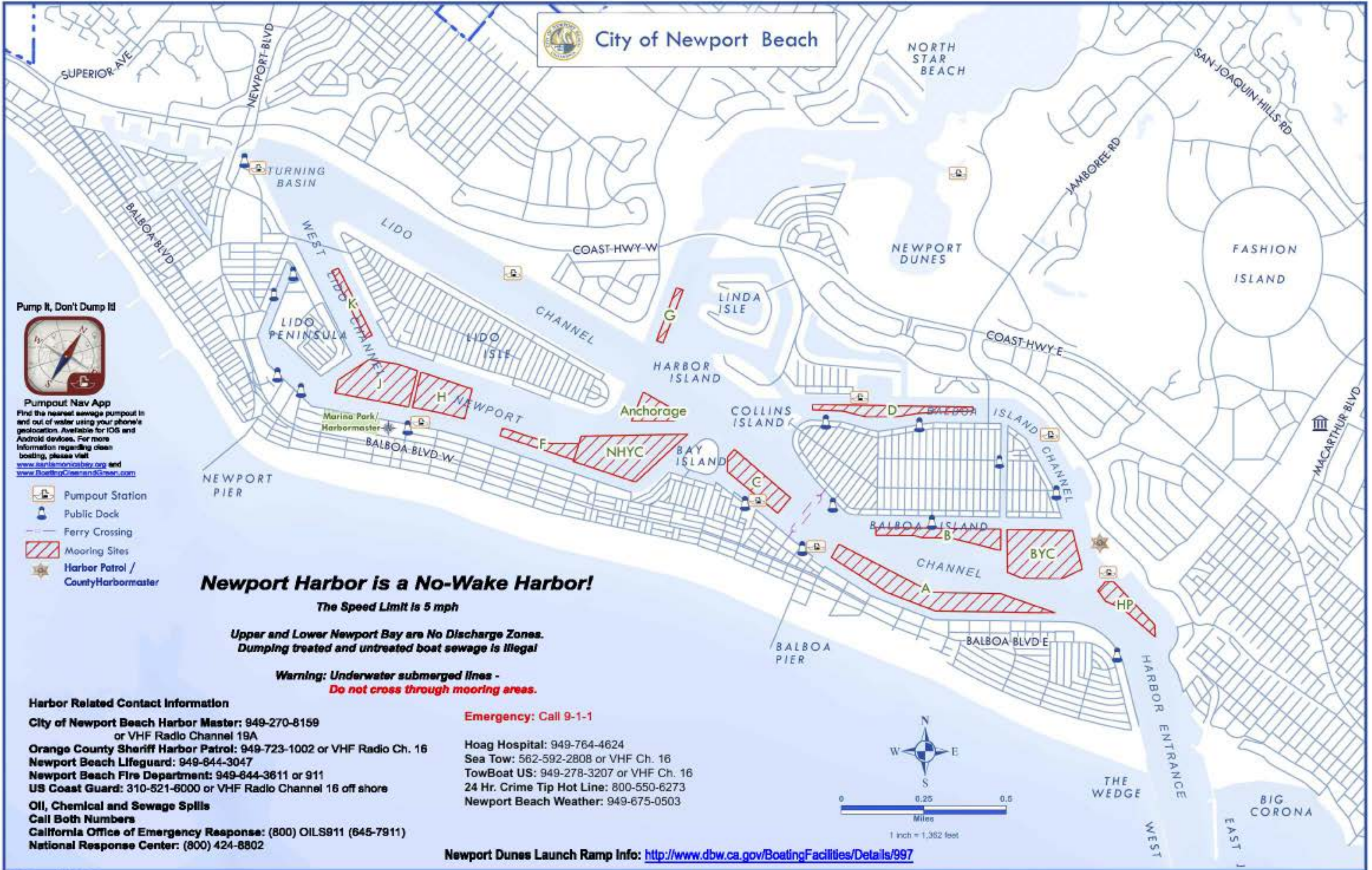
Newport Beach General

Harbor Map:

1 pg.



City of Newport Beach



Pump It, Don't Dump It!



Pumpout Nav App
Find the nearest sewage pumpout in and out of water using your phone's geolocation. Available for iOS and Android devices. For more information regarding clean boating, please visit www.santemonica.gov and www.BoatingCleanandGreen.com

- Pumpout Station
- Public Dock
- Ferry Crossing
- Mooring Sites
- Harbor Patrol / County Harbormaster

Newport Harbor is a No-Wake Harbor!

The Speed Limit is 5 mph

**Upper and Lower Newport Bay are No Discharge Zones.
Dumping treated and untreated boat sewage is illegal!**

**Warning: Underwater submerged lines -
Do not cross through mooring areas.**

Harbor Related Contact Information

City of Newport Beach Harbor Master: 949-270-8159
or VHF Radio Channel 19A
Orange County Sheriff Harbor Patrol: 949-723-1002 or VHF Radio Ch. 16
Newport Beach Lifeguard: 949-844-3047
Newport Beach Fire Department: 949-844-3611 or 911
US Coast Guard: 310-521-6000 or VHF Radio Channel 16 off shore

Oil, Chemical and Sewage Spills
Call Both Numbers
California Office of Emergency Response: (800) OILS911 (645-7911)
National Response Center: (800) 424-8802

Emergency: Call 9-1-1

Hoag Hospital: 949-764-4624
Sea Tow: 562-592-2808 or VHF Ch. 16
TowBoat US: 949-278-3207 or VHF Ch. 16
24 Hr. Crime Tip Hot Line: 800-550-6273
Newport Beach Weather: 949-675-0503



Newport Dunes Launch Ramp Info: <http://www.dbw.ca.gov/BoatingFacilities/Details/997>

Public Comment

A. Leverenz Addendum

Re: Offshore Mooring

Proposed FMV Rent

Attachment I:

Balboa Yacht Basis

2023-2024 Rates:

1 pg.



Balboa Yacht Basin Marina
829 Harbor Island Drive
Newport Beach, CA 92660
www.newportbeachca.gov/byb

Slip Rates

August 2023

Slip Length	2023-2024 Slip Rate (per foot, per month)
20' Slip	\$32.23
25' Slip	\$32.38
31' Slip	\$37.29
32' Slip	\$40.49
34' Slip	\$41.02
35' Slip	\$42.59
37' Slip	\$44.34
40' Slip	\$50.09
45' Slip	\$51.27
50' Slip	\$60.59
60' Slip	\$70.65
75' Slip	\$80.95

Garage: \$444.81 per month

Apartments: \$3,353.81 per month

For information and slip availability, please contact:

BYB Marina Manager Kelly Rinderknecht

949-569-0723

krinderknecht@themarinaatdanapoint.com

Public Comment Re:
NPB Offshore Mooring
Proposed FMV Rent

Attachment J:

Netzer Memo of
03/04/2024

& Materials:

88 pgs.

Attachment C

Netzer & Associates memo regarding CBRE Newport Harbor Offshore Mooring Fields –
Tidelands Fair Use Fees Appraisal Report dated February 12, 2024

Memo

To: Lauren Wooding-Whitinger
From: James B. Netzer, MAI
Date: March 4, 2024
Re: Offshore Mooring Appraisal – CBRE/Newport Mooring Association, Inc.

Lauren:

On the basis of your request, I have read the appraisal dated February 12, 2024, that was prepared by CBRE and is addressed to the Newport Mooring Association, Inc. On the basis of my reading of the appraisal report, I offer the following comments:

- 1) As set forth on page 1 of the report the "Purpose of Appraisal" is to "estimate fair use fees/ fair market rent for the subject property." The report notes the subject property is the "Newport Harbor Offshore Mooring Fields - Tidelands Fair Use Fees." The appraisal does not present any comparable rental data that applies to individual offshore moorings, and there is no analysis of comparable rentals of individual offshore moorings. The comparison of the rental rates being paid for offshore moorings is one of the typical methodologies employed when estimating "fair market rent" for individual moorings and should be included in the report.

The identification of the subject as the "Newport Harbor Offshore Mooring Fields - Tidelands Fair Use Fees" suggests the justification for not including comparable mooring rentals is that the analysis applies to the "tidelands use" and not the use of the tidelands for individual offshore moorings. If this is the justification for not including comparable mooring rentals then the "tidelands rent" should be applied to the entirety of the tidelands encumbered by the mooring fields (SLC - Impact Area), which are estimated to contain 3,553,765 square feet (page 10).

- 2) The Dinghy/Tender rental rate is stated to be \$400 to \$750 per month (page 26) for a 9- to 12-foot dinghy/tender; however, there is no analysis of the dinghy storage or dinghy racks in Newport Harbor. The dinghy racks at Marina Park and the Balboa Yacht Basis rent for \$38.00 per month, with dinghy storage at Newport Dunes (\$25.00/month), Bayside Village Marina (\$30.00 to \$80/month) and the American Legion (\$45 to \$50 for members only). In addition, the Lido Yacht Anchorage offers storage for vessels between 6' and 19' at \$28.00 per linear foot. Assuming a 12' dinghy/tender, the monthly fee is \$336 at the Lido Yacht Anchorage.

In addition to the above referenced dinghy storage, there are 12 public docks located throughout Newport Harbor that permit dinghy/tenders to tie-up. The vessels are limited to 9-feet and the vessels are permitted to tie-up for the intervals, depending on the locations: 20-minutes; 3-hours; 24-hours; and 72-hours. Three of the public docks also provide pump-out services. It was noted by Harbor Department personnel that the Newport Mooring Association was provided space to tie-up a vessel (8' Walker Bay rowboat) at Marina Park to provide their members access to the offshore moorings. This program was reportedly started in September 2021 and ended in the Fall of 2022. It was noted that there was very little use of the vessel.

It is recognized that there is limited dinghy/tender space available in Newport Harbor; however, only the San Diego Mooring Company (dinghy lines/beach poles) and Newport Harbor Yacht Club (shore boat) include access to the offshore moorings in their rate and the monthly mooring rental rates included in my appraisal did not include the additional monthly cost associated with dinghy storage at the comparable mooring areas.

- 3) The analysis presented on pages 17 and 18 comports to comply with the California State Lands Commission (SLC) methodology to estimate the "Benchmark Tidelands Rent." The SLC methodology is summarized on page 17 as: "what income can typically be generated by a commercial marina; the area occupied by a marina slip in a well-designed marina; what the rental charge would be for a typical sized boat; and the rate of return the State should receive for the use of its land."

The narrative explains that "we have three recent reports referencing/employing this methodology: Southern California, San Francisco Bay & Tomales Bay." The formula/methodology the SLC utilizes in the reports is as follows:

Average Berth Size (from SLC marina survey)
x Average \$/linear foot (average berth rate from SLC marina survey)
= Average Monthly Berth Rent
x 12 months (Annualized)
= Average Annual Berth Rent
x applicable rate of return
= Annual Tidelands Rent
- Average Berth Size (from SLC marina survey)
= Annual Tidelands Rent \$/Sq.Ft.

The "Annual Tidelands Rent" calculated above is then applied to the "Impact Area." The SLC reports referenced on page 17 of the in the CBRE report, define the "Impact Area" as follows:

IMPACT AREA. The impact area is an additional area, beyond the physical footprint of a structure, where a lessee seeks authorization to conduct activities. For recreational structures used for the docking and mooring of boats within the benchmark's coverage area, the impact area is generally a nine-foot-wide strip along the mooring areas or under a boat lift. Accordingly, these areas are included in a lease and rent is charged thereon. The Commission's leasing regulations explicitly allow for this. (Cal. Code Regs., tit. 2, § 2003, subd. (e)(2)). Staff Report 25 (Continued) 5

The analysis presented on page 18 is based \$56 per linear foot rate for a 40-foot slip. The rate is calculated based on a selection of 5 marinas and the temporary mooring rate at Marina Park, while the SLC uses the average slip rate from a much larger sampling of data (including public marinas, private marinas & marinas associated with yacht clubs) and all slip lengths. The "average" slip fee and the "average" slip length used in the analysis are based on the marina survey. It should be noted that when all marinas in Newport Harbor, and all slip lengths are included (per SLC methodology), the average slip length is 44-feet with an average slip rate of \$85.93 per linear foot.

The analysis is based on a 6.0-percent rate of return based on the benchmark reports, in spite of the "mandated" annual rate of return set forth in the California Code of Regulations, which is set at "9-percent of the appraised value of the leased land", or the rate of 8.0-percent adopted by the City of Morro Bay for the sites/tidelands they lease around their waterfront. There is no justification for the rate other than the SLC reports and the report notes on page 18, "we did not use the 8.5% used by the City when establishing rates uses per the George Hamilton Jones Report for the largest marinas."

The analysis does not follow the methodology as it does not estimate the annual tidelands rent by dividing by the tidelands encumbered by a "typical" berth, rather it converts the concluded "annual rent" (\$3.36) to the monthly mooring rent (\$3.36 x 40 LF = \$134). The monthly mooring rent (not the tidelands rent) is annualized based on a 40-foot mooring (\$134 x 12 mos.), and concludes that the annual rent is \$1,613 for a 40-foot mooring. This analysis does not take into consideration the difference in the square feet of tidelands encumbered by an "average" berth as compared to the tidelands encumbered by a similar length mooring. In addition, the tidelands rent is not applied to the "Impact Area" as outlined in the SLC Benchmark reports.

¹ California Code of Regulations, Title 2, Division 3, Article 1., Section 2003 (a)(1).

- 4) The Ratio Analysis is criticized on pages 21 through 24, with a ratio analysis presented on page 27 for "informational" purposes. In my 2016 appraisal of the moorings that was completed for the City of Newport Beach, I did not give this methodology consideration and noted:

The Ratio analysis attempts to estimate the market rent for moorings as compared to the rent for similar slip spaces in the same marina or harbor. As shown in the analysis, the ratio can vary dramatically (25% to 92%) and, while a potential renter could take this into consideration (cost of a slip v. cost of a mooring), it is not judged to be a reliable measure of Fair Market Rent. This analysis is given little weight in the final reconciliation.

In the eight years since my prior appraisal was completed, I have consulted with and interviewed parties that are associated with the valuation (or operation) of tidelands, marinas and moorings. The ratio analysis is applicable to the estimate of the fair market rent for the moorings, as it compares the alternatives available to a vessel owner that wants to dock/moor a vessel in a particular harbor. It is not an "apples to apples" comparison, rather it is an "apples to oranges" (slip v. mooring) comparison that a vessel owner undertakes. Within any given harbor with both slips and offshore moorings, the vessel owner that wants to keep their vessel in the water has the choice between renting a slip (apple) or an offshore mooring (orange), and they weigh the cost of each option, in combination with the services and access provided for each option, in making their decision to rent either a slip or an offshore mooring. This is the application of the Principle of Substitution, which is fundamental to appraisal methodology.

It should also be noted that in 2016 the ratio varied from 25- to 92-percent; however, when the proposed ratio in San Diego is excluded, the current data reflect a much narrower range from 14.06-percent to 35.25-percent. The two mooring fields associated with the yacht clubs in Newport Harbor, reflect a ratio between 30- and 35-percent. On the basis of my expanded body of knowledge and more up to date market research, the narrower range reflected by the comparable data and the use of this methodology in the proposed rate change in San Diego, the ratio analysis is judged to be a reliable and relevant methodology in estimating the fair market rent for the off-shore moorings.

- 5) As set forth in my appraisal the owner/operator of the San Diego Mooring Company reported that an agreement was reached with the Port of San Diego to raise the mooring rates to 52-percent of the San Diego marina survey, to be phased in over 5-years. The statements included in my appraisal are based on a December 2023 interview with the owner/operator and I consulted with them in 2021 & 2022 and have reviewed the appraisal submitted to the Port District. The information could not be independently verified with a representative of the Port as a formalized agreement with the Port has not been executed. As noted in the discussion of this market data, this ratio (52%) was judged to reflect the extreme upper limit of the range due to the owner/operator's maintenance responsibilities and the 5-year phase in.

As noted on page 36 of my report, within the concluding paragraph of the Ratio Analysis, the information related to the reported future increase at the San Diego Mooring Company was given secondary consideration, and set forth as follows:

In the final analysis, primary weight is placed on the ratios reflected by Monterey, Pillar Point, Newport Harbor Yacht Club and Balboa Yacht Club. The ratio based on the current rates being charged at the San Diego Mooring Company are given secondary emphasis as the mooring rates have not been adjusted based on market conditions for over 10 years and the proposed/approved ratio has not been implemented and will be phased in over five years and accounts for the landlords maintenance and repair costs.

While in the final analysis the reported ratio (52%) was not given any emphasis, it is relevant market data that reflects the proposed adjustment to the mooring rates that have not been increased in over 10-years and is reflective of the owner/operators analysis of the market rent for offshore moorings and the reported agreement with the regulatory agency.

As of the current date, it cannot be determined what the market reaction to the proposed increase will be and the demand and subsequent occupancy rate cannot be quantified; however, this a relevant piece of market data that is applicable to the overall analysis.

While the specific ratio reflected by the San Diego data may not be applicable to the subject moorings, this is the most recent market data available that applies to the adjustment of the individual mooring rates, and it is based on the ratio analysis; therefore, it lends further support to the use of the methodology.

I believe the above addresses the "big picture" issues that have been brought forth. Please let me know if you have additional comments or questions or if I can provide further clarification of the above points.

Respectfully,



James B. Netzer, MAI

CBRE VALUATION & ADVISORY SERVICES

APPRAISAL REPORT

NEWPORT HARBOR OFFSHORE MOORING FIELDS -
TIDELANDS FAIR USE FEES
NEWPORT HARBOR
NEWPORT BEACH, CALIFORNIA 92662

NEWPORT MOORING ASSOCIATION, INC.

CBRE

February 12, 2024

Mr. L. Scott Karlin
Policy and Legal Affairs on behalf of Newport Mooring Association, Inc.
NEWPORT MOORING ASSOCIATION, INC.
P.O. Box 1118
Newport Beach, California 92659

RE: Appraisal of: Newport Harbor Offshore Mooring Fields - Tidelands Fair Use Fees
Newport Harbor, Newport Beach, Orange County, California

Dear Mr. Karlin:

At your request and authorization, CBRE, Inc. has prepared an appraisal of the market rental value of the referenced property. Our analysis is presented in the following Appraisal Report.

The subject property consists of the State-owned State of California Tidelands submerged in Newport Harbor that are currently utilized to accommodate individual offshore moorings. The Tidelands are currently held in Trust by the City of Newport Beach. There are approximately 740 offshore moorings, approximately 579 of which are in mooring fields A, B, C, D, F, G, H, J and K, and which excludes approximately 79 moorings in the Balboa Yacht Club mooring field and 73 moorings in the Newport Harbor Yacht Club mooring field which are not administrated by the City. The Harbor Patrol also has 6 moorings.

Although requested, updated precise sourced detailed information including the exact number of moorings, intended boat length for each mooring, and the amount of tidelands encumbered or utilized within each mooring field for use by individual moorings was not available. We have estimated / filled in any missing data and figures based on available information including mooring area maps, 6 years of detailed mooring transfer logs, Landvision aerial measuring tool, and calculations based on typical vessel sizes and mooring equipment. From these resources we have estimated 579 moorings in 9 mooring fields ranging from 18 moorings to 133 moorings, with average intended boat lengths ranging from 40' to 50' and average beam (width) of 15 feet, each of which is extended on average 12 feet from the boat to the buoy at the bow, and 12 feet from the stern to the stern buoy. In the case of mooring using only one buoy, the extra area at the stern would not be added. The mooring fields within which the individual moorings are located comprise just over 82 acres of tidelands. Note that we independently estimated the area of the mooring fields with an aerial measuring tool which indicated actual mooring fields of around 73 acres; however, the Harbor Department-provided-data was relied upon for the purposes of the appraisal, despite being unsourced. The areas within the mooring fields outside the areas occupied by, or which could be occupied by a vessel on the individual moorings is not an area used exclusively by the owners of vessels on the individual moorings. These areas are generally used by the public inclusive of kayakers, paddle boarders, small craft

such as Duffy Boats, as well as the occasional use by the owner of a vessel using a tender to access an individual mooring.

Our analysis is of the tidelands used by the individual moorings within the mooring fields. Actual fees or fair market rent would vary from mooring to mooring. For example, a mooring on the perimeter of a moorings field would have superior unobstructed views, easier access, and/or mooring fields are closer to the harbor entrance, etc. This, however, is offset by a generally inferior mooring which may be very far from the harbor entrance, have difficult or crowded access, be located near a gas dock or a "louder" area in the harbor, etc. Accordingly, for this assignment, and in order to provide as balanced and equitable an analysis of the tidelands in a harbor-wide context as possible, we based the valuation of market rent for the subject tidelands upon a "typical" mooring.

Based on the analysis contained in the following report, and certain assumptions based on the typical area of tidelands used by a vessel on a mooring, and the lack of additional services or areas of tidelands available to mooring holders to access these moorings, the market value of the subject is concluded as follows:

TIDELANDS FAIR USE FEES / FAIR MARKET RENT			
Appraisal Premise	Date of Value	Market Rent / Lineal Foot / YR for Tidelands (\$3.36 LF per mo)	Annual Rent per 40' Mooring Based on 1,326SF of Tidelands used for individual mooring
As Is	January 15, 2024	\$41.00	\$1,640
Compiled by CBRE			

Summary Table – Various Size Moorings

Mooring Size	Sq Ft with Max Swing Factor	Annual Fee Per Lineal Foot (rounded to full dollar)	Annual Fee Based on Sq Ft Tidelands (without Rounding)	Annual Fee Per Lineal Foot (rounded to full dollar)
30	843	\$35	\$1,045.32	\$1,050
40	1,326	\$41	\$1,644.24	\$1,640
50	1,857	\$46	\$2,302.68	\$2,300
60	2,322	\$48	\$2,879.28	\$2,880
70	2,840	\$50	\$3,521.60	\$3,500

If the City was to provide additional services to provide access to the moorings (such as shore boat service) or set aside areas of the tidelands for reasonable access to the moorings (such as in water motorized dinghy/tender boat dockage), an adjustment in the value may be appropriate,



Mr. L. Scott Karlin
February 12, 2024
Page 3

depending on the nature and extent of such additional services or additional tideland used for such access.

The report, in its entirety, including all assumptions and limiting conditions, is an integral part of, and inseparable from, this letter.

The following appraisal sets forth the most pertinent data gathered, the techniques employed, and the reasoning leading to the opinion of value. The analyses, opinions and conclusions were developed based on, and this report has been prepared in conformance with, the guidelines and recommendations set forth in the Uniform Standards of Professional Appraisal Practice (USPAP), and the requirements of the Code of Professional Ethics and Standards of Professional Appraisal Practice of the Appraisal Institute.

The intended use and user of our report are specifically identified in our report as agreed upon in our contract for services and/or reliance language found in the report. As a condition to being granted the status of an intended user, any intended user who has not entered into a written agreement with CBRE in connection with its use of our report agrees to be bound by the terms and conditions of the agreement between CBRE and the client who ordered the report. No other use or user of the report is permitted by any other party for any other purpose. Dissemination of this report by any party to any non-intended users does not extend reliance to any such party, and CBRE will not be responsible for any unauthorized use of or reliance upon the report, its conclusions or contents (or any portion thereof).

It has been a pleasure to assist you in this assignment. If you have any questions concerning the analysis, or if CBRE can be of further service, please contact us.

Respectfully submitted,

CBRE - VALUATION & ADVISORY SERVICES



Robert Jacobson, MAI
Executive Vice President
California State Certification No. AG035731
Expiration Date: July 7, 2025

Certification

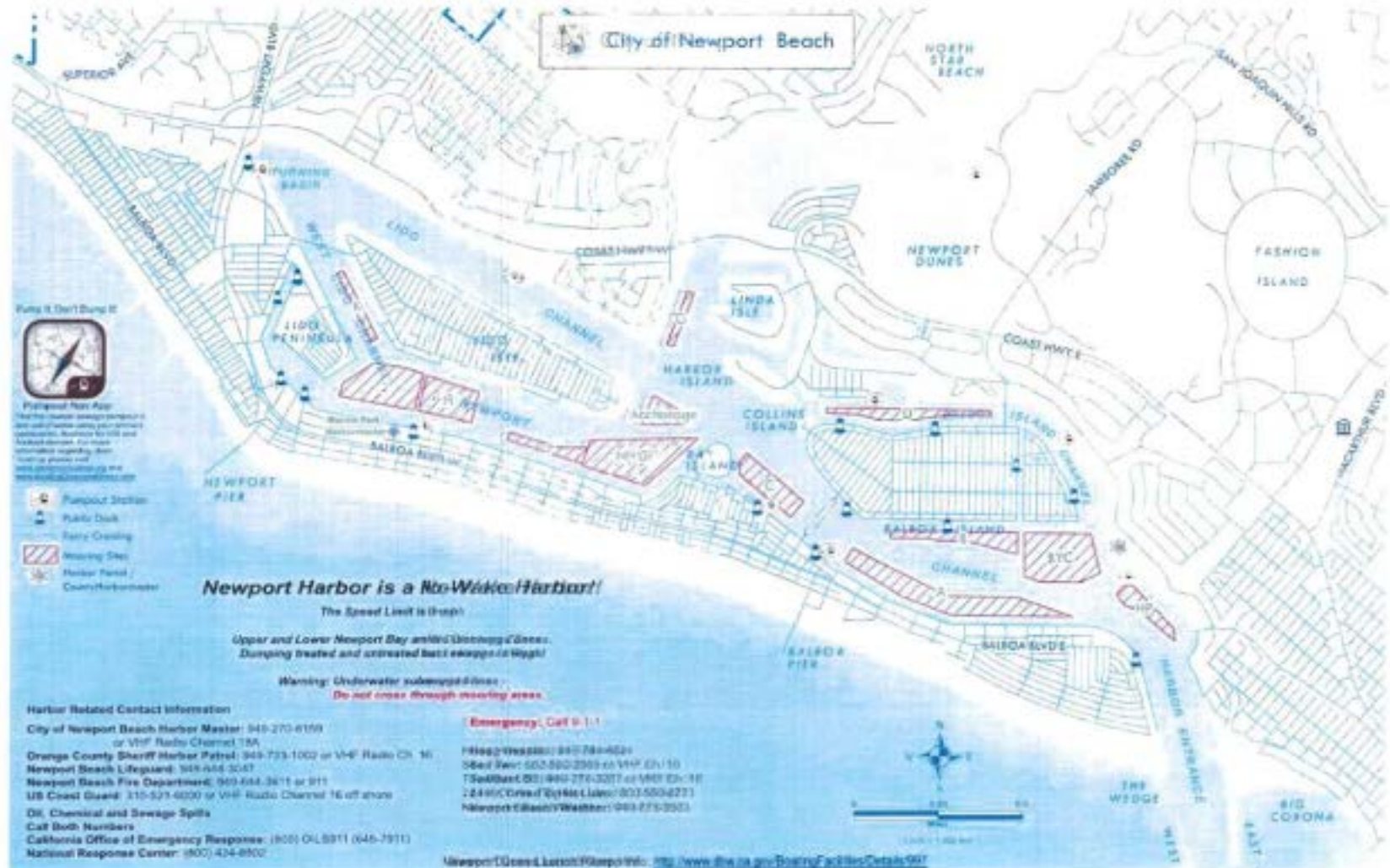
We certify to the best of our knowledge and belief:

1. The statements of fact contained in this report are true and correct.
2. The reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions and are our personal, impartial and unbiased professional analyses, opinions, and conclusions.
3. We have no present or prospective interest in or bias with respect to the property that is the subject of this report and have no personal interest in or bias with respect to the parties involved with this assignment.
4. Our engagement in this assignment was not contingent upon developing or reporting predetermined results.
5. Our compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.
6. This appraisal assignment was not based upon a requested minimum valuation, a specific valuation, or the approval of a loan.
7. Our analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the 2024 Uniform Standards of Professional Appraisal Practice, as well as the requirements of the State of California.
8. The reported analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the requirements of the Code of Professional Ethics and Standards of Professional Appraisal Practice of the Appraisal Institute.
9. The use of this report is subject to the requirements of the Appraisal Institute relating to review by its duly authorized representatives.
10. As of the date of this report, Robert Z. Jacobson, MAI has completed the continuing education program for Designated Members of the Appraisal Institute.
11. Robert Z. Jacobson, MAI has made a personal inspection of the property that is the subject of this report.
12. No one provided significant real property appraisal assistance to the persons signing this report.
13. Valuation & Advisory Services operates as an independent economic entity within CBRE, Inc. Although employees of other CBRE, Inc. divisions may be contacted as a part of our routine market research investigations, absolute client confidentiality and privacy were maintained at all times with regard to this assignment without conflict of interest.
14. Robert Z. Jacobson, MAI has not provided any services, as an appraiser or in any other capacity, regarding the property that is the subject of this report within the three-year period immediately preceding acceptance of this assignment.



Robert Jacobson, MAI
California State Certification No. AG03573

MAP OF NEWPORT HARBOR AND MOORING FIELDS





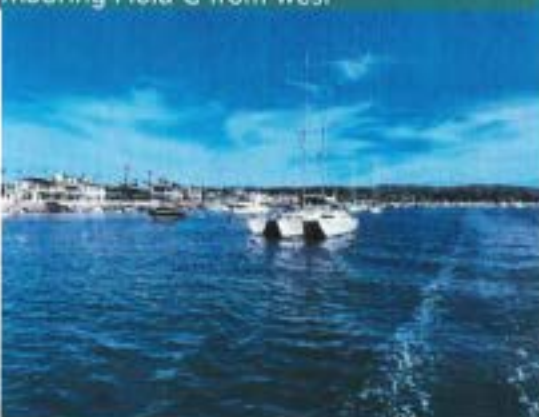
Mooring Field A from west



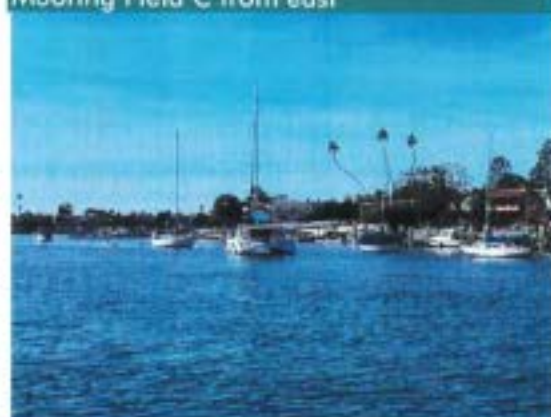
Mooring Field A from east



Mooring Field C from west



Mooring Field C from east



Mooring Field B from west

Mooring Field G from north

Executive Summary

Property Name	Newport Harbor Offshore Mooring Fields - Tidelands Fair Use Fees	
Location	Newport Harbor, Newport Beach, Orange County, CA 92662	
Client	Newport Mooring Association, Inc.	
Highest and Best Use		
As If Vacant	Offshore Mooring Use	
As Improved	Offshore Mooring Use	
Property Rights Appraised	Leased Fee Interest	
Date of Report	January 31, 2024	
Date of Inspection	January 15, 2024	
Submerged Tidelands Area	81.583 AC	3,553,765 SF
Mooring Fields	9	
Moorings	579	
Utilized Average Mooring Size	40'	
Concluded Tidelands SF / Lineal Boat / Mooring Size	33 SF	
Tidelands Attributable / 40' Boat	1,326 SF	

VALUATION

	January 15, 2024	Rent Per Year
Market Rent As Is On		
California State Tidelands Commission Methodology		\$1,613
Inflation Methodology Based on City's Prior Benchmark		\$1,670
Ratio Method		\$1,920

TIDELANDS FAIR USE FEES / FAIR MARKET RENT

Appraisal Premise	Date of Value	Market Rent / Lineal Foot / YR for Tidelands (\$3.36 LF per mo)	Annual Rent per 40' Mooring Based on 1,326SF of Tidelands used for individual mooring
As Is	January 15, 2024	\$41.00	\$1,640

Compiled by CBRE

Market Rates for Moorings - Other Sizes

Based on Methodologies Used in This Report the Value per Square Foot is \$1.24 per Square Foot of Tidelands Used Per Annum. The square foot valuation would not change in relation to the size of mooring, only the square foot used and resulting adjustment to the total rate would change.

Sq Ft of Tidelands Used – No Swing Factor

Boat Size	+	Lines + Buoys*	x	Beam	Total Sq Ft
30	+	24	x	12	648
40	+	28	x	15	1,020
50	+	34	x	17	1,428
60	+	34	x	19	1,786
70	+	34	x	21	2,184

Rates without a Swing Factor

Boat Size	Sq Ft with Lines etc	x		Total Sq Ft	Fee Per Year at \$1.24 sq ft	Fee Per Year Per Lineal Foot
30	648	x		648	\$803.52	\$26.79
40	1,020	x		1,020	\$1,264.80	\$31.62
50	1,428	x		1,428	\$1,770.72	\$35.42
60	1,786	x		1,786	\$2,214.64	\$36.91
70	2,184	x		2,184	\$2,708.16	\$38.69

Add Swing Factor at 20%

Boat Size	Sq Ft with Lines etc	x	20%	Total Sq Ft with Swing	Fee Per Year at \$1.24 sq ft	Fee Per Year Per Lineal Foot
30	648	x		778	\$964.72	\$32.16
40	1,020	x		1,224	\$1,517.76	\$37.95
50	1,428	x		1,714	\$2,125.36	\$42.51
60	1,786	x		2,144	\$2,658.56	\$44.31
70	2,184	x		2,621	\$3,250.04	\$46.43

Add Swing Factor at 25%

Boat Size	Sq Ft with Lines etc	x	25%	Total with Swing	Fee Per Year at \$1.24 sq ft	Fee Per Year Per Lineal Foot
30	648	x		810	\$1,004.40	\$33.48
40	1020	x		1,275	\$1,581.00	\$39.53
50	1428	x		1,785	\$2,213.40	\$44.27
60	1786	x		2,233	\$2,768.92	\$46.15
70	2184	x		2,730	\$3,385.20	\$48.36

Add Swing Factor at 30%

Boat Size	Sq Ft with Lines etc	x	30%	Total with Swing	Fee Per Year at \$1.24 sq ft	Fee Per Year Per Lineal Foot
30	648	x		843	\$1,045.32	\$34.85
40	1,020	x		1,326	\$1,644.24	\$41.11
50	1,428	x		1,857	\$2,302.68	\$46.06
60	1,786	x		2,322	\$2,879.28	\$47.99
70	2,184	x		2,840	\$3,521.60	\$50.31

* Variations with Summary results from rounding square foot calculations.

MARKET VOLATILITY

We draw your attention to a combination of inflationary pressures (leading to higher interest rates) and recent failures/stress in banking systems which have significantly increased the potential for constrained credit markets, negative capital value movements and enhanced volatility in property markets over the short-to-medium term.

Experience has shown that consumer and investor behavior can quickly change during periods of such heightened volatility. Lending or investment decisions should reflect this heightened level of volatility and the potential for deteriorating market conditions.

It is important to note that the conclusions set out in this report are valid as at the valuation date only. Where appropriate, we recommend that the valuation is closely monitored, as we continue to track how markets respond to evolving events.

CURRENT ECONOMIC CONDITIONS

At its December 2023 meeting, the Federal Reserve held the federal funds rate at a range of 5.25% to 5.50% and indicated it will continue reducing its balance sheet by \$95 billion per month. The Fed reaffirmed its commitment to lowering inflation to its 2.00% target, while also acknowledging that risks (inflation vs. growth) have become more balanced.

Despite headline inflation remaining above the Fed's 2.00% target, core inflation, which excludes food and energy prices, has steadily decreased over the past 12 months. The recent run-up in the 10-year Treasury yield has further tightened financial conditions, which will continue to suppress economic growth and inflation. Commercial real estate investment activity is unlikely to improve until capital sources are confident that interest rates have stabilized, and pricing has fully adjusted.

While opinions vary on future economic issues, the general market consensus at the time of this appraisal is the anticipation of moderating inflation as higher interest rates cool demand. Tighter lending conditions and a weakening economy will keep capital markets activity subdued and reduce leasing demand in the short to medium term. Amid this uncertain and dynamic environment, investment market performance will be uneven across property types.

Local Impact

Note that while Newport Beach Harbor and its users are somewhat uniquely more insulated from broader changes in prevailing economic conditions due to the level of affluence surrounding the area and harbor, current economics and market fundamentals of harbor-related operations were artificially turbocharged due to the COVID-19 lockdowns and restrictions set forth by government throughout California. The lockdowns spurred boat usage and harbor demand in dramatic fashion during 2020 and 2021. As will be illustrated in the market analysis section, this artificial demand has waned with the COVID-19 pandemic, lockdowns, and operation restrictions behind

us, there is market evidence of a contraction in the boating market. In addition, we are currently facing unprecedented economic headwinds with the Fed raising rates over 500 basis points since April 2022, which historically has never been seen. This is intended and is anticipated to “unwind” much of the (again artificially imposed) COVID-19 pandemic era inflationary gains (increases in market rent and compression of rates of return).

EXTRAORDINARY ASSUMPTIONS

An extraordinary assumption is defined as “an assignment-specific assumption as of the effective date regarding uncertain information used in an analysis which, if found to be false, could alter the appraiser’s opinions or conclusions.”¹

- We have utilized the number of moorings, intended / assigned lineal foot capacity per mooring, and the amount of tidelands attributable to each mooring field based on multiple sources, the primary of which was the Newport Harbor Department mooring summary sheet. This summary sheet was provided by the Harbor Department but was unsourced. Although requested, a full detailed comprehensive list of this information including actual surveyed tidelands areas was not provided / available. Also of importance but which was not available is the intended lineal boat capacity for each mooring. *The appraiser is not a licensed surveyor.* It is recommended that a professional tidelands survey be performed by a certified licensed surveyor and reliable source for all / average lineal foot mooring capacity for the mooring fields in question prior to making a business decision. The appraiser has made his best effort to accurately estimate these figures as relied upon in the following analysis. We reserve the right to amend our opinion of fair market rent if actual encumbered tidelands areas and lineal boat capacities vary from those figures utilized in the appraisal.

The use of extraordinary assumptions might have affected assignment results.

HYPOTHETICAL CONDITIONS

A hypothetical condition is defined as “a condition, directly related to a specific assignment, which is contrary to what is known by the appraiser to exist on the effective date of the assignment results, but is used for the purposes of analysis.”²

- None noted

OWNERSHIP AND PROPERTY HISTORY

Title to the subject tidelands is currently vested in the State of California, in Trust to the City of Newport Beach.

To the best of our knowledge, there has been no ownership transfer of the property during the previous three years, nor any other marketing activity of unsolicited offers, and the subject is not currently listed for or pending sale.

¹ The Appraisal Foundation, USPAP, 2024

² The Appraisal Foundation, USPAP, 2024

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ADDENDA	
A. General Data	
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Scope of Work

This Appraisal Report is intended to comply with the reporting requirements set forth under Standards Rule 2 of USPAP. The scope of the assignment relates to the extent and manner in which research is conducted, data are gathered, and analysis is applied.

INTENDED USE OF REPORT

This appraisal is to be used for internal purposes related to discussions with the governing authority regarding increasing fees payable by mooring owners, and no other use is permitted.

CLIENT

The client is Newport Mooring Association, Inc.

INTENDED USER OF REPORT

This appraisal is to be used by Newport Mooring Association, Inc., and no other user may rely on our report unless as specifically indicated in the report.

Intended Users - the intended user is the person (or entity) who the appraiser intends will use the results of the appraisal. The client may provide the appraiser with information about other potential users of the appraisal, but the appraiser ultimately determines who the appropriate users are given the appraisal problem to be solved. Identifying the intended users is necessary so that the appraiser can report the opinions and conclusions developed in the appraisal in a manner that is clear and understandable to the intended users. Parties who receive or might receive a copy of the appraisal are not necessarily intended users. The appraiser's responsibility is to the intended users identified in the report, not to all readers of the appraisal report.³

PURPOSE OF THE APPRAISAL

The purpose of this appraisal is to estimate fair use fees / fair market rent for the subject property.

DEFINITION OF VALUE

There is no specific definition of Fair Market Rent. However, Market Rent is considered to be synonymous with Fair Market Rent for the purpose of this appraisal. Fair Market Rent is defined in the Sixth Edition (2015) of The Dictionary of Real Estate Appraisal as: "The most probable rent that a property should bring in a competitive and open market reflecting the conditions and restrictions of a specified lease agreement, including the rental adjustment and revaluation, permitted uses, use restrictions, expense obligations, term, concessions, renewal and purchase options, and tenant improvements (TIs)."

³ Appraisal Institute, The Appraisal of Real Estate, 14th ed. (Chicago: Appraisal Institute, 2013), 50.

INTEREST APPRAISED

The value estimated represents fair market rent, not an ownership interest such as fee simple or leased fee. Therefore, the concept of ownership interest is not applicable in this assignment.

Extent to Which the Property is Identified

The property is identified through the following sources:

- various mapping software and records
- physical inspection

Extent to Which the Property is Inspected

We inspected the subject property as well as the surrounding environs on the effective date of the appraisal. The inspection included various aerial and mapping resources, as well as a physical inspection around and throughout the harbor.

Type and Extent of the Data Researched

CBRE reviewed the following:

- various public resources
- comparable data
- previous market studies and appraisals

Type and Extent of Analysis Applied

CBRE, Inc. analyzed the data gathered through the use of appropriate and accepted appraisal methodology to arrive at a probable value indication via each applicable approach to value. The steps required to complete each approach are discussed in the methodology section.

Data Resources Utilized in the Analysis

DATA SOURCES	
Item:	Source(s):
Subject Encumbered Tidelands Area	Information Provided by Newport Harbor Department, LandVision Aerial Measuring Tool
Number of Moorings	Information Provided by Newport Harbor Department (indicates 6 more moorings than the mooring field harbor maps)
Moorings Capacity / Lineal Boat Feet per Mooring Field	Public Record Mooring Transfer Logs June 2017 thru October 2022, LandVision Aerial Measuring Tool
Compiled by CBRE	

APPRAISAL METHODOLOGY

In appraisal practice, an approach to value is included or omitted based on its applicability to the property type being valued and the quality and quantity of information available.

METHODOLOGY APPLICABLE TO THE SUBJECT

In performing our market rental analysis, we have performed a rent comparable or paired rent analysis for available harbors in California that offer both slip and mooring options for boaters. These harbors are in San Diego, Morro Bay, Monterey Bay/Santa Cruz, and Half Moon Bay. We have incorporated this methodology into the market standard State of California employed methodology described below.

The Benchmark analysis is employed consistently throughout California by the California State Lands Commission. This is a common practice utilizing benchmarks which 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).) Within this analysis, it will be necessary to determine what income can typically be generated by a commercial marina / typical boat slip; the area occupied by a mooring in a well-designed harbor; what the rental charge would be for a typical sized boat; and the rate of return the state should receive for the use of its land. The "Commission typically charges 5% to 6% of gross income for boat berthing for sites leased to commercial marina operators, with most of the leases set at 5% of gross income." (Tomales Bay Berths and Buoys benchmark rates Staff Report 28). We note that the City of Newport Beach has used rates as high as 8.5% of rents received by Newport Harbor marinas to establish the fair rental value of the tidelands in relation to the largest marinas in Newport Harbor and less in relation to smaller marinas and other uses. This is set forth in the comprehensive Appraisal Report of the valuation of fees to be charged for use of tideland for all uses of the tidelands in Newport Harbor adopted by the City of Newport Beach and published in 2016 and 2017 in two separate reports by George Hamilton Jones report which can be found at:

<https://archive.newportbeachlibrary.org/NBPL/DocView.aspx?id=1263772&dbid=0&repo=CNB&cr=1>

The Phase 1 report of George Hamilton Jones concerned a particular marina, and the Phase 2 report, which incorporated the methodology of the prior report concerned all commercial uses as well as other uses. It is noteworthy that some offshore moorings are used for approved commercial uses and as such fall under the George Hamilton Jones appraisal under other uses, and offshore moorings used for recreations use would also fall under "other uses", using a reasonable interpretation of the George Hamilton Jones appraisal. The rates in the George Hamilton Jones report were adopted by the City of Newport Beach, and then published and updated annually with increases. The current published rates can be found at the following link:

<https://www.newportbeachca.gov/government/departments/harbor/harbor-charges/commercial-tidelands-permits-and-leases>

The City's published rates for, in effect, all uses except for homeowner docks, but which includes HOA (homeowner association docks when rented out by the HOA) shown in the link above are as follows:

The following rates are effective March 1, 2022 through February 29, 2024:

Commercial Use Category*	Annual Rental Rate (Per SF) 3/1/22 - 2/28/23	Annual Rental Rate (Per SF) 3/1/23 - 2/29/24
Large Commercial Marinas	\$1.34	\$1.42
Medium Commercial Marinas	\$1.02	\$1.08
Small Commercial Marinas	\$0.88	\$0.93
Shipyards	\$0.42	\$0.45
HOA Marinas/Docks for Non-members' Use		
> 30,000 SF	\$1.34	\$1.42
13,000 SF to 30,000 SF	\$1.02	\$1.08
< 13,000 SF	\$0.88	\$0.93
Yacht Club Guest Slips	\$0.42	\$0.45
Vessel Rental Facility (Boat Rentals)	\$0.88	\$0.93
Sport Fishing Charters	\$0.88	\$0.93
Restaurants' Guest Slips	\$0.42	\$0.45
Vessel Charters	\$0.88	\$0.93
Fuel Docks *	\$0.88	\$0.93
All Others	\$0.88	\$0.93

* The Annual Rental Rate for commercial tidelands being used as Fuel Docks can be calculated one of three ways, per City Council Resolution No. 2018-09. The table above reflects the base rent only calculation option.

Beginning on March 1, 2019, annual rental rates may be adjusted on the first day of March each Permit/Lease year to reflect an increase in the cost of living, as indicated by the Consumer Price Index. Additional information regarding rental rates can be found in City Council Resolution No. 2017-49 and No. 2018-09.

As discussed below, the estimated square foot of tidelands used by a 40-foot offshore mooring is 1,326 square feet. That is the same for a commercial offshore mooring as well as a recreational

offshore mooring. Using the "Other Uses" published by the City and based on the square feet of tidelands used, the rate would be \$0.93 per annum, which is \$1,233 per year.

While this rate is materially lower than the rate found in this report, it does show that the current rates charged for offshore moorings is, and has been significantly higher than what the City is charging and has been charging for almost all other uses of the tidelands, namely \$1.16 per square foot of tidelands used per annum based on an estimated 1,326 square feet of tidelands used for a 40 foot vessel.

We have also estimated current fair market rent for the subject by utilizing various measures of inflation and applying an appropriate level of inflation to the City's previously adopted Fair Use Fee / Market Rent on which today's fees are based. The City's adopted rate of \$35 per lineal foot in 2016 with annual CPI adjustments subject to a cap, was based on an appraisal by Netzer and Associates as hired by the City. The City's appraiser Mr. Netzer concluded a range from \$32 to \$38 per lineal foot and the City adopted \$35 per lineal foot per year. As such, it is concluded that Netzer's 2015/2016 appraisal was reflective of market as adopted by the City, and again as hired by the City of Newport Beach.

Presumably, the City were aware of the George Hamilton Jones report of the same year, which is also taken into account when adjusting the base values to information available regarding market conditions.

Of material consideration throughout the report and analysis, in contrast to all other surveyed facilities in the appraisal, marinas with slips and / or moorings, which all provide ready access, such as extensive permanent dinghy docks where a motorized dinghy/tender is available 24/7 by to provide access to the moorings, Newport Harbor has exceedingly poor / grossly inadequate public accessibility (harbor proximate dinghy storage or comparable) and amenities that serve the mooring fields. The additional cost to obtain similar motorized in water dinghy/tender dock space in Newport Beach is a major and necessary adjustment which needs to be taken into account. Put simply, a mooring without easy access has greatly diminished value. This will be discussed in detail throughout the report. Mooring access is a free City-provided service in the harbors of San Diego, Morro Bay, and Monterey and other Harbors that have off-shore moorings.

What follows is a Table of Rates (Implied Subject mooring / tidelands market Rates) that are based on rates published by the City for 2024, using the Small Marina and Other Use Sq Ft rate of \$0.93 per annum per Sq Ft.

Rates Per Annum

Using City's 2024 Small Marina and Other Use Rates Based on Sq Ft of Tidelands

Tidelands Used without Swing Factor

Boat Size	+	Lines + Buoys*	x	Beam	Total Sq Ft
30	+	24	x	12	648
40	+	28	x	15	1,020
50	+	34	x	17	1,428
60	+	34	x	19	1,786
70		34	x	21	2,184

Rates Based on Tidelands Used with No Swing Factor

Small Marina /Other Use Rate	Boat Size	Total Sq Ft with lines etc	Fee Per Year at \$.93 sq ft
\$0.93	30	648	\$602.64
\$0.93	40	1,020	\$948.60
\$0.93	50	1,428	\$1,328.04
\$0.93	60	1,786	\$1,660.98
\$0.93	70	2,184	\$2,031.12

Rates Adding a Swing Factor of 20%

Boat Size	Sq Ft with Lines etc	x	20%	Total Sq Ft with Swing	Fee Per Year at \$0.93 sq ft
30	648	x		778	\$723.54
40	1,020	x		1,224	\$1,138.32
50	1,428	x		1,714	\$1,594.02
60	1,786	x		2,144	\$1,993.92
70	2,184	x		2,621	\$2,437.53

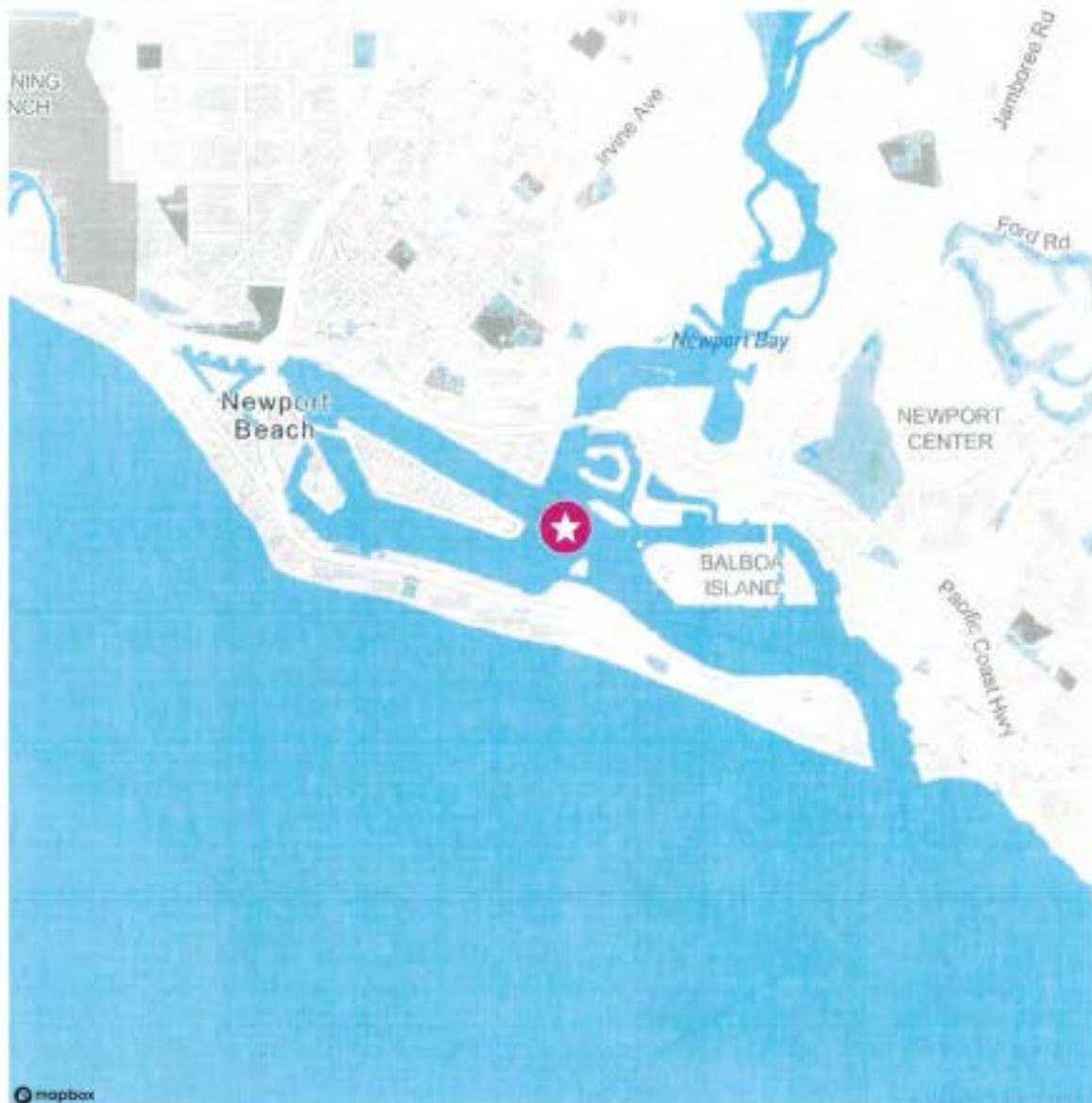
Rates Adding a Swing Factor of 25%

Boat Size	Sq Ft with Lines etc	x	25%	Total with Swing	Fee Per Year at \$0.93 sq ft
30	648	x		810	\$744.93
40	1,020	x		1,275	\$1,185.75
50	1,428	x		1,785	\$1,660.05
60	1,786	x		2,233	\$2,076.69
70	2,184	x		2,730	\$2,538.90

Rates Adding a Swing Factor of 30%

Boot Size	Sq Ft with Lines etc	x	30%	Total with Swing	Fee Per Year at \$0.93 sq ft
30	648	x		843	\$783.99
40	1,020	x		1,326	\$1,233.18
50	1,428	x		1,857	\$1,727.01
60	1,786	x		2,322	\$2,159.46
70	2,184	x		2,840	\$2,641.20

Neighborhood Analysis



The center of recreation in the city is Newport Harbor, which is the largest small boat harbor in the United States. Boating facilities include marinas, docks, slips, moorings, fuel docks and repair and maintenance yards. Also having prominent waterfront locations are many dinner house type restaurants, the exclusive Balboa Bay Club, and many yacht clubs.

Newport Harbor is a premier destination-oriented location where population swells in the summertime with tourism and people with second homes around the harbor.



Subject Analysis

The following chart summarizes the salient characteristics of the subject site.

HARBOR MOORING FIELDS SUMMARY AND ANALYSIS			
Physical Description			
<u>Tidelands Area</u>		<u>81.583 Acres</u>	<u>3,553,765 Sq. Ft.</u>
	<u>Moorings</u>		
	<u>579</u>		
Mooring Field A	133	22.148 Acres	964,786 Sq. Ft.
Mooring Field B	61	8.430 Acres	367,221 Sq. Ft.
Mooring Field C	54	8.857 Acres	385,811 Sq. Ft.
Mooring Field D	56	7.329 Acres	319,247 Sq. Ft.
Mooring Field F	22	3.326 Acres	144,881 Sq. Ft.
Mooring Field G	18	2.345 Acres	102,130 Sq. Ft.
Mooring Field H	91	10.531 Acres	458,738 Sq. Ft.
Mooring Field J	122	15.44 Acres	672,686 Sq. Ft.
Mooring Field K	22	3.17 Acres	138,265 Sq. Ft.

Source: Various sources compiled by CBRE

DEFINITIONS

Mooring – The term “mooring” shall mean a device consisting of a floating buoy or other object that is secured to the harbor bottom by an anchor system for purposes of securing a vessel and includes any apparatus used to secure a vessel in Newport Harbor which is not carried aboard such vessel as regular equipment when under way. (City of Newport Beach, Harbor Code, Chapter 17.01.030.J.7.)

Mooring Area – The term “mooring area” shall mean an area designated for a group of moorings. (City of Newport Beach, harbor Code, Chapter 17.01.030.J.8.)

Offshore Mooring – The term “offshore mooring” shall mean a mooring that is located bayward of the pierhead line and comprises a single or double buoy, the weight and chain installed for the purpose of berthing a vessel, as provided by Chapter 17.25. (City of Newport Beach, Harbor Code, Chapter 17.01.030.L.1.)

Tidelands – The term “tidelands” or “public tidelands” shall mean all lands that were granted to the City by the State of California, including, but not limited to, submerged lands and/or lands that are located between the lines of mean high tide and mean low tide. (City of Newport Beach, Harbor Code, Chapter 17.01.030.P.1.)

Tidelands Utilized by a Mooring – shall mean that area within a Mooring Area (mooring field) utilized by an individual mooring for the exclusive use of the mooring holder for a vessel which is or could be located on the mooring.

TIDELAND SQUARE FOOTAGE ATTRIBUTABLE TO A 40 LINEAL FOOT BOAT MOORING

Each mooring holder has the exclusive right to use a certain area of the tidelands and the mooring holder places its own equipment, weights, chain and lines within the small area. For example, a 40 foot mooring would use 40 feet plus 12 feet of line to the front and back buoy on a two buoy mooring, plus 2 feet for each buoy, with a 15 foot beam, plus allowing for a 30% swing factor = 1,326 square feet of tidelands used.

In this example, 33.15 square feet of tidelands would be used per 1 lineal foot of mooring size ($1,326\text{SF} / 40\text{LF} = 33.15\text{SF}$).

Tideland square footage other sizes and swing factor

The added square footage for a "swing factor" is the maximum adjustment for a mooring using two buoys, one off the bow and one off the stern. This has been used as a consideration in establishing rates in other harbors. However, it should be noted that when a boat moves or swings in one direction it opens up tidelands in the place from where it moved / swung from and opens up those tidelands for use by the public, thus the swing factor could reasonably be concluded to be "zero" due to these offsetting factors.

What follows is a Table Square Footage Used for various size boats with and without a swing factor.

Sq Ft of Tidelands Used – No Swing Factor

Boat Size	+	Lines + Buoys*	x	Beam	Total Sq Ft
30	+	24	x	12	648
40	+	28	x	15	1,020
50	+	34	x	17	1,428
60	+	34	x	19	1,786
70	+	34	x	21	2,184

Add Swing Factor at 20%

Boat Size	Sq Ft with Lines etc	x	20%	Total Sq Ft with Swing
30	648	x		778
40	1,020	x		1,224
50	1,428	x		1,714
60	1,786	x		2,144
70	2,184	x		2,621

Add Swing Factor at 25%

Boat Size	Sq Ft with Lines etc	x	25%	Total with Swing
30	648	x		810
40	1,020	x		1,275
50	1,428	x		1,785
60	1,786	x		2,233
70	2,184	x		2,730

Add Swing Factor at 30%

Boat Size	Sq Ft with Lines etc	x	30%	Total with Swing
30	648	x		843
40	1,020	x		1,326
50	1,428	x		1,857
60	1,786	x		2,322
70	2,184	x		2,840

Zoning



The subject tidelands are under the regulatory supervision of several entities in addition to the City of Newport Beach. These include the State of California Division of Boating and Waterways, the California Coastal Commission, as well as oversight by the Army Corps of Engineers, the California Department of Fish and Wildlife and others.

Note that City development standards are largely inapplicable to the subject mooring field encumbered tidelands due to the fact that there is no existing or possible joinder, or operation/utilization of the tidelands in tandem with an uplands property as virtually all other commercial uses along the harbor currently operate.

Given the lack of access, the only way to truly utilize the subject tidelands is for offshore moorings.



Market Analysis

With the onset of the COVID-19 pandemic and subsequent lockdowns and restrictions on businesses – shopping, dining, etc., there was a surge in demand for alternative recreational or leisure activities. Notable surges included RVing and Boating. New boat sales reportedly increased 40% during the pandemic. However, note that 95% of recreational boats are lake boats under 26', which are not truly applicable or relevant to the analysis of the moorings within the subject saltwater harbor.

That being said, the surge in demand for boating resulted in an increase in demand for slips and moorings. Consequently, prices and rents also increased given the relatively fixed supply of marina space. It is difficult to quantify the increase in slip fees year over year; however, as an important distinction marinas owned over the long term with inactive management have been acquired by active competent managers and operators which are able to increase rents by a factor of two or more over the short term. The distinction is that this is not a linear market trend, but instead a realization of mark-to-market rents with short-term rental agreements.

However, it is important to recognize the release of pressure or easing of demand for boating as the COVID-19 pandemic is behind us and people have returned to activities that were not available to them during the pandemic in 2020 and 2021. In addition to this, we are currently facing severe economic headwinds and uncertainty due to the unprecedented Fed rate hikes of more than 500 basis points since April of 2022. The already apparent result of this and its economic consequences are detailed in the following:

- According to Recreational Boating Statistics published by the NMMA (National Marine Manufacturers Association) 2022 report:
 - Powerboat sales normalized in 2022, down an estimated 15% to 18% from 2021 to pre-pandemic levels
 - 2022 sales and 2023 projections highlight segments driving growth as entry level personal watercraft, freshwater fishing boats, and pontoon boats under 26'
 - These are not market segments that contribute to Newport Harbor, thus indicating a sharper decline in demand for vessels found in Newport Harbor

In summary, a significant easing of demand was widely apparent through 2022 and into 2023.

With all of this being said, despite substantial anticipated headwinds, Newport Harbor remains a highly sought after location, noting that there is increased availability in 2023 and rents have stabilized.

CRC Marinas operates four marinas in Newport Harbor: Balboa Marina, Bayside Marina, Villa Cove Marina, and Bayshore Marina. When surveyed in 2022 they had only five availabilities.

CRC Marinas currently has 11 available slip spaces throughout their Balboa and Bayside Marinas.

CONCLUSION

Overall, the market is in a period of "returning to normalcy" with rents stabilizing and availability increasing. The end of the COVID-19 pandemic and resultant declining demand for personal recreational watercraft in the face of extreme uncertainty in the current economic climate with materially unsettled / disrupted financial markets is anticipated to at least partially unwind the upward pressure on slip rates observed during 2020 and 2021.

Also, a notable distinction is that per our review of the mooring transfer logs in Newport Harbor from 2017 through 2022, appreciation in pricing of moorings is negligible compared to the increase in the far more rare and highly desirable marina slip rental rates. As such, the increase in slip rents versus the increase in mooring rent is less than 1 : 1.

Highest and Best Use

Per the terms of the assignment, the appraiser is to provide a fair market rent analysis for the subject in its current condition. Determination of highest and best use is beyond the scope of this assignment. That said, given the lack / absence of accessibility to the subject mooring fields other than by boat, the subject is assumed to be operating to its highest and best use, as mooring fields.

Fair Market Rent Analysis

METHODOLOGIES

We have employed multiple methodologies in our analyses. All are based on market data relating to a typical mooring or slip intended to accommodate a boat measuring 40 lineal feet.

CALIFORNIA STATE LANDS COMMISSION – BENCHMARK TIDELANDS RENT

The first methodology employed is consistent with multiple recent Benchmark Tidelands Rental adjustments reports with the following methodology:

In order to determine the value of the leased area (of a pier, buoy, mooring pole, etc.), it will be necessary to determine: what income can typically be generated by a commercial marina; the area occupied by a marina slip in a well-designed marina; what the rental charge would be for a typical sized boat; and the rate of return the State should receive for the use of its land.

We have three recent reports referencing / employing this methodology:

- Southern California Benchmark Memo date May 6, 2022
- San Francisco Bay Area Benchmark Memo date January 18, 2022
- Tomales Bay Benchmark Memo date October 7, 2020
- We also note that the City of Newport Beach has used 8.5% when assessing rates to be charged to companies operating the largest marinas in Newport Harbor but substantially less for smaller marinas and other commercial uses, and have taken that into account as a local benchmark. This is shown in the 2016 and 2017 George Hamilton Jones Reports utilized by the City for all uses of the tidelands as well as in the City's published rate (link provided above).

As a reference to California State Lands Commission Tomales Bay report PDF page 11:

"The Commission typically charges 5% to 6% of gross income for boat berthing for sites leased to commercial marina operators, with most of the leases set at 5% of gross income."

A rate of return on the income applicable to the Tidelands utilized in each of the three above referenced reports was 5%. We have concluded to the higher rate of 6% given the recent / current inflationary pressures that have resulted in notable rate hikes which are anticipated to remain elevated in the near-term. However, noting that the Fed controls only short-term rates, only a slight adjustment upward from 5% is appropriate for a long-term normalized rate of return. The complete analysis is contained on the following pages.



The following contains a comprehensive rental survey of various marinas throughout Newport Harbor:

NEWPORT BEACH SLIP RENTALS				
Location	Boat / Slip Length	Average \$/ft	Average \$/ft Adjusted for Amenities	Average \$/month
Lido Yacht Anchorage	40'	\$52	\$32	\$2,080
Balboa Yacht Basin Marina (no amenities)	40'	\$50	\$63	\$2,500
Bayside Village Marina	40'	\$41	\$41	\$1,640
Port Calypso	40'	\$44	\$44	\$1,760
Lido Park Place Marina (no amenities)	40'	\$45	\$56	\$2,250
Marina Park (Based on \$88 Nightly Rate)	40'	\$66	\$66	\$2,640
Newport Dunes Resort Marina	40'	\$76	\$76	\$3,040
		Mean	\$52.22	\$2,226
		Median	\$50.00	\$2,250
		Market Rent Estimate	\$56	
		6% Return Applicable to the tidelands	$\$56 \times 0.06 =$	\$3.36
		6% of Gross Income Attributable to State Owned Tidelands Annual Fair Rental	$\times 40' \text{ boat / slip}$	\$134
		Return = 3.36 per lineal foot per month x 40 x 12 months = \$1,613 per year		\$1,613

Compiled by CBRE

In the above analysis we did not use the 8.5% used by the City when establishing rates uses per the George Hamilton Jones Report for the largest marinas, since the other rates published by the City and adopted by the George Hamilton Jones report for smaller marinas and "other uses" was approximately 1/3 lower, which would result in a rate of approximately 5.67% of the gross revenues charged by marinas, which is a rate very closely aligned with the State Lands Benchmarks.

We have concluded market rent consistent with the mean and median rents indicated by the aggregated survey data at \$56/LF for a boat in a slip with all the benefits which include parking, restrooms, electricity, security, nighttime lighting, easy access and walk-on walk-off, and use of the marina docks and gangways. We then calculated the annual rent allocation to the tidelands based on the rate of return typically used by State Lands, and not on the higher rate used by Newport Beach of 6%, which is above the typical 5% rate utilized in the three referenced reports, but which is appropriate due to the current interest rate environment while still within the long-term "5% to 6% of gross income" range as advised in the reports.

CONSIDERATION OF ADJUSTMENT FACTORS

Slip Versus Mooring

The first consideration of adjustment factor is actual tidelands encumbered by the 40' boat which differs for a slip versus a mooring.

According to the California State Lands Commission reports, the "Layout and Design Guidelines for Marina Berthing Facilities" publication (last updated July 2005) from the State Department of Boating and Waterways is used to determine the amount of submerged land area necessary to accommodate a given mooring size. The results are in the following chart:

TIDELANDS UTILIZED PER BOAT SIZE

Report	Boat Length	Tidelands Allocation	Tidelands SF Allocation per Lineal Boat Foot
Tomales Bay Benchmark	31'	865	28
San Francisco Benchmark	38'	1,197	32
<u>Southern California Benchmark</u>	<u>37'</u>	<u>1,153</u>	<u>31</u>
Subject Estimate	40'	1,326	33.15

 Compiled by CBRE

As previously determined, the Tidelands square footage required to accommodate a similar size mooring is somewhat greater than that of a slip, even when the docks, gangways and related features are added to the area associated with a slip. This is mainly due to the added square footage associated with lines from the vessel to the buoys vs the areas of dock space in front of and on either side of a slip. While we added significant extra square footage to each mooring to account for the area from a vessel to the buoys at the full beam of the vessel (which is an area greater than the distance used by lines to the buoys) we did not add any area for the swing of the boat since as a boat on a double mooring moves slightly in one direction it opens up tidelands in the other direction which can be used by the public for kayaking, paddle boarding and other recreational use.

Access and Amenities

The second consideration of adjustment factor is the difference in convenience and functional utility between a slip in a typical marina versus a typical mooring. Items include dedicated shore facilities such as restrooms and showers, actual utility to boat operation such as electricity and water, security, fencing, nighttime lighting, and most importantly use of docks and gangways for easy access, compared to a boat on a mooring that has none of these amenities. All other harbors with any significant sized mooring fields provide much less favorable access by way of dinghy docks available for docking dinghies and tenders for 24/7 access, but Newport Beach moorings unlike the moorings in other harbors, do not even have this access.

Clearly with a marina or slip rental, a renter can physically walk with all of their supplies to their vessel. With a moored vessel, a dinghy or other boat is required to travel from the shore to the mooring. Further impacting the subject Newport Harbor is the lack of access by way of an in-water motorized dinghy/tender for access to a Newport Beach mooring.

We have reviewed multiple harbors with both slips and off-shore moorings in San Diego, Morro Bay, Monterey, and Half Moon Bay Harbors, all of which provide docks where mooring renters and/or permit holders can have a tender for 24/7 access at no charge, with the exception of Half Moon Bay, which may charge a nominal \$64 per month, and Monterey which charges \$89 per quarter or \$30 per month. San Diego's moorings have access to dinghy docks, but in some cases the dinghy dock may be more remote to some mooring fields. We have noted that data from these other harbors show that mooring rates are really a combination of not just the use of an area of the tidelands, but a combination of the area of tidelands used plus the use of dinghy/tender docks for fulltime access to the

moorings 24/7, and in the case of San Diego, having the maintenance of the mooring (estimated at \$120 per month) included in the fees.

Note that we have focused our research on public versus private ownership mooring versus slip fee rentals as the private institutions. For example, in Newport Harbor various yacht clubs offer shore boat service for a nominal fee which is less easily quantified. The yacht clubs total charges, including shore boat service, for moorings mostly on the larger size, would need to adjusted not only for the cost of a slip for a dinghy/tender in Newport Harbor, but also for the cost of purchasing a seaworthy tender with motor, maintaining the tender and engine, as well as other amenities the yacht club provides to its mooring holders.

Approximate Mooring to Slip Fee Ratio

In reviewing the slip to mooring fee ratios, this is a very imprecise “derivative” method and is difficult to rely on. Some of the reasons why it is unreliable and should not be used are discussed here. One major factor is that similar assets are not being compared. As the old saying goes, it’s like comparing apples to oranges. Another factor would be the extent to which an increase in slip fees does not necessarily track the supply and demand for moorings, especially larger slips that only a small group of people demand and can afford.

Another important factor that cannot be underestimated is that the comparison with other harbors is a comparison of Moorings plus Dinghy Docks to Local Slips. In the case of Newport Beach, it would be comparing Mooring without Dinghy Docks to Local Slips with full access. Whereas any “ratio” at other harbors would compare the area used by a mooring plus full access to a dinghy/tender dock for access to the mooring to rates charged for a slip of the same size as the maximum size of the mooring. This makes such a method even more derivative, since once an initial valuation is made using a ratio from other harbors, the suggested fee would need to be reduced by the cost of obtaining a slip for a motorized dinghy/tender available 24/7 without restriction.

As mentioned, the data regarding fees charged for moorings with dinghy dock access vs slip rates in other harbors and the resulting ratios are not sufficiently reliable and can be seen using a few examples. One example is the rates for moorings in San Diego have not risen in many years and may be due for an increase. If and when the lease would take off some of the caps on rates charged for moorings (plus use of dinghy docks, plus servicing the mooring equipment). If rates are increased, it will take years to ascertain if the public will continue to rent the moorings at the new rate and if vacancies will occur. So, while the manager of the San Diego moorings, like any other manager of any other rental property may “wish” to increase the rates, it is a wish, which is not a reliable source to be considered until and after it has been in place for many years and the response to the increase is known. Any owner of real estate may “wish” to increase his or her rental rates, but without doing so and assessing how the market will respond with move outs and resulting vacancies often will take years to assess. In the case of a boat on a mooring, it would likely take even longer since moving a boat off a mooring would require an alternative place to store the boat. A large sailboat with a keel cannot be put on a trailer, and the boat owner may be forced to pay above market rent until he or she can move or sell the boat. Again, it would take years to assess such a “wished for” increase.

The manager of the San Diego moorings has estimated that the cost to inspect and maintain the moorings is in excess of \$120 per month per mooring. Even after market rent was established, as mentioned, the “ratio” that may eventually be established in San Diego would need to be adjusted because the ratios in San Diego would not be for moorings versus slips, but for moorings with full maintenance, inspections, and full dinghy dock access, as compared to a slip. Such a ratio, once established years from now, would not apply to Newport Harbor, where the



mooring holder pays for its own maintenance, inspects, makes periodic replacement of weights and chain, and where the City is not providing access by way of dinghy docks made reasonably available to all offshore moorings with 24/7 for access to the moorings.

To complicate the situation even more is the fact that while the manager of the San Diego moorings may "wish" to test increases in mooring rates, the manager has not obtained formal approval to do so at this time, nor has the State Lands Commission been consulted on any proposed increase.

In the case of Morro Bay, as mentioned, the rates charged for slips for the commercial fishing fleet and other commercial uses may be subsidized and would be difficult to measure. On the other hand, the rates charged for moorings plus ample dinghy docks is currently \$110 per month for a mooring that can be used for a 50-foot vessel, which is approximately \$2.00 per lineal foot per month. On the other hand, the City of Morro Bay charges approximately \$26 per foot for slips as shown on page 32 of the Netzer appraisal report. That would indicate a ratio of over 1/10 and that is for moorings with docks for dinghy/tenders to allow access to the moorings 24/7.

It is also worthy of note that the City of Morro Bay also has City-owned moorings and the City charges approximate 3 times more for renting City-owned moorings versus individual-owned moorings because the city installs and maintains the mooring hardware, likely has insurance to cover these activities, and makes necessary adjustments from time to time, whereas a Morro Bay mooring owner is responsible for all of these costs.

Monterey Bay data is also difficult to ascertain. One of the marinas where there is not a long wait time sits at the base of a power plant with many complaints about dirt and grime on vessels in the marina. It is unclear what the wait time is for other nearby marinas. Nearby Santa Cruz Harbor marinas do not suffer from these issues. A 45-foot slip in Santa Cruz would cost approximately \$16 to \$30 per foot per month depending on the location of the slip, with an average of \$23 per foot, or \$1,035 per month, compared to \$187 per month for a "east harbor mooring" or \$100 per month (if paid annually) for an "out harbor mooring," for an average of \$144 for a mooring in Monterey Bay that also comes with dinghy dock access (at a cost of \$89 per quarter = \$30 per month) for a total of \$174 per month for a mooring and a dock for a dinghy/tender to access the mooring. This would result in a ratio of 1/6, but again this is for a mooring with use of a dinghy/tender dock.

Half Moon Bay is also problematic for similar reasons. Slip fees for a 50-foot boat are on average \$540 per month. Mooring rates are \$1.92 per month per lineal foot, which is \$96 per month for a 50-foot boat and add a possible \$64 per month for use of the dinghy docks, for a total of \$160 per month. But we do not know if there is a long wait list for slips or if the slip rate reflects market rates for slips. This would be 29.6% but again only as a combination of use of a mooring plus use of a dinghy dock.

For all of the above reasons, the ratio derivative method derived from other harbors cannot be used.

Ironically, without looking to other harbors, the only ratio where moorings *without dinghy docks* to slips has been derived from appraisals conducted and accepted by the City of Newport Beach was approximately 2016. In that year, market rates for slips were shown in the George Hamilton Jones appraisal which showed the average slip rate in Newport Beach for a 40-foot slip to be \$1,640 per month per month = \$41 per lineal foot per month / \$492 per lineal foot per year. At the same time, Mr. Netzer appraised the market rate for Newport Moorings to be \$32 to \$38 per year, and the City established the rate to be \$35 per lineal foot per year. The result was that the ratio of mooring fees *without dinghy docks and without reasonable access* to slips fees in Newport Harbor for a 40-foot mooring was $35/492 = 1/14 =$ approximately 7%. There is no reason to suggest that ratio would have changed. Again, this "derivative" approach is not a generally accepted appraisal approach and using this approach does not yield a much different result (when the lack of access is factored in) as compared to traditional established methods. However, if used and applied to Newport Harbor based on the two formal and accepted appraisals done at that time, it would result in rates lower than the opinion of rates shown in this report.

As noted above, this "derivative" approach is the least reliable of all other methods and is included to show the various factors that are at play and change from time to time and are affected by different variables, such as favoring a type of use or a subsidized type of use, or popularity of one type of use over another as we have seen during the Covid years with people becoming interested in a condo on the water in a marina with electricity and easy access. For this reason, this ratio approach was not used.

Proposed Rates for City-Owned Moorings

The City is in the process of renting moorings under a license arrangement. Under the license the licensee is free to leave on 30 days' notice and has no capital commitment to the use of the mooring. The number of these moorings is limited, and each size is limited even more. As in the case of the possible future rate increases in San Diego, any data from such rental would take years to assess. First, these would need to be rented, then over the next few years the length of time a person rents such a mooring would need to be determined. Third, how the limited number of persons obtain access would need to be ascertained. For example, if the licensee has access by way of a home dock, a shore mooring, use of a boat that he or she was already using for their purposes, or use of a friend's dock space, this would only demonstrate value, utility, or rent for that particular person where access was not an issue. However, that fact that a particular person may pay what is otherwise over market for the general public, thus does not establish market rent.

In addition, it should be noted that the City has created its own scarcity of rentable moorings. At any given time, the harbor master has observed that there are over 100 vacant moorings. At the same time the City does not allow mooring holders to rent these out. As such, the City has created its own scarcity of moorings for rent, and with only a handful available, this artificially and significantly decreases the supply thus artificially increasing competition and the amount of equilibrium or fair market rent indicated by the market, again which is entirely artificial in nature.

Of note also is the fact that the City will need to maintain, inspect, and periodically replace mooring equipment, buoys, anchors and chain, which is estimated by the operator of the San Diego Mooring Company to be over \$120 per month.

For the above reasons, the future rental of this handful of moorings cannot be used in any comparative or other analysis.

As a final note, other harbors that have both privately-owned and City-owned moorings and have considered the difference in each, have established rates much lower for privately-owned moorings. For example, Morro Bay charges \$110 per month for private moorings (and provides access to dinghy docks) but charges \$330 per month when it rents out City-owned moorings on a long-term basis. Half Moon Bay charges \$1.92 per month per foot for privately-owned moorings, but charges \$5.08 per foot per month for City-owned moorings.

OTHER METHODOLOGIES NOT USED AND DEEMED UNRELIABLE

Comparison of Tideland Use in Connection with Adjacent Properties Should Not Be Used

Attempting to separate component parts and considerations that make up a property value is an extremely unreliable methodology and if ever used as a consideration is done only when there are no other established methods. As shown in this report there are other established methods, and this approach should not be considered.

A few examples might illustrate the issue with such a methodology. Consider a view home on a bluff that sells for \$40 million dollars, and the identical home that is across the street from the view home and sells for \$15 million dollars less. One might think the “view” component, by itself, has a value of \$15 million dollars. That would mean that if there were an unbuildable lot next to the view home it should have a value of \$15 million dollars. However, it is likely the unbuildable lot has little or no value. The extra value is completely integrated into the value of the home and cannot be separated from the location, characteristics, amenities, and established value of the home.

Another example would be rental of home docks within Newport Harbor. If a home with a dock has a value of \$60 million dollars and rents out its 40 foot slip the slip rate should be four times higher than a \$15 million dollar home that rents out its 40-foot slip. However, slip rates for home docks do not seem to vary much from marina slip rates and do not appear to correlate to the value of the adjacent home.

These examples are used only to illustrate why considering the value of adjacent real property cannot be used in extrapolating rates for moorings in Newport Harbor.

Attempting to Extrapolate Rates from Reported Mooring Sales is an Unreliable Method and Should Not be Considered

A handful of offshore moorings is sold and transferred each year. However, the data and circumstances are typically not fully known, and the number of sales is insufficient to establish a reliable database of sales where a buyer and a seller with full knowledge of the property in question established a value. Unlike real estate transactions typically handled by licensed real estate brokers, moorings are typically sold by individuals privately without help from brokers. In a brokered transaction, there are multiple disclosure forms required and used so the buyer has full knowledge of all of the risks and hazards that are known to be related to the property. As discussed elsewhere in this report, the single most important component of value, or lack of value, of a mooring is access to the mooring which, in all other harbors, is established by an adequate number of dinghy docks. While a person not familiar with the access problem in Newport Beach might see several public docks and mistakenly conclude that they have sufficient access to the mooring being purchased, that conclusion would be mistaken. Since the details of each of the reported sales are unknown, it is pure speculation to provide an opinion of the extent, if any, of disclosure regarding the material and functional lack of dinghy dock access in Newport Harbor. Once a person has acquired a mooring and put their boat on the mooring, it is difficult to find an affordable low cost alternative place to move the boat, which may be a reason why, after becoming aware of the access problem, a mooring might not be put up for sale in the short term (as the Harbor Department does not allow resale of moorings within one year of purchase), and the person might have to resort to far less desirable methods to gain access to the mooring.

In addition to the disclosure issue, there may be a handful of people for whom access is not a problem. For example, they may have a home dock, have access to a friend’s home dock, may



have a shore mooring, may have a small boat on a slip that they already used for other purposes. The number of buyers of moorings for whom access is not an issue or less of an issue is completely unknown.

It is also noteworthy that the reported sale data is provided by individuals and not from any formal source. In some cases, a mooring is sold in combination with a boat and because a sale of a boat is subject to sales tax, the allocation on the price between the boat and the mooring might be adjusted in a manner that might have a lower impact on the sales tax to be paid.

These are some of the reasons why focusing on the fact that moorings are sold at a particular price cannot be used to ascertain rates to be charged for the use of the tidelands occupied by boats on moorings.

Summary and Conclusion

In contrast to the subject Newport Harbor Mooring fields, the surveyed harbors above provide easy access to moorings, with dinghy docks for in-water motorized dinghy/tenders to allow people to access their moorings 24/7 with no significant time limits. Access to the individual moorings in these other harbors (all other harbors) is far superior to the subject as the City of Newport Beach provides extremely limited in-water motorized dinghy access to moorings. The handful of spaces available are limited in time and only randomly available, depending on how many other dinghies are using the limited spaces at any time. Moreover, the handful of dinghy dock spaces are also available to the public, not just for access to moorings, and the space is limited to a maximum of 36 hours which means, in effect, if a mooring holder were lucky enough to secure a space, by the time he or she came back the next weekend his or her dinghy would have been impounded by the City and subject to a large penalty. As such, to make an appropriate adjustment, the benefit provided by the dinghy docks at other harbors needs to be quantified. To obtain a space for a dinghy/tender of 9 to 12 feet at a marina in Newport Beach, the costs would be approximately \$400 to \$750 per month. There is a limited supply of such spaces and often there is a minimum length of 18 to 20 feet, which is reflected by the higher range cost of \$750. The estimated cost would of course change were the City to require marina operators to provide smaller spaces (without losing revenue) but that is currently unavailable. On a comparative basis with what other harbors offer (which is a combination of mooring plus access to the mooring), an additional discount is warranted as related to the preceding discussion and analysis. In other words, on a comparison basis, if Newport Beach provided easy motorized in-water access to moorings 24/7 without any significant time restriction, the rate would be subject to an upward adjustment. However, as noted above, a mooring without access, just like land without access, has substantially diminished value.

INDICATED MARKET RENT	
Tidelands Rent for 40' Boat	
Estimated Annual Rent to Slip for 40' slips in 2024	\$26,880
Estimated Annual Rent for 40' slip in lineal feet	\$672
Ratio of Mooring without access versus slip	1 / 14
% Multiplier = 1 / 14	7.1%
Annual Market Rent for 40 Lineal Foot Mooring	\$1,920
Annual Rent Per Lineal Foot	\$48.00
Compiled by CBRE	

Again, this was provided for informational purposes only and is not weighted in our final reconciliation of fair rent due to diminished reliability of the ratio approach compared to the other approaches utilized in the appraisals.

METHODOLOGY UTILIZING MARKET INFLATION FROM THE PREVIOUS BENCHMARK

The previously determined rent for offshore moorings was concluded to be \$35 per lineal foot per year based on an appraisal performed by Netzer & Associates as hired by the City of Newport Beach. This \$35 rate adopted by the City as determined by the City-hired appraiser is considered to be representative of market. The following analysis utilizes this benchmark rate with appropriate inflation factor applied to accurately reflect a market based rental rate in today's more favorable market.

CALIFORNIA STATE LAND COMMISSION - BENCHMARK PAIRED INFLATION DATA			
Location	Base Year Tidelands Rent	Reassessed Market Adjusted Tidelands Rent	Indicated Simple Annual Inflation
Southern California Benchmark	\$0.374/sf in 2016	\$0.451/sf in 2022	4.1%
San Francisco Bay Area	\$0.198/sf in 2016	\$0.227/sf in 2022	2.4%
Tomales Bay	\$0.114/sf in 2015	\$0.133/sf in 2020	3.3%
CPI 1982-84=100 ***July 2018 Newport Harbor Adjustment based on March 2016 GHJ Appraisal			
	December 2023 CPI 302.408	March 2016 CPI 238.132	3.48%
	December 2023 CPI 302.408	July 2018 CPI 252.006	3.69%
		Mean of All Survey Data	3.36%
		Median of All Survey Data	3.48%
Compiled by CBRE			

As illustrated above, the most recent reports reflect the highest inflation due to the unprecedented inflationary times experienced in 2020 and 2021, and as a result of which the Fed has increased rates over 500 basis points. This is an offsetting factor in the determination of a new benchmark rate which is highly influenced by the artificially-created inflationary environment of 2020 and 2021, which is not reflective of long-term trends. When inflation is measured against the relevant time periods up until 2020, historical inflation is closer to 2% per year. As such, downward consideration is warranted from the preceding data.

We have concluded to 3% as a long-term trend which is based on the 3.5% to 3.9% indication above, adjusted downward for the artificial inflationary environment of 2020 and 2021.

In addition to the preceding, we have also compared current surveyed rents to those indicated in a City of Newport ordered appraisal by George Hamilton Jones dated March 2016.

NEWPORT BEACH PAIRED RENT ANALYSIS				
Location	Boat / Slip Length	Current Rent	Rent From 2016 GHJ Appraisal	Indicated Simple Annual Inflation
Lido Yacht Anchorage	40'	\$52	\$37	5.5%
Balboa Yacht Basin Marina (no amenities)	40'	\$50	\$32	7.7%
Boyside Village Marina	40'	\$41	\$32	3.8%
Newport Dunes Resort Marina	40'	\$76	\$42	10.9%
			Mean	6.5%
			Median	6.6%

Compiled by CBRE

Of important distinction, note the greatest inflation was observed for those properties with the greatest amenities again which is a function of the *artificially created demand* and resultant inflation resulting from the COVID-19 pandemic lockdowns and use restrictions where people spent increasingly more time on their boats, which is enhanced by amenities.

And again, demand is clearly tapering, and the recent two-year inflationary environment is not reflective of stabilized long-term trends. Furthermore, mooring utility and desirability is vastly inferior compared to a marina slip with immediately convenient accessibility and amenities such as water and power, restroom facilities, dedicated parking, etc. As such, the increase in demand and pricing for a mooring versus a slip would not be correlated 1 : 1, it would be reasonable that slip fees would increase at a much higher rate than a mooring, especially given the level of affluence of the surrounding community.

As evidence of this, we have reviewed the mooring transfer logs from 2017 to 2022 which includes pricing. The value of moorings while having increased over the years (again most recently given the uptick in demand during the COVID-19 pandemic), has increased by a marginal basis which is nowhere near the rates indicated in the preceding slip rent increase indication. As such, appropriate inflation for mooring rents should fall well below the indicated inflation or paired slip rent analysis over the same time period. The inflation and other tidelands rates serve as a much more relevant benchmark for inflation compared to paired slip rents.

Conclusion

Based on the preceding data indicated by the recently reassessed Benchmark Rates for California State Tidelands, market-driven inflation data, and actual paired-rent comparable information from Newport Harbor, an appropriate inflation factor should fall in the 3% range. We have based the time adjustment on the July 2018 adoption date of the previous benchmark rate change. The appropriate time adjust is approximately five and one-half years. The implied adjusted market rent is detailed in the following chart.



INDICATED MARKET RENT

2016 Appraisal 2018 Adopted City Benchmark Offshore Mooring Rent	\$/Lineal Ft/Yr	\$35
Simple Inflation Factor at 3.5% without a cap	Annual	3.5%
July 2018 Adoption date versus 1Q2024 New Benchmark Date	Years	5.5
	Total Inflation	19%
	Prior Benchmark	<u>\$35</u>
	Market Conditions Adjusted Rate	\$42
	Benchmark Lineal Feet of Boat	40
	Annual Market Rent	\$1,670

Compiled by CBRE

Reconciliation of Market Rent

The rent indications from the two methodologies are summarized as follows:

SUMMARY OF MARKET RENT ESTIMATES	
	Annual Rent
California State Tidelands Commission Methodology	\$1,613
Inflation Methodology Based on City's Prior Benchmark	\$1,670
Ratio Method	\$1,920
Reconciled Market Rent Estimate	\$1,640
Based on Typical 40 Lineal Foot Boat	\$41.00
Compiled by CBRE	

As discussed throughout the report, the ratio method is deemed the least reliable methodology illustrated in the appraisal. We have placed equal approximate emphasis on the first two methodologies utilized in the preceding chart.

Based on the foregoing, the market rent of the subject tidelands has been concluded as follows:

TIDELANDS FAIR USE FEES / FAIR MARKET RENT			
Appraisal Premise	Date of Value	Market Rent / Lineal Foot / YR for Tidelands (\$3.36 LF per mo)	Annual Rent per 40' Mooring Based on 1,326SF of Tidelands used for individual mooring
As Is	January 15, 2024	\$41.00	\$1,640
Compiled by CBRE			

Tidelands Fair Use Fees / Fair Market Rent – Other Size Moorings

Based on Methodologies Used in This Report the Value per Square Foot is \$1.24 per Square Foot of Tidelands Used Per Annum. The square foot valuation would not change in relation to the size of mooring, only the square foot used and resulting adjustment to the total rate would change.

Sq Ft of Tidelands Used – No Swing Factor

Boat Size	+	Lines + Buoys*	x	Beam	Total Sq Ft
30	+	24	x	12	648
40	+	28	x	15	1,020
50	+	34	x	17	1,428
60	+	34	x	19	1,786
70	+	34	x	21	2,184

Rates without a Swing Factor

Boat Size	Sq Ft with Lines etc	x	Total Sq Ft	Fee Per Year at \$1.24 sq ft	Fee Per Year Per Lineal Foot
30	648	x	648	\$803.52	\$26.79
40	1,020	x	1,020	\$1,264.80	\$31.62
50	1,428	x	1,428	\$1,770.72	\$35.42
60	1,786	x	1,786	\$2,214.64	\$36.91
70	2,184	x	2,184	\$2,708.16	\$38.69

Add Swing Factor at 20%

Boat Size	Sq Ft with Lines etc	x	20%	Total Sq Ft with Swing	Fee Per Year at \$1.24 sq ft	Fee Per Year Per Lineal Foot
30	648	x		778	\$964.72	\$32.16
40	1,020	x		1,224	\$1,517.76	\$37.95
50	1,428	x		1,714	\$2,125.36	\$42.51
60	1,786	x		2,144	\$2,658.56	\$44.31
70	2,184	x		2,621	\$3,250.04	\$46.43

Add Swing Factor at 25%

Boat Size	Sq Ft with Lines etc	x	25%	Total with Swing	Fee Per Year at \$1.24 sq ft	Fee Per Year Per Lineal Foot
30	648	x		810	\$1,004.40	\$33.48
40	1020	x		1,275	\$1,581.00	\$39.53
50	1428	x		1,785	\$2,213.40	\$44.27
60	1786	x		2,233	\$2,768.92	\$46.15
70	2184	x		2,730	\$3,385.20	\$48.36

Add Swing Factor at 30%

Boat Size	Sq Ft with Lines etc	x	30%	Total with Swing	Fee Per Year at \$1.24 sq ft	Fee Per Year Per Lineal Foot
30	648	x		843	\$1,045.32	\$34.85
40	1,020	x		1,326	\$1,644.24	\$41.11
50	1,428	x		1,857	\$2,302.68	\$46.06
60	1,786	x		2,322	\$2,879.28	\$47.99
70	2,184	x		2,840	\$3,521.60	\$50.31

* Variations with Summary results from rounding square foot calculations.

Assumptions and Limiting Conditions

1. CBRE, Inc. through its appraiser (collectively, "CBRE") has inspected through reasonable observation the subject property. However, it is not possible or reasonably practicable to personally inspect conditions beneath the soil and the entire interior and exterior of the improvements on the subject property. Therefore, no representation is made as to such matters.
2. The report, including its conclusions and any portion of such report (the "Report"), is as of the date set forth in the letter of transmittal and based upon the information, market, economic, and property conditions and projected levels of operation existing as of such date. The dollar amount of any conclusion as to value in the Report is based upon the purchasing power of the U.S. Dollar on such date. The Report is subject to change as a result of fluctuations in any of the foregoing. CBRE has no obligation to revise the Report to reflect any such fluctuations or other events or conditions which occur subsequent to such date.
3. Unless otherwise expressly noted in the Report, CBRE has assumed that:
 - (i) Title to the subject property is clear and marketable and that there are no recorded or unrecorded matters or exceptions to title that would adversely affect marketability or value. CBRE has not examined title records (including without limitation liens, encumbrances, easements, deed restrictions, and other conditions that may affect the title or use of the subject property) and makes no representations regarding title or its limitations on the use of the subject property. Insurance against financial loss that may arise out of defects in title should be sought from a qualified title insurance company.
 - (ii) Existing improvements on the subject property conform to applicable local, state, and federal building codes and ordinances, are structurally sound and seismically safe, and have been built and repaired in a workmanlike manner according to standard practices; all building systems (mechanical/electrical, HVAC, elevator, plumbing, etc.) are in good working order with no major deferred maintenance or repair required; and the roof and exterior are in good condition and free from intrusion by the elements. CBRE has not retained independent structural, mechanical, electrical, or civil engineers in connection with this appraisal and, therefore, makes no representations relative to the condition of improvements. CBRE appraisers are not engineers and are not qualified to judge matters of an engineering nature, and furthermore structural problems or building system problems may not be visible. It is expressly assumed that any purchaser would, as a precondition to closing a sale, obtain a satisfactory engineering report relative to the structural integrity of the property and the integrity of building systems.
 - (iii) Any proposed improvements, on or off-site, as well as any alterations or repairs considered will be completed in a workmanlike manner according to standard practices.
 - (iv) Hazardous materials are not present on the subject property. CBRE is not qualified to detect such substances. The presence of substances such as asbestos, urea formaldehyde foam insulation, contaminated groundwater, mold, or other potentially hazardous materials may affect the value of the property.
 - (v) No mineral deposit or subsurface rights of value exist with respect to the subject property, whether gas, liquid, or solid, and no air or development rights of value may be transferred. CBRE has not considered any rights associated with extraction or exploration of any resources, unless otherwise expressly noted in the Report.
 - (vi) There are no contemplated public initiatives, governmental development controls, rent controls, or changes in the present zoning ordinances or regulations governing use, density, or shape that would significantly affect the value of the subject property.
 - (vii) All required licenses, certificates of occupancy, consents, or other legislative or administrative authority from any local, state, nor national government or private entity or organization have been or can be readily obtained or renewed for any use on which the Report is based.
 - (viii) The subject property is managed and operated in a prudent and competent manner, neither inefficiently or super-efficiently.
 - (ix) The subject property and its use, management, and operation are in full compliance with all applicable federal, state, and local regulations, laws, and restrictions, including without limitation environmental laws, seismic hazards, flight patterns, decibel levels/noise envelopes, fire hazards, hillside ordinances, density, allowable uses, building codes, permits, and licenses.
 - (x) The subject property is in full compliance with the Americans with Disabilities Act (ADA). CBRE is not qualified to assess the subject property's compliance with the ADA, notwithstanding any discussion of possible readily achievable barrier removal construction items in the Report.

- (xi) All information regarding the areas and dimensions of the subject property furnished to CBRE are correct, and no encroachments exist. CBRE has neither undertaken any survey of the boundaries of the subject property nor reviewed or confirmed the accuracy of any legal description of the subject property.

Unless otherwise expressly noted in the Report, no issues regarding the foregoing were brought to CBRE's attention, and CBRE has no knowledge of any such facts affecting the subject property. If any information inconsistent with any of the foregoing assumptions is discovered, such information could have a substantial negative impact on the Report. Accordingly, if any such information is subsequently made known to CBRE, CBRE reserves the right to amend the Report, which may include the conclusions of the Report. CBRE assumes no responsibility for any conditions regarding the foregoing, or for any expertise or knowledge required to discover them. Any user of the Report is urged to retain an expert in the applicable field(s) for information regarding such conditions.

4. CBRE has assumed that all documents, data and information furnished by or behalf of the client, property owner, or owner's representative are accurate and correct, unless otherwise expressly noted in the Report. Such data and information include, without limitation, numerical street addresses, lot and block numbers, Assessor's Parcel Numbers, land dimensions, square footage area of the land, dimensions of the improvements, gross building areas, net rentable areas, usable areas, unit count, room count, rent schedules, income data, historical operating expenses, budgets, and related data. Any error in any of the above could have a substantial impact on the Report. Accordingly, if any such errors are subsequently made known to CBRE, CBRE reserves the right to amend the Report, which may include the conclusions of the Report. The client and intended user should carefully review all assumptions, data, relevant calculations, and conclusions of the Report and should immediately notify CBRE of any questions or errors within 30 days after the date of delivery of the Report.
5. CBRE assumes no responsibility (including any obligation to procure the same) for any documents, data or information not provided to CBRE, including without limitation any termite inspection, survey or occupancy permit.
6. All furnishings, equipment and business operations have been disregarded with only real property being considered in the Report, except as otherwise expressly stated and typically considered part of real property.
7. Any cash flows included in the analysis are forecasts of estimated future operating characteristics based upon the information and assumptions contained within the Report. Any projections of income, expenses and economic conditions utilized in the Report, including such cash flows, should be considered as only estimates of the expectations of future income and expenses as of the date of the Report and not predictions of the future. Actual results are affected by a number of factors outside the control of CBRE, including without limitation fluctuating economic, market, and property conditions. Actual results may ultimately differ from these projections, and CBRE does not warrant any such projections.
8. The Report contains professional opinions and is expressly not intended to serve as any warranty, assurance or guarantee of any particular value of the subject property. Other appraisers may reach different conclusions as to the value of the subject property. Furthermore, market value is highly related to exposure time, promotion effort, terms, motivation, and conclusions surrounding the offering of the subject property. The Report is for the sole purpose of providing the intended user with CBRE's independent professional opinion of the value of the subject property as of the date of the Report. Accordingly, CBRE shall not be liable for any losses that arise from any investment or lending decisions based upon the Report that the client, intended user, or any buyer, seller, investor, or lending institution may undertake related to the subject property, and CBRE has not been compensated to assume any of these risks. Nothing contained in the Report shall be construed as any direct or indirect recommendation of CBRE to buy, sell, hold, or finance the subject property.
9. No opinion is expressed on matters which may require legal expertise or specialized investigation or knowledge beyond that customarily employed by real estate appraisers. Any user of the Report is advised to retain experts in areas that fall outside the scope of the real estate appraisal profession for such matters.
10. CBRE assumes no responsibility for any costs or consequences arising due to the need, or the lack of need, for flood hazard insurance. An agent for the Federal Flood Insurance Program should be contacted to determine the actual need for Flood Hazard Insurance.
11. Acceptance or use of the Report constitutes full acceptance of these Assumptions and Limiting Conditions and any special assumptions set forth in the Report. It is the responsibility of the user of the Report to read in full, comprehend and thus become aware of all such assumptions and limiting conditions. CBRE assumes no responsibility for any situation arising out of the user's failure to become familiar with and understand the same.
12. The Report applies to the property as a whole only, and any pro ration or division of the title into fractional interests will invalidate such conclusions, unless the Report expressly assumes such pro ration or division of interests.

13. The allocations of the total value estimate in the Report between land and improvements apply only to the existing use of the subject property. The allocations of values for each of the land and improvements are not intended to be used with any other property or appraisal and are not valid for any such use.
14. The maps, plats, sketches, graphs, photographs, and exhibits included in this Report are for illustration purposes only and shall be utilized only to assist in visualizing matters discussed in the Report. No such items shall be removed, reproduced, or used apart from the Report.
15. The Report shall not be duplicated or provided to any unintended users in whole or in part without the written consent of CBRE, which consent CBRE may withhold in its sole discretion. Exempt from this restriction is duplication for the internal use of the intended user and its attorneys, accountants, or advisors for the sole benefit of the intended user. Also exempt from this restriction is transmission of the Report pursuant to any requirement of any court, governmental authority, or regulatory agency having jurisdiction over the intended user, provided that the Report and its contents shall not be published, in whole or in part, in any public document without the written consent of CBRE, which consent CBRE may withhold in its sole discretion. Finally, the Report shall not be made available to the public or otherwise used in any offering of the property or any security, as defined by applicable law. Any unintended user who may possess the Report is advised that it shall not rely upon the Report or its conclusions and that it should rely on its own appraisers, advisors and other consultants for any decision in connection with the subject property. CBRE shall have no liability or responsibility to any such unintended user.

ADDENDA

Addendum

GENERAL DATA

Total Amount Due: \$133.60

TOTAL AMOUNT DUE

\$133.60

IMPORTANT INFORMATION

March 2024 Payment must be received on or before the due date. Payments not received by the due date are subject to a 10% penalty and revocation. You can avoid penalties by signing up for the City's AutoPay plan.



City of Newport Beach

Revenue Division
P.O. Box 4923
Whittier, CA 90607

Go online to pay your bills at www.newportbeachca.gov/payments
RETURN THIS PORTION WITH YOUR PAYMENT

Please provide/update the e-mail address and phone number so the City may contact you about water service problems.

Phone: 503-432-6923
E-mail: Adlever@hotmail.com

LEVERENZ, ADAM DOUGLAS	
Account #:	6004537-672618
	672618
Notice Date:	2/5/2024
	3/1/2024
Total Amount Due:	\$133.60
Amount Enclosed:	

NPX0205A
4000000409 409/1



LEVERENZ, ADAM DOUGLAS
3739 LILAC HEIGHTS
SOUTH JORDAN UT 84095 USA UT 84095-5100



CITY OF NEWPORT BEACH
PO BOX 4923
WHITTIER, CA 90607-4923

00006042024801314556000000133603

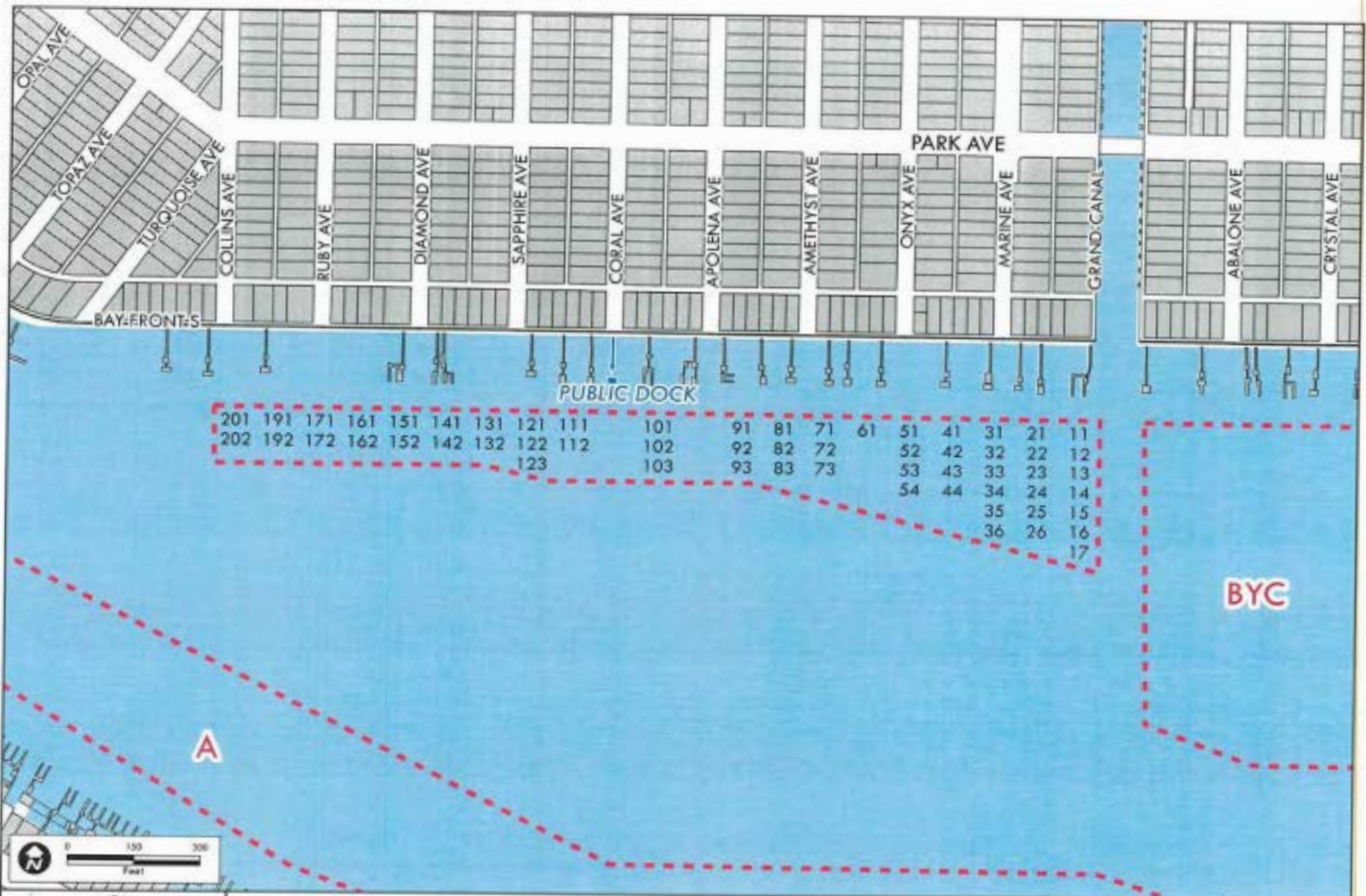


Mooring A



City of Newport Beach
GIS Division
March 26, 2015

mooringA.mxd



Mooring B

mooringb.mxd



Mooring B

newportbeach.gov



Mooring C



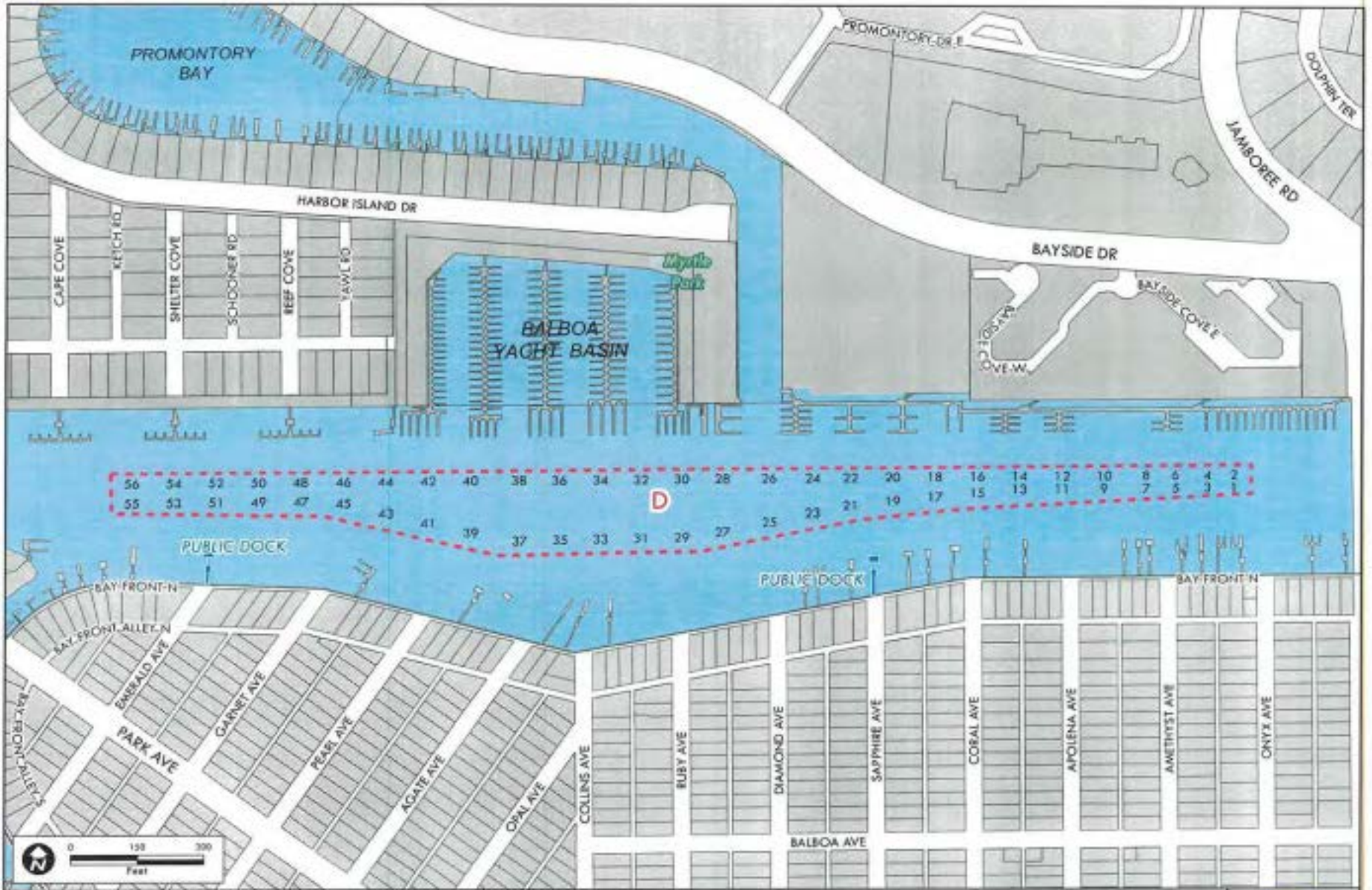
City of Newport Beach
GIS Division
March 26, 2015



Mooring C

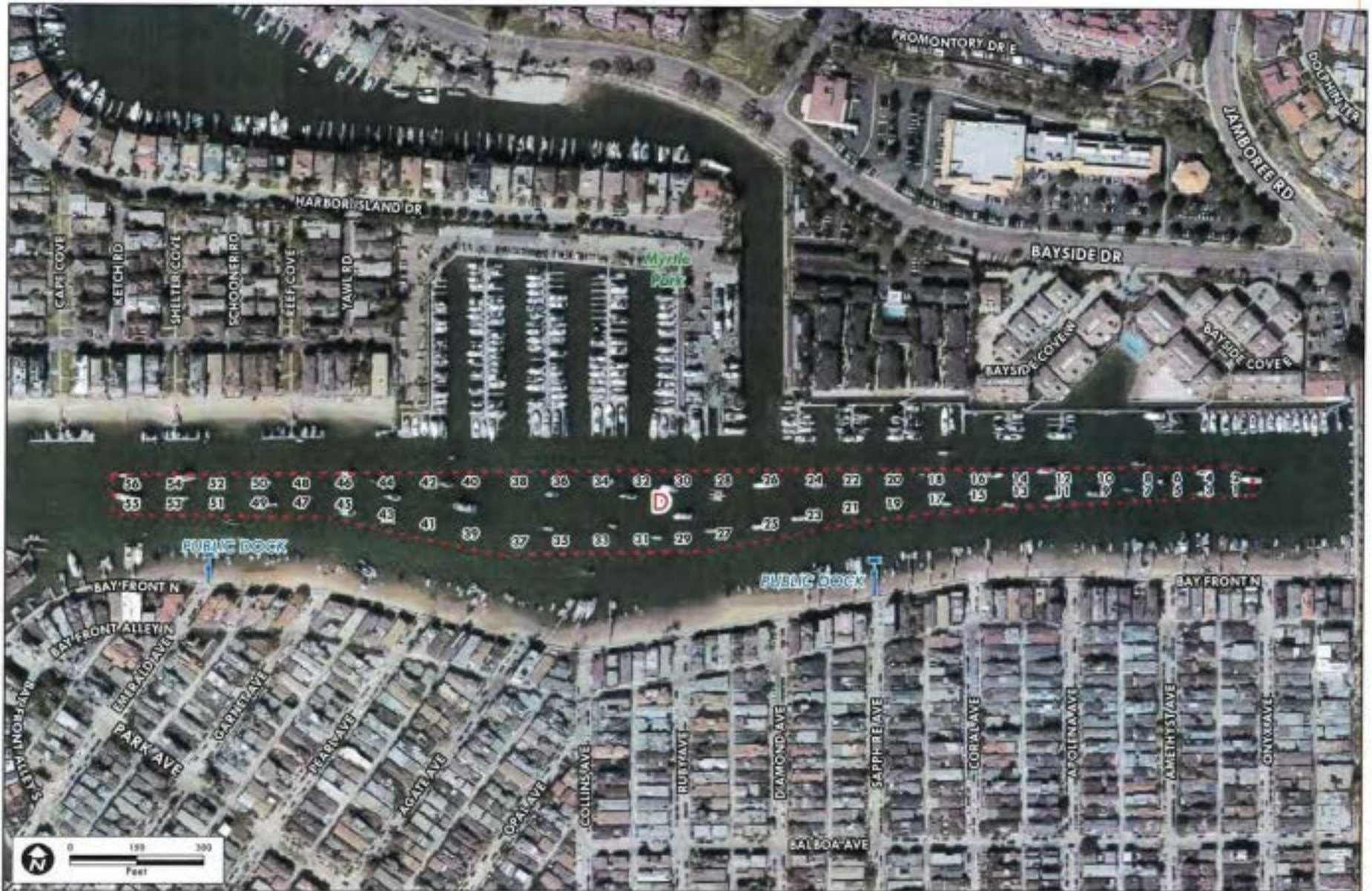


City of Newport Beach
GIS Division
March 26, 2015



Mooring D

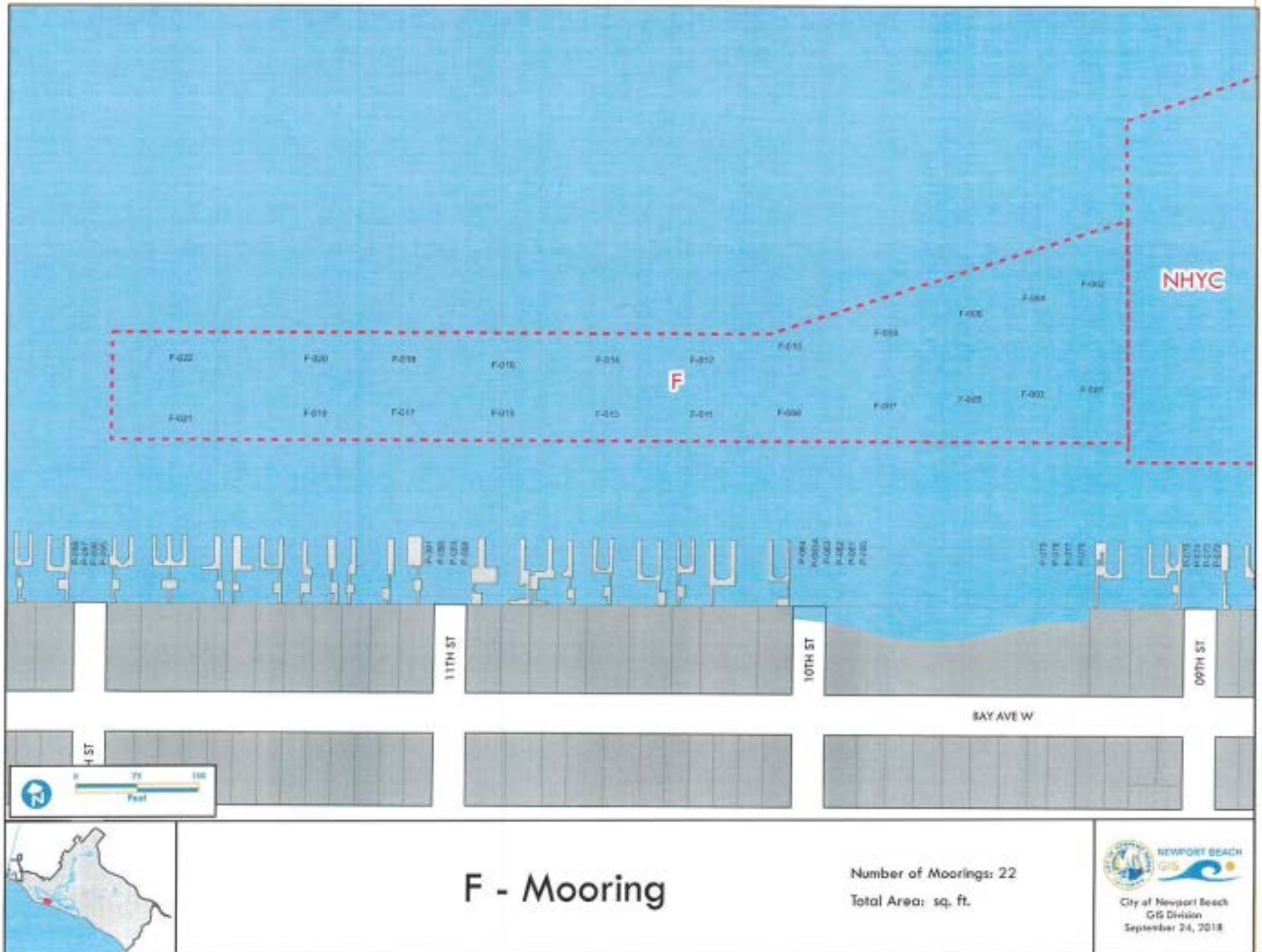
MooringD.mxd

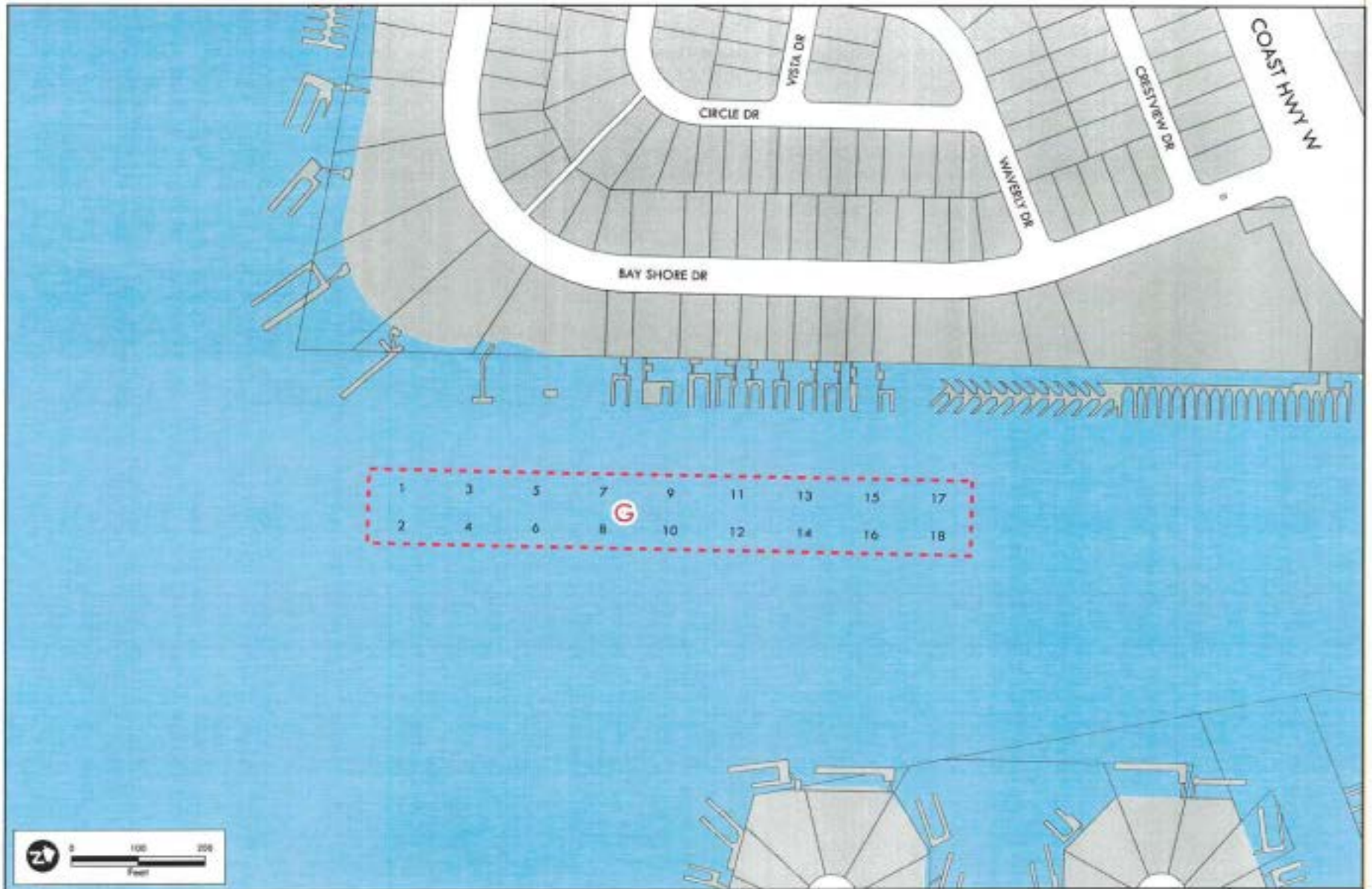


Mooring D



City of Newport Beach
GIS Division
March 26, 2015





Mooring G



City of Newport Beach
GIS Division
March 26, 2015

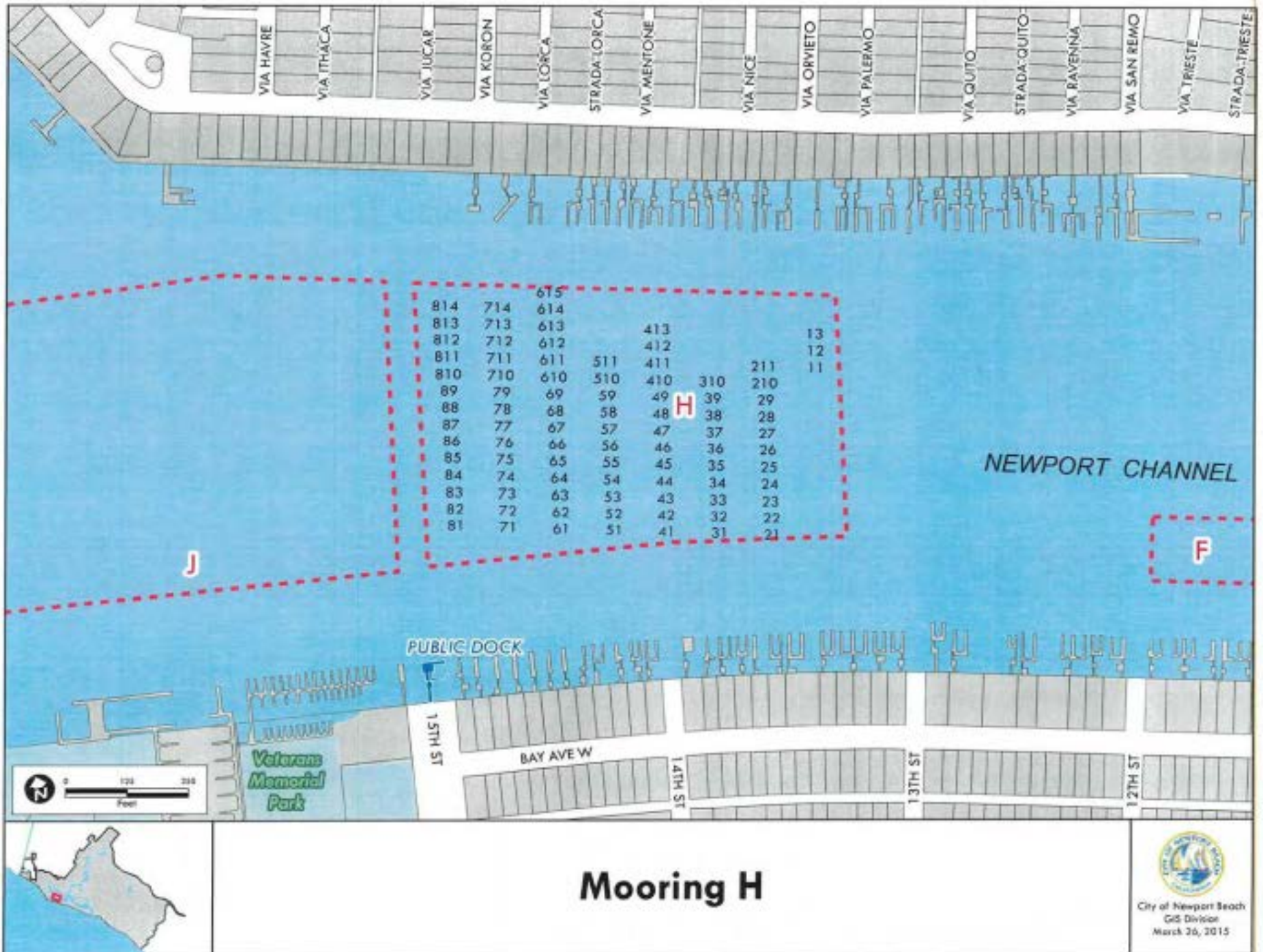


Mooring G



City of Newport Beach
GIS Division
March 26, 2015





Mooring H

mooringH.mxd



Mooring H

Map by GIS/IT



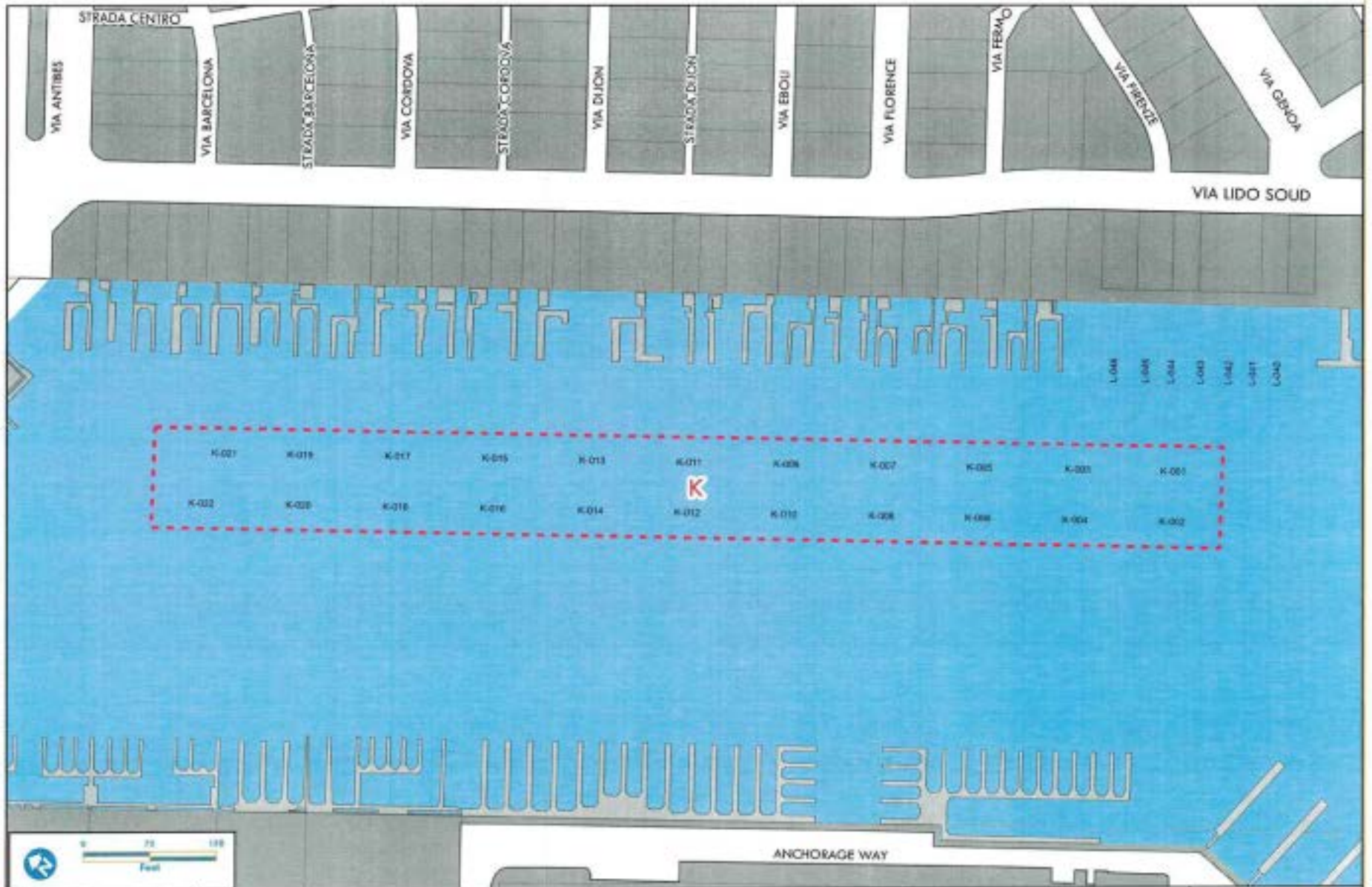
Mooring J



City of Newport Beach
GIS Division
March 26, 2015



mooring1.mxd



K - Mooring

Number of Moorings: 22
 Total Area: 138,265 sq. ft.


 City of Newport Beach
 GIS Division
 September 24, 2018

Addendum

APPRAISER LICENSE

PROFESSIONAL PROFILE



ROBERT Z. JACOBSON, MAI

Executive Vice President
Valuation and Advisory Services

Cell: +1 909 227 2386
robert.jacobson@cbre.com

www.cbre.com/Robert.Jacobson

CLIENTS REPRESENTED

Institutional

- Prologis
- Blackstone
- KKR
- Panatieri
- IRI
- Atlas
- Trojan

Land

- Lewis Group
- Marsh JPA
- HIP

Bank

- Deutsche Bank
- Wells Fargo
- Cantor
- Western Alliance Bank
- US Bank
- Comerica
- Citizens Business Bank

Self Storage

- Trojan
- Public Storage
- SmartStop
- ExtraSpace
- A-1
- SoCal

ROBERT Z. JACOBSON, MAI

Robert Z. Jacobson, MAI is the head appraiser in the Ontario office for CBRE Valuation & Advisory Services. Mr. Jacobson joined the Ontario office in 2002 and has served institutional as well as local clients on all types of appraisal and consulting assignments throughout the Inland Empire. Mr. Jacobson also works in concert with the National Self Storage Valuation Group that is based out of the Ontario office.

Assignment specific experience includes Mr. Jacobson's appraisal of harbor usage-oriented properties in Oceanside and Port Hueneme Harbors, and his access to and review of CBRE's vast resources which include appraisals of commercial properties and associated water rights and associated rent determination in virtually every harbor along the California Coast, as well as more harbor specific uses nationally including but not limited to:

Property Description	Location	Size
<i>CBRE Harbor Appraisals</i>		
■ Harbor Redevelopment	Confidential, CA	239 acres
■ Port - Market Rent Arbitration	Confidential, CA	300 acres
■ Multiple Marina Portfolio	San Diego, CA	900+ slips
■ Marina Harbor Apartments & Anchorage	Marina Del Rey, CA	966 unit, 321 slip
■ Deep Water Bulk Container Facility	Confidential, WA	12,000 acres
■ Dry Stack and West Slip Mixed-Use	Naples, FL	350 slips
■ Super Yacht shipyard & drydock	Puerto Rico	97,000 GSF
■ Shipyard & Drydock	Confidential, FL	28 acres
■ Super Yacht Marina	British VI	30 slips

REPRESENTATIVE ASSIGNMENTS

Property Description	Location	Size
<i>Industrial</i>		
■ General Mills	Perris	1,547,342 SF
■ Proctor & Gamble	Moreno Valley	1,479,117 SF
<i>Self Storage</i>		
■ Public Storage - Proposed	Los Angeles County	2,065 Units
■ SoCal Self Storage	Hollywood	1,007 Units
<i>Land</i>		
■ Riverside Mining - Industrial	Riverside	223 Acres
■ Future Residential Land	Adelanto/Victorville	1,150 Acres

CREDENTIALS

Professional Affiliations/Accreditations/Certifications

- Appraisal Institute, Designated Member (MAI)
- Certified General Real Estate Appraiser, State of California, No. AG035731

EDUCATION

- University of Arizona, Tucson, Arizona, Bachelor of Science
Duel Major Finance and Accounting - Cum Laude



Business, Consumer Services & Housing Agency
BUREAU OF REAL ESTATE APPRAISERS
REAL ESTATE APPRAISER LICENSE

Robert Z. Jacobson

has successfully met the requirements for a license as a residential and commercial real estate appraiser in the State of California and is, therefore, entitled to use the title:

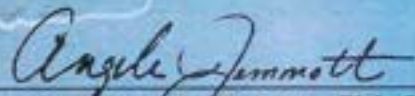
"Certified General Real Estate Appraiser"

This license has been issued in accordance with the provisions of the Real Estate Appraisers' Licensing and Certification Law.

BREA APPRAISER IDENTIFICATION NUMBER: AG 035731

Effective Date: July 8, 2023

Date Expires: July 7, 2025


Angela Jemmott, Bureau Chief, BREA

3070653

Public Comment Re:
NPB Offshore Mooring
Proposed FMV Rent

Attachment K:

Netzer Memo of
03/05/2024

& Materials:

37 pgs.

Attachment B

Netzer & Associates memo regarding 2016 vs. 2021 and 2023 Appraisal Rates

Memo

To: Lauren Wooding-Whittinger

From: James B. Netzer, MAI

Date: March 5, 2024

Re: Offshore Mooring Appraisal – 2016 v 2024

Lauren:

On the basis of your request, I have compared the reports completed in 2016 and 2024 that address the fair market rent for the offshore moorings. One factor that not be reflected in the reports, is that between 2016 and 2024 I have completed more market research and interviews and my body of knowledge has increased between the two dates and my opinions related to the market have evolved. Specific to the 2016 and 2024 appraisals I offer the following comments:

- 1) In 2016 the average slip rate in Newport Harbor was estimated at \$32.99 per linear foot based on the "2015 Newport Harbor Marina Index". When surveyed in December 2023, the "average mooring rate" for the six "average" marinas in Newport Harbor was \$50.55 per square foot, which is a 53% increase since 2016. When all marinas in the harbor are included, the average rent is \$85.93 per linear foot, which is a 160% increase. The market-based increase in slip rates is one factor that results in the higher fair market rent conclusion in 2024 relative to 2016.
- 2) In terms of the Comparable Rental Analysis, the comparable rental data presented in 2016 was limited to the San Diego Mooring Company and Balboa Yacht Club. In 2016 it was concluded that the offshore mooring rental programs in other harbors were not comparable to Newport Harbor. In 2016 I was unable to confirm any mooring rental data related to the Newport Harbor Yacht Club. At the time, it was reported that BYC included the shore boat service in the rental rate, however, as of 2024 it was reported that they charge an additional monthly fee for shore-boat service.

In 2024 I included the comparable rental data for San Diego, Monterey Harbor, Morro Bay, Pillar Point, Santa Barbara, the Newport Harbor Yacht Club and Balboa Yacht Club. The rental data was adjusted for location based on the average slip fees for Newport Harbor, relative to the average slip fees in the harbors where the comparable rental are located. The comparable rental analysis, adjusted for the locational differences based on the average slip fees, resulted in a fairly narrow range and was judged to be a relevant and reliable indication of fair market rent based on market rental rates in other harbors along the coast.

When the average rent per linear foot for slip space was analyzed as an adjustment factor, in 2016 the San Diego average slip fee was \$19.50 per linear foot, and was \$32.96 when surveyed in 2024. This reflects a 70.8% increase suggesting that the increase in slip fees was not just a Newport Harbor phenomenon.

The information for BYC (\$15.25/LF) and NHYC (\$13.35/LF) was very instructive in 2024. In addition, it was discovered that BYC does not include the shore boat service. The rates being paid at BYC and NHYC are very similar to the location adjusted rents reflected by the comparable offshore moorings included in the analysis.

While it was noted that no weight should be given to an "illegal" activity, the inclusion of the "private market" mooring rentals in 2024, was also instructive in the range that individuals operating in the harbor are "asking" for moorings. The rates reflected in the "private market" are "market-based" and lend support to the location adjusted rates, the rates being achieved at BYC and NHYC and support the concluded rental rates. The 2016 report did not include any "private market" information.

- 3) In the Ratio Analysis presented in 2016, I relied on the "resolved" rate of 14-percent that was adopted by the City in 2011. In the 2024 analysis I looked at the ratio for other marinas along the coast and a much higher "market based" ratio compared to the "resolved" rate, was reflected based on the market research completed. Based on the market data uncovered, I concluded that a ratio of 30-percent is applicable.

In 2016 the average slip rate at BYB was \$26.51 per linear foot and \$25.92 per linear foot based on the "Marina Index." In 2024 the average rate at BYB was \$48.65 and my surveyed rate was \$50.55 per linear foot for the "average" marinas (excluding Cal Rec & private clubs). The percentage increase in average slip rates between 2016 and 2024 are 83.5% (BYB) and 95.0% (survey), respectively.

In the Ratio Analysis, doubling the ratio (14% v. 30%) and applying it to a nearly double average slip rate in results in a much higher rent per linear foot - \$6.48 to \$6.63 in 2014 v. \$14.60 to \$15.17 in 2024.

If the 2011 "adopted" ratio of 14-percent is applied to the BYB average slip rent per linear foot, the current offshore mooring rent per linear foot would be \$6.81-per linear foot per month ($\$48.65 \times 0.14$) and \$7.08 ($\$50.55 \times 0.14$) when applied to the survey data.

- 4) The "Tidelands Analysis – Mooring Use" used in 2016 was based on the annual \$0.50 per square foot "Residential Pier Fee" that was adopted by the City in 2015 (Resolution 2015-10), which was applied to the average mooring area provided by the Newport Mooring Association (NMA). The NMA estimated the average mooring area based on their analysis of a single row of moorings in the J-Field, an assumed 40-foot mooring, with 10-feet for the bow and stern lines, and a total of 33,960 square feet (566' x 60') that accommodates 16 moorings, resulting in an average of 2,123 square feet for a 40-foot mooring. This resulted in a total monthly rent of \$1,061.50, or \$3.20 per L.F. per month.

I did not complete this analysis in my 2024 report, however, if it was included it would be based on the market derived figures for the "average rent per lineal foot" (\$85.93) including all marinas in Newport Harbor. Using the surveyed rent per linear foot for all slip lengths in Newport Harbor (\$85.93/LF), results in a tideland rent of \$1.83 per square foot. When applied to the NMA area used in 2016, the resulting monthly rent is \$3,885 (2,123 SF x \$1.83), or a monthly mooring rent of \$8.09 per linear foot.

- 5) In 2016 an adjustment was made for "Dinghy Storage"; however, in 2024 no adjustment for dinghy storage was included. In Newport Harbor, there are dinghy racks at Marina Park and the Balboa Yacht Basin, dinghy storage at Newport Dunes, Bayside Village Marina and the American Legion (members only). In addition, the Lido Yacht Anchorage offers storage for vessels between 6' and 19'. In addition to the dinghy storage, there are 12 public docks located throughout Newport Harbor that permit dinghy/tenders to tie-up. The vessels are limited to 9-feet and the vessels are permitted to tie-up, depending on the location, for intervals of: 20-minutes; 3-hours; 24-hours; and 72-hours. Three of the public docks also provide pump-out services. It was noted by Harbor Department personnel that the Newport Mooring Association was provided space to tie-up a vessel (8' Walker Bay rowboat) at Marina Park to provide their members access to the offshore moorings. This program was reportedly started in September 2021 and ended in the Fall of 2022. It was noted that there was very little use of the vessel.

It is recognized that there is limited dinghy/tender space available in Newport Harbor; however, only the San Diego Mooring Company (dinghy lines/beach stakes) and Newport Harbor Yacht Club (shore boat) include dinghy/tender storage or shore-boat service to the offshore moorings in their rate. The balance of the monthly mooring rental rates included in my appraisal DO NOT include the additional monthly cost associated with dinghy storage at the comparable mooring areas.

- 6) In 2016 the assignment included a "global" monthly mooring rent per linear foot that applied to all offshore moorings, regardless of the mooring length. This is how the offshore mooring rents have historically been applied – the same rent per linear foot regardless of mooring length.

In the 2024 report a "benchmark" fair market rent of \$16.00 per linear foot was concluded for a 40-foot mooring, which is the most common length mooring. At the request of the Mooring Subcommittee, the 2024 report includes a "tiered" analysis using the Ratio Analysis (using a ratio of 30%) based on mooring length, broken down in 5-foot increments. The comparable slip rents per linear foot are higher for larger vessels and the analysis and resulting monthly fair market rent reflects that the larger slips command a higher monthly rent per linear foot. In general, the slips rates for larger vessels increased at a higher percentage when compared to the slip rates for smaller vessels. The higher percentage increase in the larger slip fees results in a higher percentage increase in the mooring fees as the length increases.

In retrospect, the 2016 analysis was influenced by and based more on harbor specific information that had been "adopted" or "resolved" by the City in the recent past, with limited data from the larger market along the coast. In 2024 the analysis is based primarily on market data and research from harbors along the coast, with less emphasis on the 2011/2015 City "adopted" or "resolved" rates and ratios. On the basis of the above, I conclude that the 2016 appraisal was less a reflection of the "market", while the 2024 appraisal is based on, and more reflective of, the current market conditions for offshore mooring rentals.

Please let me know if you have additional comments or questions or if I can provide further clarification of the above points.

Respectfully,


James B. Netzer, MAI

APPRAISAL REPORT

FAIR MARKET RENT
OFF-SHORE & ON-SHORE MOORINGS
NEWPORT BEACH, CALIFORNIA

DATE OF VALUE
JANUARY 6, 2016

PREPARED FOR

CHRIS MILLER
HARBOR MANAGER
CITY OF NEWPORT BEACH, HARBOR DEPARTMENT
829 HARBOR ISLAND DRIVE
NEWPORT BEACH, CALIFORNIA 92660

PREPARED BY

NETZER & ASSOCIATES
170 E. SEVENTEENTH STREET, SUITE 206
COSTA MESA, CALIFORNIA 92627
FILE NO. 2015-024

NETZER & ASSOCIATES

Real Estate Appraisal & Consulting

January 6, 2016
File No. 2015-024

Chris Miller
Harbor Manager
City of Newport Beach, Harbor Department
829 Harbor Island Drive
Newport Beach, CA 92660

Re: Appraisal Services
Fair Market Rent – Off-shore & On-shore Moorings
Newport Beach, California

Dear Mr. Miller:

In accordance with your request and authorization, I have undertaken the investigations and analyses necessary to estimate the Fair Market Rent, Fee Simple Interest, in the above referenced real property, which is the subject of this report. James B. Netzer conducted inspections of a representative sampling the subject properties in December 2015.

Based upon the work undertaken and my experience as a real estate analyst and appraiser, I have formed the opinion, as of the 6th day of January 2016, subject to the Assumptions and Limiting Conditions contained in this report, that the subject has the following market values:

Annual Fair Market Rent for the Off-shore Moorings
\$32.00 to \$38.00 per Linear Foot of Mooring

Annual Fair Market Rent for the On-shore Moorings
\$16.00 to \$19.00 per Linear Foot of Mooring

This letter of transmittal must remain attached to this appraisal report, which contains 22 pages plus related exhibits, in order for the value opinions set forth to be considered valid.

I invite your attention to the following appraisal report which has been prepared in accordance with the Code of Professional Ethics and Standards of Professional Appraisal Practice of the Appraisal Institute and is in compliance with the USPAP standards, and sets forth the data and analysis which my opinions are, in part, predicated. Thank you for the opportunity of serving you in this matter.

Respectfully submitted,

James B. Netzer, MAI
California General Appraiser No. AG003143

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APPRAISAL PROCEDURES	8
FAIR MARKET RENT ANALYSIS	9
RECONCILIATION	16
VALUATION	18
ADDENDA	19

CERTIFICATION

To the best of my knowledge and belief, I certify that:

The statements of fact contained in this report are true and correct.

The reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions, and are my personal, unbiased professional analyses, opinions and conclusions.

I have no present or prospective interest in the property that is the subject of this report, and have no personal interest or bias with respect to the parties involved.

I have performed no services, as an appraiser or in any other capacity, regarding the property that is the subject of this report within the three-year period immediately preceding acceptance of the this assignment.

I have no bias with respect to the property that is the subject of this report or to the parties involved in the assignment.

My engagement in this assignment was not contingent upon developing or reporting predetermined results.

My compensation is not contingent upon the reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value estimate, the attainment of a stipulated result, or the occurrence of a subsequent event.

The reported analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the Code of Professional Ethics and Standards of Professional Appraisal Practice of the Appraisal Institute, which include the *Uniform Standards of Professional Appraisal Practice*.

The use of this report is subject to the requirements of the Appraisal Institute relating to review by its duly authorized representatives.

I have made a personal inspection of the property that is the subject of this report.

In accordance with the USPAP Competency Provision, I certify that I have the knowledge and experience to complete this assignment and have appraised this property type before.

Disclosure of the contents of this appraisal review is governed by the Bylaws and Regulations of the Appraisal Institute. In furtherance of the aims of the Institute to develop higher standards of professional performance by its Members, the appraiser may be required to submit authorized committees of said Institute copies of this report and any subsequent changes or modifications thereof.

The Appraisal Institute conducts a voluntary program of continuing education for its designated members. MAI's who meet the minimum standards of this program are awarded periodic educational certification. As of the date of this report, James B. Netzer has completed the requirements under the continuing education program of the Appraisal Institute.

I have personally conducted an inspection of a representative sampling of the on-shore and off-shore moorings located in Newport Harbor, which are the subject of this report. Based upon my investigation and analysis, I have formed the opinion that the Annual Fair Market Rent for the Newport Harbor “**off-shore**” moorings, as of January 6, 2016, is \$32.00 to \$38.00 per linear foot of mooring.

Based upon my investigation and analysis, I have formed the opinion that the Annual Fair Market Rent for the Newport Harbor “**on-shore**” moorings, as of January 6, 2016, is \$16 .00 to \$19.00 per linear foot of mooring.

Respectfully submitted,

James B. Netzer, MAI
California General Appraiser No. AG003143

INTRODUCTION

Purpose of Report

The purpose of this report is to set forth the data, analyses, and conclusions relative to my opinion of the Current Fair Market Rent for the off-shore and on-shore moorings located upon City managed tidelands throughout Newport Harbor. A map outlining the specific study areas under consideration is included in the Addenda.

Function of Report

The function of this report is to estimate the Current Fair Market Rent of the off-shore and on-shore moorings for the City's internal purposes. The appraisal is made at the request of the City of Newport Beach and the Harbor Commission by Chris Miller, Harbor Resources Manager, and Michael Torres, Assistant City Attorney, who are the intended users of this report.

Date of Value

The date of value presented in this report is January 6, 2016. Given the number of properties involved in this report not every property was inspected individually and inspections of a representative sampling of the off-shore and on-shore moorings and the surrounding environs were completed during December 2015.

Scope of Investigation

This report conveys the results of my investigations and analyses concerning the subject property. The report includes a summary of the information utilized and the methodology used in determining an estimate of value.

Interests Appraised

The interests appraised and considered in this appraisal include the Fee Simple Estate, under the assumption that the subject moorings will eventually be leased. The term "Fee Simple Estate"¹ is defined as follows:

Absolute ownership unencumbered by any other interest or estate, subject only to the limitations imposed by the governmental powers of taxation, eminent domain, police power, and escheat.

Market Rent Defined

The term "Market Rent"², as used in this report, is defined as follows:

The most probable rent that a property should bring in a competitive and open market reflecting all conditions and restrictions of the specified lease agreement including, term, rental adjustment and revaluation, permitted uses, use restrictions, and expense obligations; the lessee and lessor each acting prudently and

¹ Appraisal Institute, The Dictionary of Real Estate Appraisal, Fourth Edition, (Chicago, 2002), p. 113.

² Appraisal Institute, The Dictionary of Real Estate Appraisal, Fourth Edition, (Chicago, 2002), p. 176.

knowledgeably, and assuming consummation of a lease contract as of a specified date and the passing of the leasehold from the lessor to the lessee under conditions whereby:

1. Lessee and lessor and are typically motivated;
2. Both parties are well-informed or well advised, and acting in what they consider their own best interests;
3. A reasonable time is allowed for exposure on the open market;
4. The rent payment is made in cash in United States dollars, and expressed as an amount per time period consistent with the payment schedule of the lease contract; and
5. The rental amount represents the normal consideration for the property leased unaffected by special fees or concessions granted by any one associated with the transaction.

Probability of Change

The opinion of value is based upon my knowledge of conditions as of the date of this report. Constantly changing economic, social, political and physical conditions have varying effects upon real property values. Even after the passage of a relatively short period of time, property values may change substantially and require a review based on differing market conditions.

Legal Descriptions

I have not been provided with the legal description of the property; however, this does not impact the analysis or conclusions presented.

Owner of Record and Property History

It is assumed that title to all of the submerged tideland properties being appraised is vested in the City of Newport Beach or the State of California and administered by the City of Newport Beach. Unless specifically addressed in this report, none of the properties have transferred or been encumbered with long term leases in the recent past.

Assumptions and Limiting Conditions

The analyses and opinions in this report are subject to the following assumptions and limiting conditions:

Specific

The Fair Market Rent analysis presented is completed on a “global” basis for each category of use - “off-shore” and “on-shore” and applies to all of the mooring located upon the tideland properties included in each category in Newport Harbor that are under the jurisdiction of the City of Newport Beach. The use categories set forth in the report are assumed to be the Highest and Best Use of the tidelands, as it is beyond the scope of this assignment to assess the Highest and Best Use of each submerged tideland property. I reserve the right to make such adjustments to the analysis, opinions and conclusions set forth in this report as may be required by consideration of additional data or more reliable data that may become available.

General

No investigation of title to the property has been made, and the premises are assumed to be free and clear of all encumbrances, leases, use restrictions, easements, cases or actions pending, except as specifically discussed in this report. Title is assumed to be good and marketable, and that the property is under responsible ownership, competent management and available for its highest and best use.

No survey, legal, or engineering analysis of this property has been made by the appraiser. I assume no responsibility for any condition not readily observable from the customary inspection of the premises, and that there are no hidden or unapparent conditions of the property, subsoils or structures that render it more or less valuable, except as noted herein.

The distribution, if any, of the total valuation in this report between land and improvements applies only under the stated program of utilization. The separate allocation for land and buildings must not be used in conjunction with any other appraisal and are invalid if so used.

The maps, plats, photographs, and exhibits included herein are for illustration only, as an aid in visualizing matters discussed within the appraisal. They should not be considered as surveys nor relied upon for any other purpose, nor should they be removed from, reproduced, or used apart from this report.

I assume no responsibility for economic or physical factors, which may affect the opinions herein, stated which might occur at some date after the date of value. I reserve the right to make such adjustments to the analysis, opinions and conclusions set forth in this report as may be required by consideration of additional data or more reliable data that may become available.

Information contained in this appraisal has been gathered from sources, which are believed to be reliable, and where feasible, has been verified. No responsibility is assumed for the accuracy of information supplied by others.

No opinion is expressed as to the value of sub-surface oil, gas, or mineral rights, or whether the property is subject to surface entry for the exploration or removal of such materials except as expressly stated.

The property is appraised assuming to be in full compliance with all applicable federal, state, and local environmental regulations and laws, unless otherwise stated.

The property is appraised assuming that all applicable zoning and use regulations and restrictions have been complied with, unless otherwise stated.

The property is appraised assuming that all required licenses, certificates of occupancy, consents, or other legislative administrative authority from any local, state, or national government or private entity or organization have been or can be obtained or renewed for any use on which the value estimate contained in this report is based, unless otherwise stated.

The Americans with Disabilities Act ("ADA") became effective January 26, 1992. The appraiser has not made a specific compliance survey and analysis of this property to determine whether or not it is in conformity with the various detailed requirements of the ADA. It is possible that a compliance survey of the property, together with a detailed analysis of the requirements of the ADA, could reveal that the property is not in compliance with one or more of the requirements of the Act. If so, this fact could have a negative effect upon the value of the property. Since the appraiser has no direct evidence relating to this issue, possible noncompliance with the requirements of the ADA in estimating the value of the property has not been considered.

Unless otherwise stated in this report, the existence of hazardous material, which may or may not be present on the property, was not observed by the appraiser. The appraiser has no knowledge of the existence of such materials on the property. The appraiser, however, is not qualified to detect such substances. The presence of substances such as asbestos, urea formaldehyde foam insulation, or other potentially hazardous materials may affect the value of the property. The value estimate is predicated on the assumption that there is no material on or in the property that would cause a loss in value. No responsibility is assumed for any such condition, or for any expertise or engineering knowledge required to discover them. The client is urged to retain an expert in this field, if desired. If the client is aware or becomes aware of any conditions, the appraiser should be consulted immediately to assess the impact, if any, upon the market value.

The appraiser reserves the right to make such adjustments to the valuation herein reported, as may be required by consideration of additional data or more reliable data that may become available.

No opinion is intended to be expressed, or implied, for matters, which require legal expertise or specialized investigation or knowledge beyond that customarily employed by real estate appraisers.

I shall not be required, by reason of this appraisal, to give testimony or to be in attendance in court or any governmental or other hearing with reference to the property without prior arrangements having first been made with me relative to such additional employment.

Possession of this report, or a copy thereof, does not carry with it the right of publication. It may not be used for any purpose by any person other than the party to whom it is addressed without the written consent of the appraiser. I do not authorize out of context quoting, or partial reprinting of the report. In the event the report is placed in the hands of a third party, it is requested that such party be made cognizant of any and all limiting conditions resulting in the basis of my employment and the discussions thereto, as well as those set forth herein.

The submission of this report constitutes the completion of the service authorized. It is submitted upon the condition that the client will provide the appraiser customary compensation relative to any subsequent required deposition, conferences, additional preparation or testimony.

The appraiser respectfully requests that neither all nor part of the contents of this report shall be disseminated to the public through advertisement, public relations, news, sales, or other media, without written consent and approval of the author, particularly the valuation conclusions, the identity of the appraiser, or any reference to the Appraisal Institute or the MAI designation.

In the event the appraiser is subpoenaed for a deposition, judicial or administrative proceeding, and is ordered to produce his appraisal report and file, the appraiser will immediately notify the employer.

It shall be the responsibility of the employer to obtain a protective order.

The liability of Netzer & Associates and the appraiser responsible for this report is limited to the client only and to the fee actually received by the appraiser. Further, there is no accountability, obligation or liability to any third party. If this report is placed in the hands of anyone other than the client, the client shall make such party aware of all limiting conditions and assumptions of the assignment and related discussions. The appraiser is in no way responsible for any costs incurred to discover or correct any deficiencies of any type present to the property -- physical, financial, and/or legal.

It is agreed that the appraiser is not a necessary party in any inquiry or judicial proceedings. If called upon to testify in any litigation or other proceeding arising out the duties in this matter, and

is compelled to incur court costs, attorney's fees or other out-of-pocket expenses in connection with court proceedings, such costs or expenses, together with the appraisers' usual hourly per diem applicable for study, preparation, testimony or travel will be paid by the party (or parties) who acts to bring any suit requiring a judicial proceeding.

Any dispute or claim made with respect to this report shall be submitted to and resolved in accordance with the rules of the American Arbitration Association for arbitration, and the decision of the Association shall be binding. All appraisal services, pursuant to this report, shall be deemed to be contracted for and rendered in Orange County, California, and any arbitration or judicial proceedings shall take place in Orange County, California.

The signatory of this appraisal report is a member of the Appraisal Institute. The Bylaws and Regulations of the Institute require each member to control the use and distribution of each appraisal report signed by such member. Therefore, except as hereinafter provided, the party for whom this appraisal report was prepared may not distribute copies of this appraisal report, in its entirety, without the written consent of the signatory of this report. The report and parts thereof and any additional material submitted, may not be used in any prospectus or printed material used in conjunction with the sale of securities or participation interests in any Public Offering as defined under US Security laws. Further, neither all nor any part of this appraisal report shall be disseminated to the general public by the use of advertising media, public relations media, news media, sales media, or other media for public communication without the prior written consent of the signatory of this appraisal report.

AREA DESCRIPTION

Newport Harbor is the focal point of the incorporated city of Newport Beach, which is located in coastal Orange County approximately 10 miles southwest of the Santa Ana Civic Center. The coastal city was incorporated on September 1, 1906. The City reports an estimated population of 87,249 persons as of 2015, an increase from 85,186 persons as of the 2010 Census. According to the City Chamber of Commerce, the influx of the tourist population during the summer months increases the population to over 100,000 persons.

Newport Beach is located 85 miles north of San Diego, 14 miles south of Long Beach and 50 miles from downtown Los Angeles. The City's elevation ranges from sea level to 691 feet. With the annexation of Newport Coast, the City is comprised of approximately 25 square miles of land area, approximately 25.5 square miles bay, harbor and ocean waters for a total area of approximately 50.5 square miles. The city has 6.1 miles of ocean frontage and 25.4 miles of harbor frontage. Newport Harbor is one of the largest pleasure craft harbors on the West Coast and is home to approximately 9,900 boats, 1,230 piers, 2,330 commercial slips and side ties and 1,235 moorings. Newport Harbor is formed by the Balboa Peninsula on south and the mainland on the north and extends inland to Jamboree Road and the north end of the Upper Newport Bay (Back Bay). The primary focus of this assignment is the Lower Newport Bay, which is generally defined as the water area south of the Coast Highway Bridge near the intersection of Coast Highway and Dover Drive. Traditionally, most of the boating activity within the harbor is concentrated in the Lower

Bay as most of the Back Bay is an ecological preserve with limited boating facilities (Newport Dunes, Newport Aquatic Center, U.C.I. Rowing base, Bayside Village and Dover Shores). The Balboa Peninsula consists of all the contiguous land east of 45th Street extending to Peninsula Point and the jetty at the mouth of Newport Harbor. The south side of the Peninsula consists of sandy beaches on the Pacific Ocean while the north side of the Peninsula forms the southern perimeter of Newport Harbor.

HIGHEST AND BEST USE

"Highest and Best Use" is an appraisal concept which is defined in The Dictionary of Real Estate Appraisal, Third Edition, as follows:

The reasonably probable and legal use of vacant land or an improved property, which is physically possible, appropriately supported, financially feasible, and that results in the highest value. The four criteria that must be met are legal permissibility, physical possibility, financial feasibility, and maximum profitability.

Inherent in this definition are several conditions, which must be satisfied by the existing or proposed use in order to develop the maximum value. The use must be physically possible for the site. Soil condition, topography, size and shape must be compatible with the proposed use. The use must be legally permissible in that it must conform to current or projected zoning. Similarly, the use must not be precluded by deed restrictions or other encumbrances, which may limit potential uses. Also, the use must be economically feasible. The market should indicate sufficient economic demand so as to support a proposed use of the site. Among the various uses that meet the above criteria, the use which creates the greatest rate of return and maximum productivity is considered to be the highest and best use of the site.

Highest and Best Use Criteria - As If Vacant/As-Improved

A complete Highest and Best Use study of the submerged tidelands is beyond the scope of this assignment. The analysis presented is on a "global" basis and it is a Specific assumption of the report that the Highest and Best Use of the tidelands properties "as if vacant" and "as improved" is for either "off-shore" or "on-shore" moorings.

APPRAISAL PROCEDURES

The appraisal of real property generally involves one, two or three of the conventional approaches to value, and is based upon consideration of market-derived data, the experience of the appraiser, and opinions of other informed market participants.

Valuation Approaches

Three basic approaches to value are available to the appraiser: the Cost Approach, the Income Approach, and the Direct, or Sales Comparison Approach.

Cost Approach

This approach entails the preparation of a replacement or reproduction cost estimate of the subject property improvements new (maintaining comparable quality and utility) and then deducting for losses in value sustained through age, wear and tear, functionally obsolescent features, and economic factors affecting the property. The land value is then added to the depreciated cost along with an allowance for entrepreneurial profit to arrive at a value estimate.

Income Approach

This approach is based upon the theory that the value of property tends to be set by the net income that is to be realized by the owner. It is, in effect, the capitalization of expected future income into a present worth estimate. This approach requires an estimate of potential gross income, an analysis of all expense items, the selection of a capitalization rate, and finally, the processing of the net income stream into a value estimate.

Sales Comparison Approach

This approach is based upon the principle that the value of a property tends to be set by the price at which comparable properties have recently been sold or for which they were acquired. This approach requires a detailed comparison of sales of comparable properties with the subject property.

Approaches Used in the Valuation of the Subject

The Sales (or Lease) Comparison Approach is a process of comparing lease rates paid for similar properties, prices asked by owners, and offers made by prospective Lessees. The approach presents good evidence of value because it represents the actions of buyers and sellers, or in the case of leased properties Lessee's and Lessor's. The Sales (or Lease) Comparison Approach is based on the principle of substitution, which implies "the value of a property tends to be set by the price that would be paid to acquire a substitute property of similar utility and desirability within a reasonable amount of time."³ Given the preceding discussion, and the interactions of market participants, the Sales (Lease) Comparison Approach is the most relevant approach in estimating Market Rent and is used in conjunction with three other methodologies.

FAIR MARKET RENT ANALYSIS

Introduction

As noted in the Introduction, the purpose and function of this report is to estimate the Current Fair Market Rent of the "off-shore" and "on-shore" moorings over the tidelands located throughout Newport Harbor. There are approximately 1,235 on-shore and off-shore moorings in Newport Harbor. The off-shore moorings are located at ten locations throughout the harbor with two additional locations located by the Newport Harbor Yacht Club and the Balboa Yacht Club. These

³Appraisal Institute, The Appraisal of Real Estate, Eleventh Edition, (Chicago, 196), p.398.

two locations are for the exclusive use of the yacht club membership. The on-shore moorings are located surrounding Balboa Island and Newport Island, on sections of both the north and south sides of Lido Isle and along various sections of the bay side of the peninsula from Peninsula Point to 20th Street. A map showing the location of the moorings is included on the facing page.

Comparable Rentals Analysis

The following table is a summary of the mooring information uncovered that is judged to be relevant to the Newport Harbor moorings.

MARKET RENT SURVEY – OFF-SHORE MOORINGS DECEMBER 2015					
Data No. Name Location	Total Moorings % Occupied	Vessel Length (LF)	Total Monthly Rent	Monthly Rent \$/Linear Ft.* (mooring LF)	Equipment Maintenance Cost
1/ Balboa Yacht Club 1801 Bayside Drive Corona del Mar (Newport Harbor)	70 100%	Various 30'	Varies \$451.50	\$15.05 25% discount double mooring	Tenant
2/ San Diego Mooring Co. Shelter Island Roadstead America's Cup Harbor, rows B-J America's Cup Harbor, rows L-V Laurel Street Roadstead Laurel Street Mediterranean Laurel Street Dual Point Bay Bridge Roadstead (Coronado) San Diego Harbor	Combined 462 100% w/ Wait list	19' - 54' Under 30' 30' - 65' 19' - 54' Under 35' 19' - 35' 19' - 54'	\$128.17 \$147.57 \$157.07 \$138.02 \$147.57 \$147.57 \$128.17	\$2.37 \$4.92 \$2.42 \$2.56 \$4.22 \$4.22 \$2.37	Tenant

*Based on maximum length of mooring as moorings are leased based on maximum length not vessel length.

The information included in the table above is judged to be most comparable to the subject. Other mooring rental were uncovered that are not considered comparable to the subject due to locational factors (Pillar Point, Moss Landing, Monterey, Morro Bay & Point San Luis), ownership interests that permit transfers (Avalon) or the parties did not respond to my request for information (Newport Harbor Yacht Club & Lido Isle Community Association). In addition, temporary and transitory mooring rates were not taken into consideration.

The Balboa Yacht Club has a total of 70 moorings in the basin in front of the Yacht Club. The moorings are available to the membership and not offered to the general public (they did offer some to members of Bahia Corinthian YC). The membership is a limited market and the demographic profile of the BYC membership likely differs from the demographic of the general public that is renting moorings in the open market. The monthly lease rate is \$15.05 per linear foot for all mooring lengths and they have a limited number of “double” moorings that they offer at a 25-percent discount. The yacht club provides a shore boat daily from 8:00 until dusk and they

have limited dinghy storage. The tenant is responsible for all maintenance “above the chain” (swivel, shackle, lines, etc...) and the club offers maintenance services for a fee or the tenant can hire their own contractor. It should be noted that when I interviewed this club in September 2006 the reported rate was \$7.25 per linear foot with the same level of services and maintenance. The rent has been increased a total of 107.6-percent between September 2006 and December 2015. The information for BYC is presented for informational purposes as the moorings are general restricted to members and not available to the general public and the yacht club provides a shore boat.

The San Diego Mooring Co. has four mooring fields in San Diego Harbor with a total of 462 mooring balls. They report a 100-percent occupancy, with the exception of moorings that are being serviced or have a derelict vessel, and a wait list for an available mooring. The moorings in each of the mooring fields rent for the same monthly rent regardless of vessel length vessel and the table above reflects the rent per linear foot of the maximum mooring length. As an example, all of the moorings at Shelter Island Roadstead are rented for \$128.17 per month and will accommodate vessels between 19- and 54-feet (LOA), which reflects a monthly rent per linear foot of \$2.37 (\$128.17/mo. :- 54’) for a 54-foot mooring. A second example of the rent per linear foot figure is America’s Cup Harbor Rows B-J. These mooring are quoted as accommodating vessels “under 30” and rent for \$147.57 per month, or \$4.92 per linear foot (\$147.55 :- 30’) of mooring length, regardless of the vessel length. The operator reported that they complete all of the maintenance and that the tenant is billed for both the tackle and the services. The Shelter Island and Bay Bridge mooring fields have open dinghy storage on chains (no dinghy racks) at nearby public beach parks, Shoreline Park & Coronado Tidelands Park, respectively. The remaining mooring fields have access to public dinghy docks. Parking is only provided at Shelter Island (a municipal lot) and long-term parking (more than 2 hours or overnight) is not provided at any of the locations. Parking at these locations is either on public streets in the surrounding neighborhoods or paid parking in private or municipal lots. The operator noted that the rental rates are dictated by the Unified Port of San Diego and the last increase was in 2007. It was further reported that they have applied to the Port for a rent increase; however, the amount of the increase requested was not disclosed and it was noted that the Port is updating its “Benchmark Study of Fees”. It should be noted that San Diego Harbor generally has lower slip fees relative to Newport Harbor and an adjustment for “location” is warranted. As an example, a 30-slip in America’s Cup Harbor was reported by the operator to rent for \$19.50 per linear foot, which compares the Newport Harbor 2015 “Marina Index” (discussed below) of \$25.92 per linear foot (a difference of \$6.42/LF) for a similar 30-foot slip. This suggests that the mooring fees being paid in San Diego warrant an upward adjustment in the range of 33-percent (\$6.42 :- \$19.50) should be applied to the San Diego mooring rates. After considering the “location” adjustment, the comparable mooring rates in San Diego Harbor would range from approximately \$3.15 ($\2.37×1.33) to \$6.50 ($\4.92×1.33) per

linear foot on a monthly basis, and \$37.80 to \$78.00 per linear foot annually. This does not take into consideration the availability of dinghy storage, which will be addressed in the Reconciliation.

CPI Analysis

A second methodology is to utilize the change in the Consumer Price Index and apply it to the “market” lease rates that were previously established by the City. On the basis of my research, the City set the mooring rates at \$6.00 per linear foot in 1976 and the rates were reset at \$20.00 per linear foot in 1995 by Resolution No. 95-77. The following reflects current rent per linear foot based on the change in the CPI over the two time periods.

CPI 1976:	59.6
CPI 1995:	154.6
CPI 2015 (11/15):	245.711
1976 to 2015:	$245.711 \div 59.6 \times \$6.00/LF = \$24.74/LF$
1996 to 2015:	$245.711 \div 154.6 \times \$20.00/LF = \$31.79/LF$

The CPI analysis indicates that the current rent should be between \$25.00 and \$32.00 per linear foot, and no adjustment for dinghy storage is warranted. This analysis assumes that the rent established in both 1976 and 1995 reflects “Fair Market Rent” and that the change in the CPI reflects the change in the market conditions for moorings in Newport Harbor between these dates and the current date. The change in the CPI is typically applied on an annualized basis over the term of a lease, with a Fair Market Rent adjustment applied at the exercise of a lease option or the commencement of a new lease to reflect the change in market conditions. The application of the CPI method over a long period reflects general price trends, but does not take into consideration changes in market conditions for a specific good or service within a market area. As reflected in the mooring rates charged at the Balboa Yacht Club in September 2006 (\$7.25/LF) compared to the current (December 2015) rate (\$15.05/LF) the rent increased a total of 107.6-percent. This compares to a change in the CPI of 15.41-percent (245.711 \div 212.9) between September 2006 (212.9) and November 2015 (245.711), which is the most recent figure available.

The CPI analysis indicates that the current annual Fair Market Rent for the moorings in Newport Harbor is between \$25.00 and \$32.00 per linear foot; however, the figure based on the trending of the 1995 figure is judged to be a more reliable measure.

“Ratio” Analysis

One measure of estimating the market rent for moorings is to compare mooring rents to similar slip rents. This provides a ratio of the “mooring” rents as compared to “slip” rents in the same market, which is an option for a boat owner. Several harbors along the California coast have marinas and mooring fields that are owned and managed by the municipality. These harbors reflect

a price per linear foot mooring to slip ratio (mooring \$/LF :- slip \$/LF) between approximately 38- and 92-percent. These include: Pillar Point ($\pm 46\%$); Monterrey ($\pm 38\%$) and Morro Bay ($\pm 92\%$). The ratio is based on monthly rent per linear foot for the mooring length compared to a similar length slip. These harbors have different user profiles compared to Newport Harbor and are not judged to be reflective of the ratio applicable to this analysis.

In San Diego Harbor, the same company manages both Point Loma Marina and the America's Cup Harbor mooring field, which are both located in America's Cup Harbor. The rate for a 30-foot mooring is \$147.57 per month, or \$4.92 per linear foot (\$147.57 :- 30 LF). The monthly rent for a 30-foot slip in the marina is \$19.50 per linear foot. The mooring to slip ratio in America's Cup Harbor is 25.2-percent, which is calculated as follows:

Monthly Mooring Rent - \$/LF:	\$ 4.92
Monthly Slip Rent - \$/LF:	<u>:- \$19.50</u>
Mooring to Slip Ratio:	0.252

Of the marinas surveyed, this ratio appears to be the most reliable as both the moorings and slips are managed by the same company and have a similar location and access to similar amenities. This ratio reflects that there is a dinghy dock available to the tenants of the mooring field, which is not provided in Newport Harbor and the cost of dinghy storage must be factored into the analysis. As a point of reference, in 2011 the City of Newport Beach resolved that the "fair market value" of off-shore moorings within Newport Harbor is 14-percent of a "Newport Harbor Marina Index". The "Marina Index" is based on a the average slip rate (\$/LF) for seven marinas in Newport Harbor, including: Ardell; Newport Dunes Marina; Harbor Marina; Lido Yacht Anchorage; Port Calypso; Newport Marina (formerly Swales); and Bayside Village Marina. The survey is based on the "average" rent per linear foot from these seven marinas using 5-foot slip intervals from 20-feet to 60-feet. The 2015 "Average Skip Rate" in Newport is \$32.99/LF (survey included in Addenda). Applying the City's 14-percent ratio to this figure results in a monthly mooring rate of \$4.62 per linear foot, or \$55.44 per annum.

There are several privately operated marinas throughout Newport Harbor and they generally reflect different levels of quality and condition and mix of slips and amenities. City of Newport administers the Balboa Yacht Basin (BYB) and the mooring fields and the Balboa Yacht Basin is judged to be relatively "average" in terms of its overall quality, condition and amenities. The published monthly slip fees (included in Addenda) for the Balboa Yacht Basin range from \$21.44 per linear foot (20' slip) to \$44.99 for a 75' slip. For the ratio analysis, I will use the rate for a 31' slip with a rate of \$26.51/LF. In the analysis, I will also use the average slip fee for a 30-foot slip in Newport Harbor based on the 2015 "Marina Index", which is \$25.92/LF. Assuming a 25-

percent mooring rate to slip rate ratio, the Fair Market Rent for the moorings in Newport Harbor is calculated as follows:

Marina	BYB	Index
Monthly Slip Rent - \$/LF:	\$26.51	\$25.92
Mooring/Slip Ratio:	x 0.25	x 0.25
Monthly Mooring Rent - \$/LF:	\$6.63	\$6.48

Based on the market data uncovered, the “Ratio” analysis, excluding an adjustment for dinghy storage, indicates that the monthly Fair Market Rent for the moorings in Newport Harbor is between \$6.48 and \$6.63 per linear foot, which equates to an annual range from approximately \$77.76 to \$79.56 per linear foot, excluding the adjustment for dinghy storage. The adjustment for dinghy storage will be included in the Reconciliation section.

Tideland Analysis – Mooring Use

The **State Lands Commission** has jurisdiction the state’s tidelands and submerged lands along the coastline extending from the shoreline out to three miles off-shore. They use a methodology to estimate tidelands rent for the “recreational” use of tidelands associated with residential upland properties. The methodology that uses an “average” berth size (length), multiplied by the average berth rate per linear foot, which results in the average “berthing fee” per month (then it is annualized). The annualized “berthing fee” is converted to an absolute tidelands rent (for the square footage of tideland required to support a “typical” berth) at a 5.0-percent rate of return. The absolute tidelands rent is then divided by the square footage of tideland required to support the typical berth, which results in the rent per square foot for the tidelands area. The rent per square foot is then applied to the applicable tideland area. They do not have a similar procedure for mooring fields, but the methodology used in this report is based on the premise that the tidelands encumbered by a mooring and associated rights are no longer available for “public use” and the rent for the tidelands is converted to a rent per linear foot of mooring.

In 2015 the City of Newport (Resolution 2015-10) established a “Residential Pier Fee” of \$0.50 per square foot of tidelands with an annual adjustment commencing in 2018 that is the lesser of the change in CPI or 2-percent. An analysis similar to the State Lands Commission methodology that is applicable to the mooring fields is presented below. The analysis is completed using a tidelands rent of \$0.50 per square foot of tidelands, which is applied to the tidelands area encumbered by the mooring and then converted it to a rent per linear foot of the mooring.

The first step of this analysis is to establish the average tidelands area that a mooring occupies. On the basis of information provided by the City, the Newport Mooring Association (NMA) completed this analysis based on a row of moorings in the “J Field”. The row used in the NMA

analysis is 566-feet long and is occupied by 16 moorings that are assumed to be 40-feet in length. The analysis assumes there is 10-feet to the fore and aft of the mooring; therefore, each mooring is assumed to encumber tidelands with a length of 60-feet. This mooring row occupies a total of 33,960 square feet of tidelands (566' x 60'), suggesting that each 40-foot mooring encumbers a total of 2,123 square feet of tidelands (33,960 Sq.Ft. ÷ 16 moorings). When the "Residential Pier Fee" is applied to this square footage the total rent is \$1,061.50 (2,123 Sq.Ft. x \$0.50/Sq.Ft.), which equates to \$26.53 per linear foot annually, assuming a 40-foot mooring (\$1,061.50 ÷ 40 LF).

Adjustment for Dinghy Storage

As noted above, the City does not provide dinghy storage for the moorings, which is a cost that must be taken into consideration in the analysis as only the CPI analysis takes dinghy storage into consideration.

In 2015, the City of Newport Beach adopted a Fair Market Rent for dinghy storage (8 racks) at the Balboa Yacht Basin at \$25.00 per month. These racks provide easy access to mooring field D. The City has 12 storage racks at the recently completed Marina Park that are not on the market, but the City will be sending notices to interested parties in the near future. It was reported that they will be offered via a lottery and the monthly rent is \$25.00. It was noted that there was approximately 50 respondents for the lottery at the Balboa Yacht Basin and they expect a similar response to the Marina Park lottery. The location of Marina Park is proximate to mooring fields F, H, J and K.

In addition to the City and the yacht clubs, there are limited areas that provided dinghy storage in Newport Harbor. In the Upper Newport Bay the Newport Dunes Marina has dinghy racks that rent for \$25.00 per month. Bayside Village Marina provides dry storage of dinghies up to 12-feet at a rate of \$8.00 per linear foot, or \$80.00 per month for a 10-foot dinghy. Both of these marinas are behind the Coast Highway Bridge and are distant from the mooring fields.

The American Legion Yacht Club has 24 dinghy racks that one source reported rent for \$35.00 per month and a second reported a rate of \$45.00 per month and both sources reported a wait list. These racks are for members only and not available to the general public. They are in close proximity to the F, H, J and K fields.

In an analysis completed by the Newport Mooring Association, they suggest that storage at private pier is in the range of \$50 to \$100 per month. This appears to be based on their member input.

Given the limited number of available dinghy racks in the harbor that are proximate to the mooring fields and the apparent demand for the limited supply, I have concluded that an adjustment of \$50.00 per month for dinghy storage is appropriate. The \$50.00 per month adjustment equates to

\$1.67 per linear foot per month for a 30-foot mooring, which is rounded to \$20.00 per linear foot annually.

RECONCILIATION

The final step of the appraisal process is to reconcile the value conclusions indicated by the methods utilized in formulating the Fair Market Rent estimate. The annual Fair Market Rent Values indicated for the subject moorings, as of the date of value, are as follows:

Comparable Rentals Approach:	\$37.80 - \$78.00 \$57.90 average
CPI Analysis Approach:	\$26.00 - \$32.00
Ratio Approach	\$77.76 - \$79.56
Tidelands Approach	\$26.53

As previously noted, the figures above do not include an adjustment for the lack of dinghy storage and an adjustment to the Comparable Rentals and Ratio approaches is warranted. The CPI approach is a trending of the historic rates in Newport Harbor and the Tidelands Approach takes into consideration the tidelands rent; therefore, no adjustment for dinghy storage is warranted.

The concluded adjustment of \$20.00 per linear foot annually for the lack of dinghy storage was estimated in a previous section. The following table is a summary of the adjustment to the four approaches.

<u>Valuation Approach</u>	<u>Unadjusted Annual \$/LF</u>	-	<u>Dinghy Adjustment</u>	=	<u>Adjusted Annual \$/LF</u>
Comparable Rentals	\$37.80 - \$78.00 \$57.90 average	-	\$20.00 \$20.00	=	\$17.80 - \$58.00 \$37.90 average
CPI Analysis	\$25.00 - \$32.00	-	N.A.	=	\$25.00 - \$32.00
Ratio Analysis	\$77.76 - \$79.56	-	\$20.00	=	\$57.76 - \$59.56
Tidelands	\$26.53	-	N.A.	=	\$26.53

After adjusting for dinghy storage, the indicated annual Fair Market Rent ranges for \$17.80 to \$59.56 per linear foot.

The reconciliation process involves a thorough review of the valuation process and supporting data used in each of the valuation approaches. In this step of the appraisal process, I have considered the alternative value indications to arrive at a final rent estimate. The greatest weight is given to that approach in which there is a sufficient quantity of data, with a minimum of assumptions and maximum reliability.

In the Comparable Rentals (Rent Comparison) the most relevant data was included. I considered differences in location, services provided and access to dinghy storage. The mooring rates were analyzed based on a price per linear foot assuming the maximum vessel length as all of the

moorings are rented based on the maximum mooring length not the vessel length. The quality and quantity of the market data upon which I have based my direct market comparison is considered good; however, it did warrant adjustments for location and lack of access to dinghy storage. The Balboa Yacht Club mooring data is included for informational purposes as it is not offered on the open market but shows the demand within a closed market and defines an upper limit of the mooring rental range.

The CPI analysis is a trending of the rental rates established at various times (1975 & 1995) for the subject moorings. It is based on the assumption that the rental rates in the base years (1975 & 1995) are market based and that the change in CPI reflects the change in market conditions for moorings in Newport Harbor. The CPI is typically included as an annual adjustment to a lease, with periodic “market rent” adjustments applied to account for changes in market conditions as opposed to a trending of values based on a basket of goods. On the basis of my research, the 1995 figure was determined to be “Fair Market Rent” and is judged to be a more reliable indicator than the 1975 figure. The change in mooring rates at BYC between 2006 and 2015 suggests that the change in CPI may understate the change in market conditions for moorings in Newport Harbor. The CPI analysis using the rent established in 1995 is judged to be more reliable than the 1975 figure and helps define the lower limit of the Fair Market Rent range.

The Ratio analysis attempts to estimate the market rent for moorings as compared to the rent for similar slip spaces in the same marina or harbor. As shown in the analysis, the ratio can vary dramatically (25% to 92%) and, while a potential renter could take this into consideration (cost of a slip v. cost of a mooring), it is not judged to be a reliable measure of Fair Market Rent. This analysis is given little weight in the final reconciliation.

The Tidelands analysis is based on the premise that the Fair Market Rent for an individual mooring is tied to the market rent for the encumbered tidelands. This approach has its merits and the information and assumptions used in the analysis are well supported; however, the typical user of an individual mooring would not complete this analysis to determine market rent. In the final reconciliation this approach is given secondary emphasis.

Given the indications from the four approaches utilized, and the quality and quantity of the available market data, I have given each approach some consideration with primary emphasis placed on the Comparable Rental and CPI approaches. Based on my analysis of the market data uncovered, I have concluded that the subject off-shore moorings have an Annual Fair Market Rent, as of January 6, 2016, of: \$32.00 to \$38.00 per Linear Foot of Mooring.

The above discussion relates to the off-shore moorings throughout Newport Harbor. There is a limited number of on-shore moorings and I did not uncover any information regarding lease rates for on-shore moorings at other harbors. The maximum vessel length is limited on the on-shore

moorings relative to the off-shore moorings. Historically, the on-shore moorings in Newport Harbor have rented for half of the rate of the off-shore moorings. On this basis, I have concluded that the on-shore moorings have an Annual Fair Market Rent, as of January 6, 2016, of: \$16.00 to \$19.00 per Linear Foot of Mooring.

VALUATION

Based upon the work undertaken, and my experience as a real estate analyst and appraiser, I have formed the opinion, as of the 6th day of January 2016, subject to the Assumptions and Limiting Conditions contained in this report, that the public moorings in Newport Harbor have the following Fair Market Rental values:

Annual Fair Market Rent for the Off-shore Moorings

\$32.00 to \$38.00 per Linear Foot of Mooring

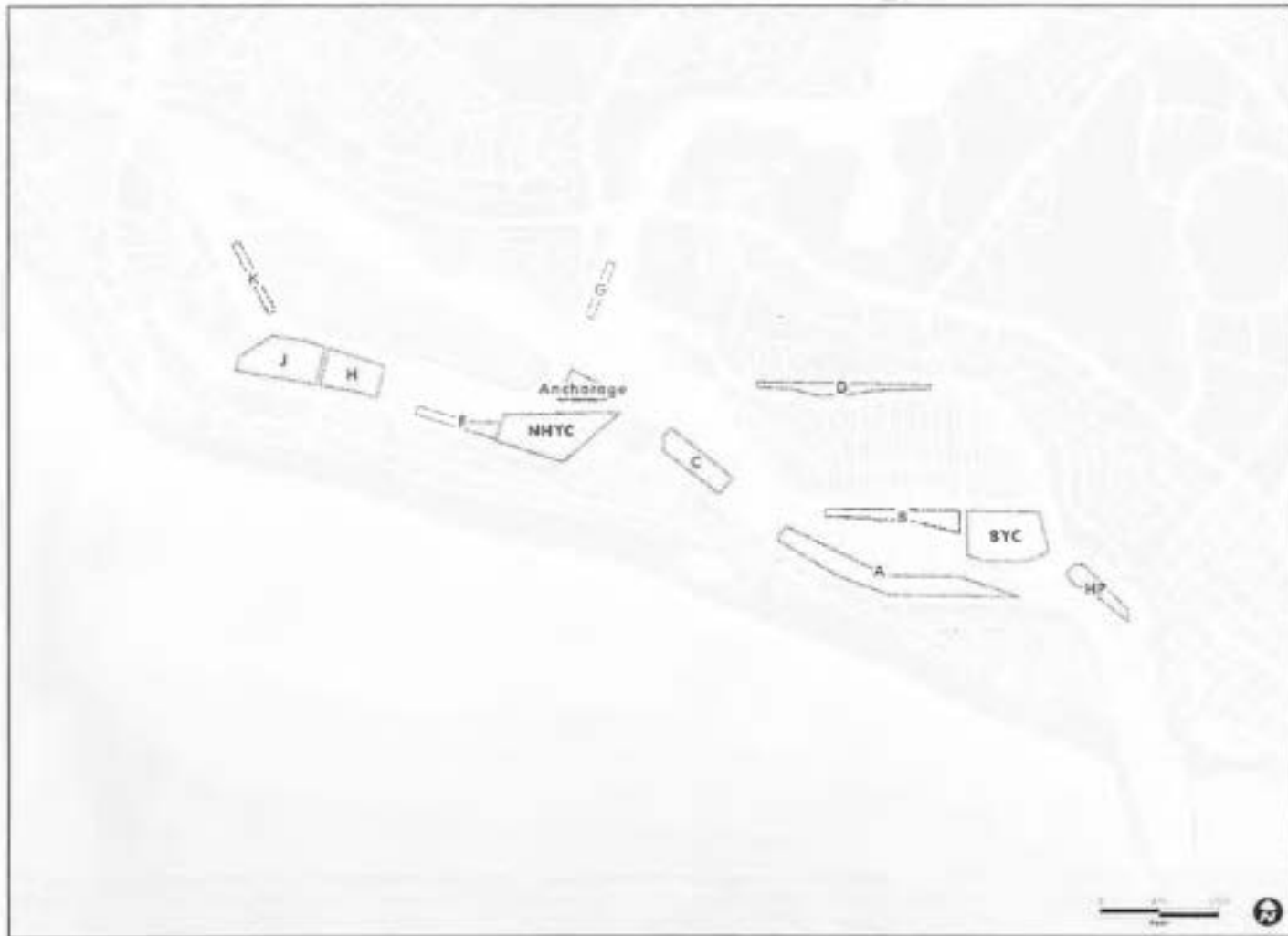
Annual Fair Market Rent for the On-shore Moorings

\$16.00 to \$19.00 per Linear Foot of Mooring

ADDENDA

Mooring Map

Public Moorings



Slip Survey & Rate Sheet

Mooring Calculation - 2015

Step 1- Slip Survey & Average		Source: Newport Harbor Slip Rate Survey - October 2014						
Newport Beach Marinas								
Average of Slip Length	Slip Length	Ardell	Newport Dunes Marina	Harbor Marina	Lido Yacht Anchorage	Port Calypso	Newport Marina (formerly Swales Marina)	Bayside Village Marina
<i>Price per foot per month</i>								
\$21.83	20'	\$26.50	\$24.50	\$21.00	\$21.00		\$17.00	\$21.00
	21'	\$26.50	\$24.50	\$21.00	\$21.50		\$17.00	\$21.00
	22'	\$26.50	\$24.50	\$21.00	\$21.50		\$17.00	\$21.00
	23'	\$26.50	\$24.50	\$21.00	\$21.50			\$21.00
	24'	\$26.50	\$24.50	\$21.00	\$21.50			\$21.00
\$23.58	25'	\$26.50	\$24.50	\$21.00	\$21.50	\$28.00		\$20.00
	26'	\$26.50	\$24.50	\$21.00	\$21.50	\$28.00		\$20.00
	27'	\$26.50	\$24.50	\$21.00	\$21.50	\$28.00		\$20.00
	28'	\$26.50	\$24.50	\$21.00	\$21.50	\$28.00		\$20.00
	29'	\$26.50	\$24.50	\$21.00	\$21.50	\$30.00		\$20.00
\$25.92	30'		\$29.00	\$30.00	\$21.50	\$30.00	\$20.00	\$25.00
	31'		\$29.00	\$30.00	\$21.50	\$30.00		\$25.00
	32'		\$29.00	\$30.00	\$24.00	\$30.00		\$25.00
	33'		\$29.00	\$30.00	\$26.50	\$30.00		\$26.00
	34'		\$32.75	\$30.00	\$28.50	\$30.00		\$26.00
\$30.25	35'		\$32.75	\$30.00	\$28.50	\$34.00		\$26.00
	36'		\$32.75	\$30.00	\$28.50	\$34.00		\$26.00
	37'		\$32.75	\$30.00	\$28.50	\$34.00		\$26.00
	38'		\$32.75		\$28.50	\$34.00		\$26.00
	39'		\$32.75		\$28.50	\$34.00		\$26.00
\$32.08	40'		\$40.00	\$33.00	\$28.50	\$34.00	\$25.00	\$32.00
	41'		\$40.00	\$33.00	\$28.50			\$32.00
	42'	\$37.50	\$40.00	\$33.00	\$28.50			\$32.00
	43'	\$37.50	\$40.00	\$33.00	\$28.50			\$32.00
	44'		\$40.00	\$33.00	\$28.50			\$32.00
\$34.50	45'		\$40.00	\$33.00			\$33.00	\$32.00
	46'		\$46.00	\$33.00				\$35.00
	47'	\$37.50	\$46.00	\$33.00				\$35.00
	48'		\$46.00	\$33.00				\$35.00
	49'		\$46.00	\$33.00				\$35.00
\$40.60	50'	\$39.00	\$46.00	\$44.00	\$39.00			\$35.00
	51'		\$46.00	\$44.00				
	52'		\$46.00	\$44.00				
	53'		\$46.00	\$44.00				
	54'		\$46.00	\$44.00				
\$45.00	55'		\$46.00	\$44.00				
	56'			\$44.00				
	57'			\$44.00				
	58'			\$44.00				
	59'	\$39.50		\$44.00				
\$43.17	60'	\$39.50		\$46.00	\$44.00			
	61'	\$39.50		\$46.00	\$44.00			
	62'	\$39.50		\$46.00	\$44.00			
	63'	\$39.50		\$46.00	\$44.00			
	64'	\$39.50		\$46.00				

65'	\$39.50	\$46.00
66'	\$39.50	\$46.00
67'	\$39.50	\$46.00
68'	\$39.50	\$46.00
69'	\$39.50	\$46.00
70'	\$42.00	
71'		
72'		
73'		\$46.00
74'		\$46.00
75'		\$46.00
76'		\$46.00
77'		\$46.00
78'		
79'		
80'		
81'		
82'		
83'		\$52.50
84'		\$52.50
85'		\$52.50
86'		\$52.50
87'		
88'		
89'		
90'		
91'		
92'		
93'		
94'		
95'		

\$32.99	Average slip rate in Newport for mooring sizes (5' increments)
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CITY OF NEWPORT BEACH

PUBLIC WORKS DEPARTMENT
HARBOR RESOURCES

Balboa Yacht Basin 829 Harbor Island Drive Newport Beach, CA 92660

Marina Manager: Basin Marine, Dave New
(949) 673-0360

Effective July 1, 2015

Slip Length	2015 Slip Rate (per foot, per month)
20' Slip	\$21.44
25' Slip	\$23.15
31' Slip	\$26.51
32' Slip	\$27.00
34' Slip	\$29.05
35' Slip	\$29.93
37' Slip	\$29.93
40' Slip	\$31.79
45' Slip	\$34.23
50' Slip	\$40.10
60' Slip	\$42.22
75' Slip	\$44.99

The rate charged shall be the greater of the slip or the boat. If the boat is longer than the slip it is in, the charge shall be based on the slip price plus the extra lineal feet of the boat, at that same slip rate.

Garages \$341.07 per month

Apartments \$2,314.47 per month (Apartment #6)
 \$2,571.64 per month (Apartments #5 & #7)

www.newportbeachca.gov/harborresources

Qualifications

QUALIFICATIONS

of

James B. Netzer, MAI

Professional Background

Prior to forming Netzer & Associates, he was associated for over three years with Urban Pacific Services Corp. Actively engaged as a real estate analyst, appraiser and consultant since 1987. Principal of the appraisal and consulting firm of Netzer & Associates with offices at:

170 E. Seventeenth Street, Suite 206
Costa Mesa, California 92627

Educational Activities

Bachelor of Arts in Liberal Studies with a Concentration in Economics, California State University, Long Beach, 1986.

Has successfully completed the following courses sponsored by the American Institute of Real Estate Appraisers and the Appraisal Institute:

- A.I.R.E.A Course 1A-1: Principles of Real Estate Appraisal
- A.I.R.E.A Course 1A-2: Basic Valuation Procedures
- A.I.R.E.A Course 1B-A: Capitalization Theory and Techniques, Part A
- A.I.R.E.A Course 1B-B: Capitalization Theory and Techniques, Part B
- A.I.R.E.A Course SPP: Standards of Professional Practice
- A.I. Course 2-1: Case Studies in Real Estate Valuation
- A.I. Course 540: Report Writing and Valuation Analysis
- A.I. Course 550: Advanced Applications

Has successfully completed numerous classes and seminars to meet the continuing education requirements of Appraisal Institute, Office of Real Estate Appraisers and Department of Real Estate.

Professional Affiliations & State Licenses

Member of the Appraisal Institute - MAI Designation
State of California - Certified General Real Estate Appraiser - Certificate No. AG003143
State of California - Real Estate Broker License - License No. 01185682

Court Qualification

Qualified as an expert witness in the Superior Courts of Orange, Los Angeles and San Diego Counties, U.S. Bankruptcy Court – Los Angeles Division.

Teaching Experience

Orange Coast College - Adjunct Professor (retired) - Business 140 "Real Estate Appraisal Principles"

Seminar & Panel Presentations

Los Angeles County Bar Association – Real Property Division: *Overholtzer Overhauled, An Update on Damages, Appraisals and Interim Loss under Title Insurance Policies*, September 2013

Scope of Experience

During the period in which Mr. Netzer has been engaged as a real estate appraiser and analyst, he has been involved in most aspects of the field having completed assignments for multiple purposes, including: estate planning; bankruptcy; conflict-of-interest analysis (Political Reform Act of 1974); construction defects litigation; soil subsidence; dissolution of marriage; ground lease re-valuation; leasehold & sub-leasehold valuation; property tax appeals; lease and ground lease arbitration; easement/access/encroachment/title disputes (based on *Overholtzer v. Northern Counties Title*); soils contamination litigation; mortgage lending; construction financing; portfolio valuation; market and feasibility analysis; fractional interest valuation; and, due diligence.

He has experience appraising the following property types:

Vacant Land

Residential lots, sub-division sites, condominium sites, commercial and industrial sites, mountainous acreage, raw acreage, mitigation land (Delhi Sands Flower Loving Fly, Stephens Kangaroo Rat & Open Space).

Residential

Single-family residences, condominiums, townhomes, planned unit developments, multi-family units, apartment buildings, mobile home parks, proposed and existing sub-divisions.

Commercial

Office buildings, medical office buildings, restaurant buildings, retail centers, neighborhood shopping centers, community centers, commerce centers, congregate care facilities, parking structures, golf courses, mixed-use developments, auto dealerships, gas stations.

Industrial

Manufacturing and warehouse buildings, distribution facilities, multi-tenant buildings, mini-storage facilities.

Special Use

Commercial and residential tidelands, boat harbors, auto ferry, bait barge, marina, gas docks, mooring fields, commercial piers, civic center, fire stations, police stations, emergency communication facilities, temporary construction easements, steel fabricating plant, car wash facilities.

Public Service

Newport Aquatic Center, Newport Beach – Board of Directors – Chairman, Budget Committee

PARTIAL LIST OF CLIENTS

ATTORNEYS, LAW FIRMS & ACCOUNTANTS

Barton Klugman & Oetting
Boss Law Firm APLC
Browne & Woods LLP
Bryan Cave LLP
Burd & Naylor
Davis Law APC
Gibson, Dunn & Crutcher
Goldstein & Ward
Greines, Martin, Stein & Richland LLC
Harbin & McCarron
Hart, King & Coldren
Jeffer, Mangels, Butler & Marmaro LLP
Landels, Ripley & Diamond
Larsen & Associates
Latham & Watkins
Leech & Associates
Law Offices of Michael Leight
Loeb & Loeb, LLC

Lynberg & Watkins
Manning & Kass, Ellrod, Ramirez, Trester
McDermott, Will & Emory
Law Offices of Erik B. Michelsen
Millar, Hodges & Bemis
Palmieri, Tyler, Wiener, Wilhelm & Waldron
Richard Shaffer (Court Appointed Receiver)
Rubin & Eagan
Samuels, Green & Steel, LLP
Severson & Werson
Shulman Bunn LLP
Songstad, Randall, Coffee & Humphrey
Stradling, Yocca, Carlson & Rauth
Turner & Reynolds
Richard Wildman, Attorney at Law
Wolf & Richards
Wright Ford Browning & Young
Wynne, Spiegel & Itkin

LENDING INSTITUTIONS

Bank Midwest, N.A.
Bank of America
Bankers Mutual (Berkshire Mortgage)
California Federal Bank
Citicorp Real Estate, Inc.
Credit Suisse
Comerica Bank
Escondido National Bank

GE Capital Investment Advisors
Hawthorne Savings
Huntington National Bank
Merrill Lynch Credit Corporation
Park View Mortgage
Strategic Mortgage Services
Tokai Bank
Wells Fargo Bank

GOVERNMENTAL AGENCIES

City of Costa Mesa
City of Glendora
City of Huntington Beach
City of Long Beach – Tidelands CID
City of Newport Beach

Federal Deposit Insurance Corporation (FDIC)
Orange County – Dana Point Harbor
Resolution Trust Corporation (RTC)
Securities & Exchange Commission (SEC)

GENERAL CLIENTS

AMRESKO Management, Inc.
Arnold Construction
The Boy's Republic
Capital Guardian Trust
Chicago Title Company
Continental Mobile Housing
Decron Management
Environmental Nature Center
Fidelity National Title
First American Title Insurance
Hamilton Company
Heritage Point Senior Living
Hornblower Cruises
Kinder Morgan Energy Partners
Lee & Associates

Newport Sports Collection Foundation
North American Title Insurance Company\
O.C. Interfaith Shelter
Old Republic Title
Pulte Home Corporation
S & A Properties
S & S Construction/Shappell Industries
St. Clair Company LLC
Santa Fe Pacific Pipeline Partners, L.P.
Simplex Realty
Staples, Inc.
State Farm Insurance
Stewart Title Guaranty Company
Texaco Refining & Marketing, Inc.
Westcor Land Title Insurance Company
Western National Properties

From: [Barry Levy](#)
To: [CSLC CommissionMeetings](#)
Subject: Written public comment non-agenda item April 4th SLC-Please Stop the Class Discrimination in Newport Harbor
Date: Monday, April 1, 2024 3:17:17 AM

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

Dear Commissioners,

As you may be aware, the SLC Staff is currently reviewing a proposed mooring rate increase of up to 500% for offshore mooring and 1000% for shore moorings in Newport Harbor. These moorings are the last affordable access to boating in Newport Harbor. This proposed rate increase will force average boaters out of the submerged tidelands in Newport Harbor which fall under SLC oversight jurisdiction.

Currently, the mooring holders pay **4 times more** than the affluent waterfront homeowners for use of the same submerged tidelands. If the proposed rate increase goes through, the mooring holders will be paying up to **20 times more** than the affluent waterfront homeowners pay, for use of the exact same tidelands. That's not fair and it clearly targets and discriminates against people with moorings.

In pushing this extreme discrimination, the city's Harbor Commission has completely ignored the January 2024 independent appraisal by CBRE which shows the city of Newport Beach's appraisal is way off base and does not even account for the lack of dinghy docks to get out to our moorings, when every other harbor in California provides dinghy docks to get out to a mooring. The independent CBRE appraisal, which is being ignored by the Harbor Commission, shows there is no need for any increase in excess of the CPI.

Fortunately, the granting statute for Newport Bay has a specific clause prohibiting price discrimination in the harbor. This anti-discrimination clause regarding rates in Newport Harbor dates back to the early 1900's. It simply indicates, the city shall not charge one user more than another for the use of the tidelands. Unfortunately, this price discrimination is occurring today and will only be exacerbated ten fold if the proposed rate increase is tolerated by this Commission. Lest there be any doubt, the city code itself states that the people with moorings are to be charged rates similar to other rates charged for users of the tidelands. This clearly flies contrary to that code.

This is how the proposed rate increase will have an impact on me:

1. We are retiring soon. Our family has worked for years getting our boat ready for cruising California waters. This unfair rate increase makes our budget difficult.
2. We understand inflation increases. But not a increase to pay for continued growth.
3. Other moorings in California are far cheaper.
4. We bought rights to the mooring; we pay fees to city and spend over \$1200 a year for maintenance of the can and chain. All when Newport can rent our mooring to others when we are off of it cruising.
- 5 ...Besides.. we pay California taxes as well.

I ask this commission to perform a thorough investigation of this matter. SLC staff has been provided proof that the City of Newport Beach is using flawed information in the attempt to raise mooring rates up to 500% and higher for shore moorings, which will clearly push average boaters out of Newport Harbor while leaving the rates of other tidelands users alone. Discrimination can't be tolerated.

We appreciate the State Lands staff for reviewing this matter and we encourage this commission to thoroughly investigate the matter.

Sincerely,

Barry and Nancy Levy

A 

From: [Chuck Lewis](#)
To: [CSLC CommissionMeetings](#)
Subject: Newport Harbor Proposing Discriminatory Mooring Rate Increases: Written comment on non-agenda item April 4, 2024 SLC
Date: Saturday, March 30, 2024 5:37:23 PM

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

Dear Commissioners,

As a Newport Harbor mooring holder for the past 14 years, I urge you to protect the last affordable access to boating in the harbor. The SLC Staff is currently reviewing a proposed mooring rate increase of up to 500% for offshore moorings and 1000% for shore moorings, a submerged tidelands area in Newport Harbor which falls under SLC oversight jurisdiction.

Should this rate increase pass, it will further compound an already inequitable situation where mooring holders pay more than waterfront homeowners for use of the same submerged tidelands. If the proposed rate increase goes through, the mooring holders will be paying up to 20 times more than the waterfront homeowners pay for the same tidelands. I am struggling to understand how this is not a discriminatory plan.

A significant body of evidence submitted to the Newport Harbor Commission is being ignored in pursuit of this rate increase. A January 2024 independent appraisal by CBRE shows the city of Newport Beach's appraisal is flawed and fails to compare apples to apples for rate purposes. One important point is Newport Beach does not offer comparable amenities to justify such an increase (ex: dinghy dock access moorings). Additionally, I understand the granting statute for Newport Bay has a specific clause prohibiting price discrimination in the harbor. This anti-discrimination clause regarding rates in Newport Harbor dates back over a century and says the city shall not charge one user more than another for use of the tidelands. And yet, the Harbor Commission seems to be determined to increase rates unfairly in the face of this and other contrary evidence.

I ask this commission to insert themselves into this matter to protect us, the people, by performing a thorough investigation of this matter.

Respectfully,

Chuck Lewis

From: [Rich Luttrell](#)
To: [CSLC CommissionMeetings](#)
Subject: Written public comment non-agenda item April 4th SLC-Please Stop the Class Discrimination in Newport Harbor
Date: Monday, April 1, 2024 1:11:07 PM

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

Dear Commissioners,

State Lands Commission (SLC) Staff is currently reviewing a proposed mooring rate increase of up to 500% for offshore mooring and 1000% for shore moorings in Newport Harbor. These moorings are the last affordable access to boating in Newport Harbor. This proposed rate increase will force average boaters out of the submerged tidelands in Newport Harbor which fall under SLC oversight jurisdiction.

Currently, the mooring holders pay **4 times more** than the affluent waterfront homeowners for use of the same submerged tidelands. If the proposed rate increase goes through, the mooring holders will be paying up to **20 times more** than the affluent waterfront homeowners pay, for use of the exact same tidelands. That's not fair and it clearly targets and discriminates against people with moorings.

In pushing this extreme discrimination, the city's Harbor Commission has completely ignored the January 2024 independent appraisal by CBRE which shows the city of Newport Beach's appraisal is way off base and does not even account for the lack of dinghy docks to get out to our moorings, when every other harbor in California provides dinghy docks to get out to a mooring. The independent CBRE appraisal, which is being ignored by the Harbor Commission, shows there is no need for any increase in excess of the CPI.

Fortunately, the granting statute for Newport Bay has a specific clause prohibiting price discrimination in the harbor. This anti-discrimination clause regarding rates in Newport Harbor dates back to the early 1900's. It simply indicates, the city shall not charge one user more than another for the use of the tidelands. Unfortunately, this price discrimination is occurring today and will only be exacerbated ten fold if the proposed rate increase is tolerated by this Commission. Let there be any doubt, the city code itself states that the people with moorings are to be charged rates similar to other rates charged for users of the tidelands. This clearly flies contrary to that code.

Our family has had the same mooring in this harbor for 75 years. We have seen small incremental fee increases every several years, but never an increase even close to the magnitude of the one being proposed. Should the fee increase successfully move forward and ultimately approved by the Newport Beach City Council, our family will be forced to sell the mooring.

I ask this commission to perform a thorough investigation of this matter. SLC staff has been provided proof that the City of Newport Beach is using flawed information in the attempt to raise mooring rates up to 500% and higher for shore moorings, which will clearly push average boaters out of Newport Harbor while leaving the rates of other tidelands users alone. Discrimination can't be tolerated.

We appreciate the State Lands staff for reviewing this matter and are confident your Commission will agree that we are being discriminated against.

Sincerely,

Rich Luttrell/Linhoff Family Trust
Mooring

From: [Annie McCray](#)
To: [CSLC CommissionMeetings](#)
Cc: [Annie McCray](#)
Subject: Written public comment non-agenda item April 4th SLC-Please Stop the Class Discrimination in Newport Harbor
Date: Monday, April 1, 2024 2:28:09 PM

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

Dear Commissioners,

Hopefully you are aware of the SLC staff reviewing a proposed rate increase of moorings in Newport Harbor. The proposed increase is up to 500% for offshore moorings and 1000% for shore moorings. This proposed increase will limit access to tidelands in Newport Harbor for non-residents who are mooring holders.

A similar increase was proposed to dock owners several years ago, called the "Dock Tax", but was scrapped because the affluent homeowners protested that it was unfair and they had the power to oust the city council members. After that, the Dock Tax was scrapped and, as I understand the city signed a 50-year agreement that they would NOT raise the rates for waterfront homeowners. This seems absolutely unfair! Currently, the mooring holders pay **4 times more** than the affluent waterfront homeowners for use of the same submerged tidelands. If the proposed rate increase goes through, the mooring holders will be paying up to **20 times more** than the affluent waterfront homeowners pay, for use of the exact same tidelands.

The Harbor Commission is basing the rate increase on an appraisal that is not fair; it claims the mooring rates should be based on value of a private dock, which offers access, water, parking, and electricity, which is not provided to mooring holders. Additionally, the appraisal the Harbor Commission goes against a earlier one from 2016 by the same appraiser. In the 2016 appraisal, the appraiser states the docks were NOT a good comparison for moorings. Also, the Harbor Commission has completely ignored the January 2024 independent appraisal by CBRE which shows the city of Newport Beach's appraisal is way off base and does not even account for the lack of dinghy docks to get out to our moorings, when every other harbor in California provides dinghy docks to get out to a mooring. The independent CBRE appraisal, which is being ignored by the Harbor Commission, shows there is no need for any increase in excess of the CPI.

For these reasons, I believe the Harbor Commission is treating the mooring holders differently since they are not voters or residents of Newport Beach. The increased rate will make it difficult for me and my family to keep out boat and enjoy the Harbor. I am requesting the SLC should investigate this issue. Thank you for your consideration.

Anne McCray Pauley

Anne M. McCray

From: jerry.mcgraw
To: CSLC.CommissionMeetings
Subject: Fwd: Written public comment non-agenda item April 4th SLC-Please Stop the Class Discrimination in Newport Harbor
Date: Monday, April 1, 2024 7:03:38 PM

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

----- Forwarded message -----

From: jerry mcgraw
Date: Sun, Mar 31, 2024, 16:45
Subject: Written public comment non-agenda item April 4th SLC-Please Stop the Class Discrimination in Newport Harbor
To: <CSLC.CommissionMeetings@slc.ca.gov>

Dear Commissioners,

As you are aware, the SLC staff is reviewing proposed mooring rate increases of 500% for offshore moorings in Newport Harbor. An increase of this size will force average boat owners out of the use of submerged tidelands in Newport Harbor which fall under the SLC oversight jurisdiction.

My wife and I are current mooring holders and permitted liveaboards. We are retired and on fixed incomes with annual increases tied to the cost of living. A rate increase of 500% even if done over a period of years would severely impact our lives and possibly force us to abandon our chosen lifestyle for the last 24 years of living aboard, causing us to living I'm not sure where.

The city basis this ridiculous raise in fees on what I believe to be a flawed appraisal comparing mooring rates to commercial marina rates. Marinas provide access to electricity, water, restrooms, showers, laundry, dock box storage and vehicle parking. Mooring owners have none of these amenities. We must use street parking, very difficult during the summer and holiday periods and feed the ever present meters. We are also required to have our moorings inspected on a biannual basis at a cost of \$1,000 to \$2,500. In addition we have no secure dock space for our dinghies which are necessary to access our moorings. The 15th street public pier is near our mooring but there is a 3 hour time limit in the only area we can use for a 10 ft. dinghy. This makes it quite difficult for shopping or trips to the doctor, forget a one or two night visit to somewhere on land. The city would claim there is a 72 hour zone for 10 foot dinghies at the 15th street dock, but if you leave your dinghy at high tide and return at a medium or low tide it is hard aground and you may have to wait hours before returning to your mooring. The city claims the area will soon be dredged but in the last 6 years nothing has been done. I'm not holding my breath.

We feel discriminated against as mooring holders as we currently pay 4 times more than homeowners for the same use of submerged tidelands. If the proposed increase goes through, mooring holders will be paying up to 20 times more than homeowners. Besides not being fair the city is now and would continue to clearly be discriminating against mooring holders.

I ask the commission to perform a thorough investigation of this matter. PLEASE don't allow this obscene increase of 500% based on a flawed appraisal

We appreciate the state lands staff for reviewing this matter and encourage the commission to thoroughly investigate this matter.

Jerry and Kathy McGraw

Mooring Newport Harbor

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From: [Janelle McMurdie](#)
To: [CSLC CommissionMeetings](#)
Subject: Public comment, Newport Beach Harbor Mooring Rates
Date: Monday, April 1, 2024 4:35:19 PM

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

Dear Commissioners,

I've been made aware that SLC Staff is reviewing a proposed mooring rate increase for moorings in Newport Harbor.

To my knowledge, there are currently different rates charged to waterfront homes, shore moorings, and offshore moorings for use of the same submerged tidelands. Mooring holders currently pay higher rates. I do not know what marinas are currently charged, if anything.

There is a proposal by the city of Newport Beach to substantially increase rates charged to mooring holders, both on and off shore.

While a substantial rate increase is unpalatable, I'd like the commissioners to inquire of the city of Newport Beach why their proposed rate increase only impacts mooring holders.

If the Newport Beach appraisal is correct, does it not apply to all submerged tidelands users? Alternatively, if other appraisals by reputable 3rd party appraisers suggests current mooring rates are approximately fair, should those rates not stay for mooring holders and increase for those not paying equal and fair rates?

Something smells fishy in Newport. Can you help us clear the water?

Kindly,

Janelle M.
Mooring holder and former Newport Beach resident

From: [kartbin](#)
To: [CSLC CommissionMeetings](#)
Subject: Written public comment non-agenda item April 4th SLC-Please Stop the Class Discrimination in Newport Harbor
Date: Sunday, March 31, 2024 11:33:21 PM

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

Dear Commissioners,

We need your help! The Netzer appraisal is riddled with problems such as:

- Ignoring standard appraising methods for moorings
- Using unreliable and inventive methodology
- Failing to take into account the lack of dinghy docks
- The Netzer appraisal runs completely contrary to the independent CBRE appraisal which was submitted to the City of Newport Beach

Questions have been raised concerning the motivations for such an extreme recommendation, and questions of bias and/or conflicts of interest are being investigated by some mooring holders as well as at least one law firm. In the wake of these questions, we have now seen Harbormaster Blank being forced to recuse himself from any further involvement in this historic attempt to increase mooring rates after he was found to have a conflict of interest. Conflicts of interest and/or bias are being looked into by the NMA.

There are concerns that even after showing the city all the faults of the Netzer appraisal and even after the city was presented with the independent CBRE appraisal that shows the current rates are already at about market value, the city staff and members of the Harbor Commission are still attempting to rush through a "blessing" by the SLC of this historic and unprecedented rate hike. They want this blessing so that city staff and the Harbor Commission can pass off its devastating rate hike to the City Council for approval and further exacerbate the existing discrimination against people with moorings compared to how the city treats, and rates charged to homeowners with private docks as well as other users of tidelands in the harbor.

We know that the State Lands Commission does care about protecting affordable access to the waterways of California. You also care about making sure there is no class discrimination in the management of harbors in California.

Dear Commissioners,

As you may be aware, the SLC Staff is currently reviewing a proposed mooring rate increase of up to 500% for offshore mooring and 1000% for shore moorings in Newport Harbor. These moorings are the last affordable access to boating in Newport Harbor. This proposed rate increase will force average boaters out of the submerged tidelands in Newport Harbor which fall under SLC oversight jurisdiction.

Currently, the mooring holders pay **4 times more** than the affluent waterfront homeowners for use of the same submerged tidelands. If the proposed rate increase goes through, the mooring holders will be paying up to **20 times more** than the affluent waterfront homeowners pay, for use of the exact same tidelands. That's not fair and it clearly targets and discriminates against people with moorings.

In pushing this extreme discrimination, the city's Harbor Commission has completely ignored the January 2024 independent appraisal by CBRE which shows the city of Newport Beach's appraisal is way off base and does not even account for the lack of dinghy docks to get out to our moorings, when every other harbor in California

provides dinghy docks to get out to a mooring. The independent CBRE appraisal, which is being ignored by the Harbor Commission, shows there is no need for any increase in excess of the CPI.

Fortunately, the granting statute for Newport Bay has a specific clause prohibiting price discrimination in the harbor. This anti-discrimination clause regarding rates in Newport Harbor dates back to the early 1900's. It simply indicates, the city shall not charge one user more than another for the use of the tidelands. Unfortunately, this price discrimination is occurring today and will only be exacerbated ten fold if the proposed rate increase is tolerated by this Commission. Lest there be any doubt, the city code itself states that the people with moorings are to be charged rates similar to other rates charged for users of the tidelands. This clearly flies contrary to that code.

The proposed rate increase will have a detrimental impact on many mooring users. I ask this commission to perform a thorough investigation of this matter. SLC staff has been provided proof that the City of Newport Beach is using flawed information in the attempt to raise mooring rates up to 500% and higher for shore moorings, which will clearly push average boaters out of Newport Harbor while leaving the rates of other tidelands users alone. Discrimination can't be tolerated.

We appreciate the State Lands staff for reviewing this matter and we encourage this commission to thoroughly investigate the matter.

Sincerely,
The Miller Family

From: [Laura Jane Mitchell](#)
To: [CSLC CommissionMeetings](#)
Subject: April 4 meeting: non-agenda item. Proposed rate change to Newport Harbor offshore mooring permits
Date: Monday, April 1, 2024 12:16:42 PM

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

Dear Land Commissioners,

I am a third-generation Californian from farming and working-class roots.

My parents migrated to the middle class through education and hard work. I am still optimistic enough to think that this is an American dream and part of the promise of California.

My husband and I recently realized a long-held aspiration to buy our own sailboat. We live in Orange County and manage our finances carefully to be able to do so and enjoy the bountiful outdoors for which California is so rightly famous. Our budget for owning and maintaining a boat was premised on the rates for an off-shore mooring permit in Newport Harbor—our closest access to the ocean.

We budgeted for regular mooring maintenance (something that neither Newport Harbor nor the City of Newport Beach provide with moorings, unlike mooring rentals in other California harbors) and made provisions to access our boat without the use of a dinghy dock (another feature that's available in other California harbors with offshore moorings).

We did not budget for the nearly 500% rate increase currently proposed by the Newport Beach Harbor Commission and being considered by the City Council.

The mission statement for the California Lands Commission states that your task is to steward natural resources "based on the principles of equity, sustainability, and resilience."

Mooring permit holders have proved ourselves to be effective stewards of the waters we use, complying with stringent safety and environmental regulations, maintaining our moorings and the tidelands floor to which they are attached, and keeping the harbor safe and useful for other users.

I do not see how a 500% rate increase ensures equitable access to the ocean. I don't understand how those of us with mooring permits will be asked to pay considerably more for the use of water above submerged tidelands to safely keep our boats, compared to the per-foot rate for size of a dock (and not the adjacent water where boats are tied up) charged to waterside homeowners who have private docks.

The price for coastal property in Orange County, whether a harborside residence, a marina, or a yacht club, is expensive. That's the reality of California real estate. Offshore moorings offer one way for families of modest means to gain access to the water. The City of Newport Beach seems determined to price this slice of the community out. My family faces losing access to a long-held dream of recreation and use of California's coastal resources. That's disappointing, but not a tragedy. The tragedy is for the mooring permittees whose livelihoods depend on affordable access to safe mooring. And those on fixed incomes who live on their boats.

The Harbor Commission says it has a fiduciary responsibility not to "gift" the resources under its stewardship—in this case, access to submerged tidelands. That's true, but there's a wide spectrum between gifting resources to one part of the community and charging the steepest price that the market will bear in order to gain access.

Governments, whether the State of California or the City of Newport Beach, are not profit-seeking or capitalist entities. Income maximization should not be prioritised over equity and broad public access.

Equally disturbing, the City of Newport Beach is relying on an appraisal that seems to be marred by inside dealing and conflicts of interest. The City refuses to engage with a second appraisal commissioned by the members of the Newport Mooring Association.

Given the big disparity between the fair price of mooring rentals presented by the two appraisals, it seems reasonable to ask the City to reconsider its planned rate increase. I also think it's reasonable to get a third appraisal commissioned by a less-invested party: perhaps Orange County or the SLC.

Please ask the City of Newport Beach not to make the proposed rate increases, and investigate the involvement of City employees in the process of Netzer and Associates' appraisal.

Sincerely,
Laura J. Mitchell

Permit holder for offshore mooring # , Newport Harbor

From: [kathryn](#)
To: [CSLC CommissionMeetings](#)
Subject: Newport Moorings
Date: Sunday, March 31, 2024 9:49:56 PM

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

Esteemed Members,

I'll keep this brief as, at this point, I'm sure you have a good idea about the extreme distress many of the Newport mooring holders are experiencing and why.

I would just like to assure you that the proposed "solution" of refiguring the moorings is in search of a problem. As moorings holders the majority are very pleased with how things are and have been good stewards of the environment.

In addition, the increase in fees are just plain unreasonable. Perhaps the very wealthy do not concern themselves with unfair practices, but the rest of us do.

Please be the voice of reason.

Kathryn O'Neal

Sent from my Verizon, Samsung Galaxy smartphone

Brian H. Ouzounian
Newport Beach, CA
Email: brian

Re: April 4, 2024 California State Lands Commission meeting/Newport Harbor Mooring Rates

Dear Commissioners:

I have been a mooring holder in Newport Beach Harbor for about 50 (fifty) years, paying my rent dutifully all these years (approximately \$85,000). I am writing to you to request your assistance in stopping the City of Newport Beach from hiking the rates to such unfair and unreasonable amounts that I am beyond words.

I am of the understanding that one purpose of the SLC is to regulate rates up and down the state coastline so that state lands rental rates are not so low as to make them a gift but at the same time are not assessed unreasonable gouging rates to public. I am familiar with the Benchmark Studies that the State performs and methodically updates every five years and I have studied those results and tracked their progress for about a decade now. They are important so that the visiting boaters can travel by water up and down the coast with assurance that the rental rates they are charged are 'fair.' I get this.

I also understand it keeps the custodian for these rentals in check to not gouge the public to put money in their coffers as they (the city or county) may feel superior or more deserving than others in the state.

I believe in our case, Newport Harbor, the City via it's Harbor Commission, is trying to pump up their revenue in order to pay for self-elected costs, which they themselves elected to incur, such as a new Harbor Department equipped with staff, offices, boats and resources with a Harbor Master's salary of \$206,000/year. They are putting the costs of the administration and harbor costs on the backs of the mooring holders. UNFAIR.

If only our Harbor Commission would use the Benchmark rates all would be good. At present time, my mooring rental rate is **TEN TIMES** what they would be if Benchmark rates were used! This is before the new rates are applied, which are proposed to be **400 times** more! How can this be?

It is my hope that you exercise oversight on this rental rate increase and bring some sense back to the discussion. Why can't Newport Beach use Benchmark rates?

Thanks for taking the time to read and consider the above.

Best Regards,
Brian H. Ouzounian

From: [Bret Pool](#)
To: [CSLC CommissionMeetings](#)
Cc: [Bret Pool](#)
Subject: Please investigate the huge and unfair mooring rate hike in Newport Harbor
Date: Sunday, March 31, 2024 5:09:36 PM

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

Dear Commissioners,

The SLC Staff is currently reviewing a proposed mooring rate increase 500% for offshore moorings and 1000% for shore moorings in Newport Harbor. Moorings only affordable access to boating in Newport Harbor. This proposed rate increase will force average boaters out of the submerged tidelands in Newport Harbor which fall under SLC oversight jurisdiction.

As of the date of this email, we mooring holders pay 4X more than the affluent waterfront homeowners for use of the SAME submerged tidelands. If the proposed rate increase goes through, we will be paying up to 20X MORE than the affluent waterfront homeowners pay, for use of the exact same tidelands. That's not fair and it clearly targets and discriminates against people with moorings.

The Newport Beach Harbor Commission has completely ignored the January 2024 independent appraisal by CBRE which shows the city of Newport Beach's appraisal is off base. The City's appraisal does not even account for the lack of dinghy docks to get out to our moorings, when every other harbor in California provides dinghy docks to get out to a mooring. And unlike many other moorings in the State of California, Newport Beach mooring holders pay the entire amount to have our mooring tackle inspected and replaced. Our moorings cost the city nothing to maintain.

The independent CBRE appraisal, which is being ignored by the Harbor Commission, shows there is no need for any increase in excess of the CPI.


Fortunately, the granting statute for Newport Bay has a specific clause prohibiting price discrimination in the harbor. This anti-discrimination clause regarding rates in Newport Harbor dates back to the early 1900's. It simply indicates, the city shall not charge one user more than another for the use of the tidelands. Unfortunately, this price discrimination is occurring today and will only be exacerbated ten fold if the proposed rate increase is tolerated by this Commission. Lest there be any doubt, the city code itself states that the people with moorings are to be charged rates similar to other rates charged for users of the tidelands. This clearly flies contrary to that code.

The monthly fee for my 50' mooring will increase from \$167 to as much as \$835. And I'm already paying considerably more than the homeowners pay for their use of the submerged tidelands.

I humbly ask this commission to perform a thorough investigation of this matter. SLC staff has been provided proof that the City of Newport Beach is using flawed information in the attempt to raise mooring rates up to 500% and higher for shore moorings, which will clearly push average boaters out of Newport Harbor while leaving the rates of other tidelands users alone. Discrimination can't be tolerated.

I appreciate the State Lands staff for reviewing this matter and encourage this commission to thoroughly investigate the matter.

Sincerely,

Bret Pool
Mooring A-

From: [Graham Proctor](#)
To: [CSLC CommissionMeetings](#)
Subject: Non-agenda item April 4th SLC-Please Stop Newport Harbor planned Offshore rate increases.
Date: Monday, April 1, 2024 11:30:13 AM

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

Dear Commissioners,

As you have heard, the Newport Beach Harbor Commission is pushing a proposal to increase the offshore mooring in the harbor.

I purchased a lease last year for \$50,000.00 from the previous lease holder last year. The current monthly lease from the city for my 50' mooring ball is \$137.00.

The Newport Beach Harbor commission is proposing to increase that rate to \$ 937.50 per month. This is a 560% increase which I did not budget for.

If this increase gets approved, I will have to give up my lease and probably lose my investment of \$50,000 because no one will want to buy the lease agreement from me at these higher rates.

My dreams on owning a boat came true, and now the Newport Beach Harbor Commission is planning on taking that away from me.

This is not equitable!

Nor does it promote Public Access!

The Netzer appraisal, which the Harbor Commission is using, is floored. I'll leave the details of that conclusion to others as I know they will be contacting you as well.

An independent appraisal by CBRE initiated by the Newport Mooring Association found that the current rates being charged are close to fair market value.

It is also not clear if the decision to use Mr. Netzer was an arm's length transaction because Mr. Netzer is a board member of the Newport Aquatics Club (NAC) which leases land from the city in the harbor.

I would like to see additional appraisals be included in the process.

The Mission Statement for the California State Lands Commission as listed on your website reads:

The California State Lands Commission provides the people of California with effective stewardship of the lands, waterways, and resources entrusted to its care based on the principles of equity, sustainability, and resiliency, through preservation, restoration, enhancement, responsible economic development, and the promotion of public access.

I would like to have equitable lease rates between onshore private docks and mooring holders as well as between other offshore mooring holders in other Californian harbors.

Please investigate and prevent the Newport Beach City from making this mistake and being **poor stewards of this piece of California Tidelands.**

Thank you for considering this matter.

Regards,

Graham Proctor

Leased Mooring Ball A [REDACTED] Newport Harbor

From: [Nick Ralston](#)
To: [CSLC CommissionMeetings](#)
Subject: Newport Beach Moorings
Date: Saturday, March 30, 2024 10:57:37 AM

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

I am currently a retired airline pilot on Social Security and will about to begin living off of my 401K. I purchased a 50' Mooring () a couple of years ago for \$55,000 from a previous title owner at 87 years of age. Remarkably, another rare 18' Balboa Beach mooring () became available. \$24,000 from a family of 27 years ownership. Can you believe my luck! Yes, well this incredibly unbelievable Rate Increase Proposal, Will force me to sell. That I would have to pay from my current \$167/month for the 50' to \$880/month, is thoughtless destruction of most permits capability. My Social Security increased by \$80/month in 2024. I have a friend who owns a dock permit in Dana Point harbor with electric and water for \$500/month. There are no luxuries tied to two cans. Please intervene with this Greedy, thoughtless Government!
Nick Ralston

From: [Jay Renkowitz](#)
To: [CSLC CommissionMeetings](#)
Subject: Mooring fees
Date: Saturday, March 30, 2024 11:29:08 AM

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

I have a shore mooring. I keep a kayak on it and pay 30 dollars per month.. It is often inaccessible due to tides.The current price is okay as I'd pay similar for a dinghy rack or to keep it at the Newport Aquatic Center.They both have their advantages as the other places are always accessible have bathrooms showers etc.& the boats are more sheltered from the harsh elements.Raising our fees dramatically would be out of touch with their true value. I hope you will consider keeping the shore mooring fees as they currently are

From: [Donny Reynolds](#)
To: [CSLC Commission Meetings](#)
Subject: Written public comment non-agenda item April 4th SLC-Please Stop the Class Discrimination in Newport Harbor
Date: Monday, April 1, 2024 11:54:56 PM

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

Dear Commissioners,

As you may be aware, the SLC Staff is currently reviewing a proposed mooring rate increase of up to 500% for offshore mooring and 1000% for shore moorings in Newport Harbor. These moorings are the last affordable access to boating in Newport Harbor. This proposed rate increase will force average boaters out of the submerged tidelands in Newport Harbor which fall under SLC oversight jurisdiction.

Currently, the mooring holders pay **4 times more** than the affluent waterfront homeowners for use of the same submerged tidelands. If the proposed rate increase goes through, the mooring holders will be paying up to **20 times more** than the affluent waterfront homeowners pay, for use of the exact same tidelands. That's not fair and it clearly targets and discriminates against people with moorings.

In pushing this extreme discrimination, the city's Harbor Commission has completely ignored the January 2024 independent appraisal by CBRE which shows the city of Newport Beach's appraisal is way off base and does not even account for the lack of dinghy docks to get out to our moorings, when every other harbor in California provides dinghy docks to get out to a mooring. The independent CBRE appraisal, which is being ignored by the Harbor Commission, shows there is no need for any increase in excess of the CPI.

Fortunately, the granting statute for Newport Bay has a specific clause prohibiting price discrimination in the harbor. This anti-discrimination clause regarding rates in Newport Harbor dates back to the early 1900's. It simply indicates, the city shall not charge one user more than another for the use of the tidelands. Unfortunately, this price discrimination is occurring today and will only be exacerbated ten fold if the proposed rate increase is tolerated by this Commission. Lest there be any doubt, the city code itself states that the people with moorings are to be charged rates similar to other rates charged for users of the tidelands. This clearly flies contrary to that code.

This is how the proposed rate increase will have an impact on me and my family:

We will have to decide between teaching our kids about the great outdoors by showing or have them taught in a classroom because we will no longer be able to afford to do both.

I ask this commission to perform a thorough investigation of this matter. SLC staff has been provided proof that the City of Newport Beach is using flawed information in the attempt to raise mooring rates up to 500% and higher for shore moorings, which will clearly push average boaters out of Newport Harbor while leaving the rates of other tidelands users alone. Discrimination can't be tolerated.

We appreciate the State Lands staff for reviewing this matter and we encourage this commission to thoroughly investigate the matter.

From: [Lunetta, Kim@SLC](mailto:Lunetta,Kim@SLC)
To: [Lunetta, Kim@SLC](mailto:Lunetta,Kim@SLC)
Subject: FW: Upcoming SLC meeting in San Pedro
Date: Thursday, April 4, 2024 8:46:05 AM
Attachments: [SLC alert.pdf](#)

From: Mark Sites <[REDACTED]>
Sent: Wednesday, April 3, 2024 1:00 PM
To: Lucchesi, Jennifer@SLC <Jennifer.Lucchesi@slc.ca.gov>
Subject: Upcoming SLC meeting in San Pedro

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

Dear Ms. Lucchesi,

My name is Mark Sites, and I am a member of the Newport Mooring Association in Newport Beach. I doubt you remember me, but we have spoken by phone in the past, before you became Executive Director of the SLC. I remember you were just back from delivering your first child, so you will know better than I as to how long it's been.

In case you haven't already seen it, I have attached an email alert that was sent out to all NMA members urging them to contact the SLC regarding what we feel is an unfair pending rate increase, and if possible, show up for your meeting in San Pedro.

I realize that the SLC gives the grantees (in this case the city of Newport Beach) a very wide latitude in how they administer the tidelands. In this case, the Newport Mooring Association is asking the SLC to better define their position with regard to the grant's provision that there be "no discrimination in rates, tolls, or charges".

Unfortunately, the local political structure has gotten to such a point in Newport Beach that the NMA is having to solicit the help of the State Lands Commission. By this I mean that "those with the gold are making the rules" and are attempting to shift more of the operating costs of the harbor onto mooring permit holders while leaving the more politically connected (yacht clubs, private dock owners) paying much lower rates. The NMA feels that this is the "discrimination" referred to in the tidelands grant.

You might find it amusing that your predecessor, Curtis Fossum, once told me that what that clause meant is that the city couldn't charge racial minorities more. No kidding; I think he just

wanted me to go away. Anytime the question came up, I would pass on the information I had received from the SLC council, but always with a smile!

It later came to a point that the NMA paid for a “legislative intent” analysis of that clause and it actually means what it says, the language being incorporated from the early railroad land grants. We could find no reference to racial discrimination, which is not surprising considering when it was written.

As you might expect, there is much more background information, but I’ve kept this as brief as possible. I am long retired from the NMA board, but I still have a boat on a mooring, and I’m on a fixed income now, so that’s my interest. I expect that those speaking at your public comment will be well informed and succinct. Again, I just wanted to give you an informal advance notice in case you weren’t already aware.

Thank you for your time.

Mark Sites

P.S. A very belated congratulations on your assent to the Executive Director’s position. I followed the drama of Mr. Fossum’s move for that position via the SLC minutes and am much happier with the Commission’s eventual choice.

Dear Mooring Holders (and Mooring supporters),

The California State Lands Commission staff is currently reviewing the Netzer appraisal and the price discrimination concerns regarding the ridiculously high and unprecedented mooring rate increase proposed by the Newport Beach Harbor Commission. The State Lands Commission, which includes Lt. Governor Eleni Kounalakis, State Controller Malia M. Cohen and State Finance Director Joe Stephenshaw, have their quarterly public meeting on April 4th in San Pedro. Here's a link to the meeting info: [April 4, 2024 Commission Meeting Agenda | CA State Lands Commission](#). These meetings are open to public comment and you can also submit written communication.

We need your help! Please email the State Lands Commission your written comment regarding the harmful mooring rate increase that will price many mooring holders out of Newport Harbor. We have shown that the Netzer appraisal is riddled with problems such as:

- Ignoring standard appraising methods for moorings**
- Using unreliable and inventive methodology**
- Failing to take into account the lack of dinghy docks**
- The Netzer appraisal runs completely contrary to the independent CBRE appraisal which was submitted to the City of Newport Beach**

Questions have been raised concerning the motivations for such an extreme recommendation, and questions of bias and/or conflicts of interest are being investigated by some mooring holders as well as at least one law firm. In the wake of these questions, we have now seen Harbormaster Blank being forced to recuse himself from any further involvement in this historic attempt to increase mooring rates after he was found to have a conflict of interest. Conflicts of interest and/or bias are being looked into by the NMA.

There are concerns that even after showing the city all the faults of the Netzer appraisal and even after the city was presented with the independent CBRE appraisal that shows the current rates are

already at about market value, the city staff and members of the Harbor Commission are still attempting to rush through a "blessing" by the SLC of this historic and unprecedented rate hike. They want this blessing so that city staff and the Harbor Commission can pass off its devastating rate hike to the City Council for approval and further exacerbate the existing discrimination against people with moorings compared to how the city treats, and rates charged to homeowners with private docks as well as other users of tidelands in the harbor.

Here is an example of one letter being sent by a mooring holder to state lands. If you agree with some of the points raised or if you have other points you would like to share please write to the SLC today. The Commissioners will not be familiar with the nuances of a mooring or this rate increase, so feel free to break it down like you are explaining it to an extended family member at Easter. **The State Lands Commission does care about protecting affordable access to the waterways of California. They also care about making sure there is no class discrimination in the management of harbors in California.**

Here is an example of one letter being sent or under consideration.

Thank you for your continued support!

-NMA

Deadline to send this email to State Lands Commission is Monday April 1st

Email to: CSLC.CommissionMeetings@slc.ca.gov

Email Subject Line: Written public comment non-agenda item April 4th SLC-Please Stop the Class Discrimination in Newport Harbor

Dear Commissioners,

As you may be aware, the SLC Staff is currently reviewing a proposed mooring rate increase of up to 500% for offshore mooring and 1000% for shore moorings in Newport Harbor. These moorings are the last affordable access to boating in Newport Harbor. This proposed rate increase will force average boaters out of the submerged tidelands in Newport Harbor which fall under SLC oversight jurisdiction.

Currently, the mooring holders pay **4 times more** than the affluent waterfront homeowners for use of the same submerged tidelands. If the proposed rate increase goes through, the mooring holders will be paying up to **20 times more** than the affluent waterfront homeowners pay, for use of the exact same tidelands. That's not fair and it clearly targets and discriminates against people with moorings.

In pushing this extreme discrimination, the city's Harbor Commission has completely ignored the January 2024 independent appraisal by CBRE which shows the city of Newport Beach's appraisal is way off base and does not even account for the lack of dinghy docks to get out to our moorings, when every other harbor in California provides dinghy docks to get out to a mooring. The independent CBRE appraisal, which is being ignored by the Harbor Commission, shows there is no need for any increase in excess of the CPI.

Fortunately, the granting statute for Newport Bay has a specific clause prohibiting price discrimination in the harbor. This anti-discrimination clause regarding rates in Newport Harbor dates back to the early 1900's. It simply indicates, the city shall not charge one user more than another for the use of the tidelands. Unfortunately, this price discrimination is occurring today and will only be exacerbated ten fold if the proposed rate increase is tolerated by this Commission. Lest there be any doubt, the city

code itself states that the people with moorings are to be charged rates similar to other rates charged for users of the tidelands. This clearly flies contrary to that code.

This is how the proposed rate increase will have an impact on me and my family:

I ask this commission to perform a thorough investigation of this matter. SLC staff has been provided proof that the City of Newport Beach is using flawed information in the attempt to raise mooring rates up to 500% and higher for shore moorings, which will clearly push average boaters out of Newport Harbor while leaving the rates of other tidelands users alone. Discrimination can't be tolerated.

We appreciate the State Lands staff for reviewing this matter and we encourage this commission to thoroughly investigate the matter.

From: [Michael Brandon](#)
To: [CSLC CommissionMeetings](#)
Subject: Newport Beach mooring appraisal
Date: Sunday, March 31, 2024 8:02:04 PM

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

Dear California State Lands Commission,

I am writing to you for help with the situation with Newport Beach Harbor Commission and Newport Beach City Council. Recently, the harbor commission has acquired an appraisal for the valuation of fair market rent for off-shore moorings. The issue at hand is that the appraisal is flawed in many ways. The mooring permittees and other stakeholders have spoken about the issues with this appraisal but our voices have fallen on deaf ears.

I don't know what powers you might have to help us but it was brought to my attention that CSLC would be reviewing the appraisal. Please note that among many deficiencies in the methodology, there is an entire page missing!

The we stand a lot to loose if the city moves forward with a rate hike based on this appraisal.

Please help us,
Michael Spano
Mooring permittee

From: [Anne Stenton](#)
To: [CSLC CommissionMeetings](#)
Cc: [Matt Stenton](#); [ahicks](#)
Subject: Written public comment non-agenda item April 4th SLC-Please Stop the Class Discrimination in Newport Harbor
Date: Sunday, March 31, 2024 1:00:49 PM
Attachments: [Discrimination 1.jp2](#)

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

Dear Commissioners,

As you may be aware, the SLC Staff is currently reviewing a proposed mooring rate increase of up to **500% for offshore mooring and 1000% for shore moorings in Newport Harbor**. These moorings are the last affordable access to boating in Newport Harbor. This proposed rate increase will force average boaters out of the submerged tidelands in Newport Harbor which fall under SLC oversight jurisdiction.

Currently, the mooring holders pay **4 times more** than the affluent waterfront homeowners for use of the same submerged tidelands. If the proposed rate increase goes through, the mooring holders will be paying up to **20 times more** than the affluent waterfront homeowners pay, for use of the exact same tidelands. That's not fair and it clearly targets and discriminates against people with moorings. Attached is a visual to give you an idea of what we are talking about. We already pay much more per month into the Tidelands fund, and unlike dock permittees, we cannot rent ours out for profit. The discrimination is bad enough already. **Why exacerbate the issue by raising rates further??**

In pushing this extreme discrimination, the city's Harbor Commission has completely ignored the January 2024 independent appraisal by CBRE which shows the city of Newport Beach's appraisal is way off base and does not even account for the lack of dinghy docks to get out to our moorings, when every other harbor in California provides dinghy docks to get out to a mooring. The independent CBRE appraisal, which is being ignored by the Harbor Commission, shows there is no need for any increase in excess of the CPI.

Fortunately, the granting statute for Newport Bay has a specific clause prohibiting price discrimination in the harbor. This anti-discrimination clause regarding rates in Newport Harbor dates back to the early 1900's. It simply indicates, the city shall not charge one user more than another for the use of the tidelands. Unfortunately, this price discrimination is occurring today and will only be exacerbated ten fold if the proposed rate increase is tolerated by this Commission. Lest there be any doubt, the city code itself states that the people with moorings are to be charged rates similar to other rates charged for users of the tidelands. This clearly flies contrary to that code.

I grew up on the moorings, both living aboard briefly as a child with my parents and then using the mooring as a home base for our family boat when we weren't sailing to the Channel Islands or Mexico. As soon as my husband and I could, we invested about \$30,000 in our own mooring permit to store our own 34' sailboat. We are public school employees. This was a huge sum for us. However, the going rate for moorings has been approximately \$1000 a foot for many, many years. We always thought we could sell our mooring permit and get our money back out at some point if we needed to, or at least close to it. No one makes much money selling mooring permits, but you can usually get that initial investment back. However, with this instability regarding mooring fees, NO ONE is buying moorings right now. Besides my own family's financial concerns, this worries me because so many of my mooring holder neighbors are seniors who may need to sell their mooring permits to supplement their fixed income. If this change comes to pass, they will not be able to afford to stay on their moorings and will not get anywhere close to their original investment. They will be stuck. I can't help but wonder if this is a goal of the city, to make the moorings worthless and drive out the working class, liveaboards, and seniors on fixed/limited incomes. I know of at least one couple who will become homeless if these rate increases happen, and a few more who will be in truly desperate situations.

I ask this commission to perform a thorough investigation of this matter. SLC staff has been provided proof that the City of Newport Beach is using flawed information in the attempt to raise mooring rates up to 500% and higher for shore moorings, which will clearly push average boaters out of Newport Harbor, while leaving the rates of other tidelands users alone. Discrimination can't be tolerated.

There are also concerns raised by another mooring holder, Mr. Chris Benzen, that there were undisclosed conflicts of interest between the appraiser that the city chose, Mr. James Netzer. I encourage you to review the [emails and information Mr. Benzen presented at the Harbor Commission meeting on March 18th.](#)

We appreciate the State Lands staff for reviewing this matter and we plead with this commission to thoroughly investigate.

With gratitude,

Anne Stenton

From: [Andy SWANSON](#)
To: [CSLC CommissionMeetings](#)
Subject: Written public comment non-agenda item April 4th SLC-Please Stop the Class Discrimination in Newport Harbor
Date: Saturday, March 30, 2024 5:43:49 PM

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

Dear commissioners,

This email is regarding the Newport Beach mooring permit fee appraisal and rate increase. My name is Andy Swanson and I became a mooring permittee a little over 2 years ago. Growing up in Southern California I spent a lot of time in Newport Beach. It has always been my dream to one day have my own sailboat and keep it in Newport Harbor. After working hard, raising our four daughters and climbing the career ladder, my wife and I felt we were finally in a position to make our dreams a reality. Like you, I am a government employee with a middle class salary. After becoming empty nesters we decided to refinance our home to purchase our sailboat and a mooring permit. We put a lot of thought and planning into making this decision. We felt comfortable with the cost of an annual parking permit, biannual mooring tackle maintenance / inspection and the monthly mooring fee. As well as the regular boat maintenance cost and dinghy storage. We also understand that costs go up over time. All that being said, we feel that the Newport Beach Harbor Commission is not being fair in the way they charge for the use of the tidelands and are trying to discriminate against us. If the monthly rate of our mooring were to be raised by such a drastic amount it would create a hardship for us. Potentially crushing our dreams of spending time with and teaching our children and grandchildren the joys of sailing. This will not just effect us but also future generations of boaters. I recently received an email from the harbor department that ended with this quote. "Thanks for your contributions to maintaining Newport Harbor as a clean, safe and enjoyable public resource for the entire community to enjoy". I feel that by raising mooring permit fees to the level that they are unaffordable for the average person would contradict this quote by making Newport Harbor only enjoyable by the wealthy and not the entire community. If my wife and I would have known we could possibly be paying over 4.5 times what the current mooring rates are we would have made a different decision. In a State that is becoming more and more unaffordable, I would ask that you not do the same with the State Tidelands. Thank you!

Best regards,
The Swanson Family

From: [June McIvor](#)
To: [CSLC CommissionMeetings](#)
Subject: Public Comment Not On Agenda: Offshore Wind
Date: Wednesday, April 3, 2024 1:24:12 PM

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

Dear State Lands Commission:

Climate change is the ultimate challenge of our planet, and it threatens to cause irreparable harm to our oceans if we do not act quickly to stop burning fossil fuels. Offshore wind is an important part of this effort.

I am proud to be a Californian and to live in a state that recognizes the challenge of climate change and is taking proactive measures to combat it. A key part of these measures is the goal to deploy up to 5,000 megawatts of offshore wind energy by 2030 and 25,000 MW by 2045.

I am also proud to be a resident of San Luis Obispo County, a region that long has been at the forefront of clean and renewable energy, from Diablo Canyon power plant to the Topaz Solar Farm and now the potential to help bring to life offshore wind farms that could produce up to 6 GW of clean, renewable energy – enough to power 3.5 million homes.

I am dismayed by local organization REACT Alliance's efforts to sabotage these offshore wind energy projects and, as a result, to sabotage our planet and our oceans. It would be too voluminous to debunk all of their claims, but let me give you just an example. REACT claims that offshore wind will quintuple California's cost of electricity, leading to "energy poverty." However, the 2021 SB 100 Joint Agency Report by the CA Energy Commission, Public Utilities Commission, and Air Resources Board projects that including offshore wind in California's clean energy mix by 2045 will result in \$1B in savings.

I don't know what the motivations of the REACT Alliance truly are, but it is clear that they are not interested in a productive dialogue about what is really best for our community. REACT continues to make false claims even after the inaccuracies of their claims are pointed out, such as in the [San Luis Obispo Tribune's Reality Check article on March 14](#). Thus, it is clear that they are intentional in spreading disinformation, not just misinformed.

You might be hearing the squeaky wheel of opposition, but I want to assure you that their views are not those of the majority. Done right, the offshore wind projects present local communities with a wonderful opportunity to increase recreation and tourism, economic development, and job creation. In addition, we welcome the chance offered by these projects for the San Luis Obispo County region to become a hub for conservation, economic activity, and climate innovation.

Thank you very much.

Sincerely,

June McIvor
San Luis Obispo, CA


From: William Walter
To: WYER, Holly@Coastal; "mbcfo member"; Huckelbridge, Kate@Coastal; "Douglas.boren@boem.gov"; "jennifer.miller@boem.gov"; SLC CommissionMeetings; Mattox, Jennifer@SLC; "Jennifer.Lurchesi@slc.ca.gov."
Cc: "Justin Franklin"; "Chris Pavone"; "Gerald Sato"; "Tom Hafer"; "Owen Hackleman"; "Wayne Moody"; "Garrett Rose"; "Matt Newman"; "Jeremiah O'Brien"; "Bill Ward"; "Bill Blue"; "Mark Tognazzini"; "Bob Maharry"; "Alan Alward"; "Bill Barrow"; "Ted Schiafone"; "Tyler Studts"; "Laura.Casal@stantec.com"; "KMOM@equinor.com"; "Hislop, Kristen"; "Elizabeth Marchetti"; "Pearce, Heather"; "jrsa.haas@mail.house.gov"
Subject: RE: Commercial fishing mitigation for offshore wind project in the Morro Bay Lease Area - before Site Surveys begin
Date: Tuesday, April 2, 2024 11:43:49 AM
Attachments: [GRAM WYER FOR OFFSHORE WIND MITIGATION PSLCFA 2023-12-08_161038.pdf](#)

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

Dear Holly WYER

Attached is correspondence in behalf of the Morro Bay Commercial Fishermen's Organization (BCFO) and Port San Luis Commercial Fisherman Association (PSLCFA) dated 12-8-2023 in response to the letter you sent to Tom Hafer dated 11-28-2023.

We look forward to working cooperatively with the trustee and regulatory agencies in an effort to mitigate and monitor recognized impacts to commercial fishing which are reasonably foreseeable resulting from the BOEM Morro Bay Lease Areas for offshore wind energy development prior to the commencement or approval of site surveys in areas under either the jurisdiction of the United States or the State of California.

Please also refer to my correspondence previously sent to you and the trustee and regulatory agencies, together with Appendices I through IV dated November 14- 2023 containing a further discussion and reference to various concerns of the Organizations with supporting legal authorities, requested actions, and substantial evidence.

Respectfully submitted,

William S. Walter,
A Professional Corporation
Counselor at Law
677 Monterey St.
San Luis Obispo, CA 93401
805-541-6601 (office)
805-541-6640 (fax)

From: WYER, Holly@Coastal <holly.wyer@coastal.ca.gov>
Sent: Tuesday, November 28, 2023 12:19 PM
To: mbcfo member <[REDACTED]>; Huckelbridge, Kate@Coastal <Kate.Huckelbridge@coastal.ca.gov>; douglas.boren@boem.gov; jennifer.miller@boem.gov
Cc: Justin Franklin <[REDACTED]>; Chris Pavone <[REDACTED]>; Gerald Sato <[REDACTED]>; Tom Hafer <[REDACTED]>; Owen Hackleman <[REDACTED]>; Wayne Moody <[REDACTED]>; Garrett Rose <[REDACTED]>; Matt Newman <[REDACTED]>; Jeremiah O'Brien <[REDACTED]>; Bill Ward <[REDACTED]>; Bill Blue <[REDACTED]>; Mark Tognazzini <[REDACTED]>; Bob Maharry <[REDACTED]>; Alan Alward <[REDACTED]>; Bill Barrow <[REDACTED]>; Ted Schiafone <tschiafone@morrobayca.gov>; Bill Walter <[REDACTED]>
Subject: RE: Commercial fishing mitigation for offshore wind project in the Morro Bay Lease Area - before Site Surveys begin

Dear Mr. Hafer,
Please see the attached letter for our response.

Sincerely,

Holly WYER

From: mbcfo member [REDACTED]
Sent: Wednesday, October 18, 2023 12:45 PM
To: Huckelbridge, Kate@Coastal <Kate.Huckelbridge@coastal.ca.gov>; WYER, Holly@Coastal <holly.wyer@coastal.ca.gov>; douglas.boren@boem.gov; jennifer.miller@boem.gov
Cc: Justin Franklin <[REDACTED]>; Chris Pavone <[REDACTED]>; Gerald Sato <[REDACTED]>; Tom Hafer <[REDACTED]>; Owen Hackleman <[REDACTED]>; Wayne Moody <[REDACTED]>; Garrett Rose <[REDACTED]>; Matt Newman <[REDACTED]>; Jeremiah O'Brien <aguerofish@gmail.com>; Bill Ward <[REDACTED]>; Bill Blue <[REDACTED]>; Mark Tognazzini <[REDACTED]>; Bob Maharry <[REDACTED]>; Alan Alward <[REDACTED]>; Bill Barrow <[REDACTED]>; Ted Schiafone <tschiafone@morrobayca.gov>; Bill Walter <[REDACTED]>
Subject: Commercial fishing mitigation for offshore wind project in the Morro Bay Lease Area - before Site Surveys begin

Dear California Coastal Commission and BOEM,

We are forwarding Bill Walter's email * in our behalf after the fourth meeting with the three project developers which only confirmed that they are not ready to commit to any commercial fishing mitigation before site surveys begin, if ever. His email gives the developers a simple process forward which can get the mitigation immediately in place, with membership approved procedures under the MBC Bylaws and Trustees' Committee Charter. We are waiting for some response. It is consistent with the new legislation recognizing industry to industry agreements.

The first three in-person meetings with developers which many fishermen attended seemed only to "check off the box" of having a meeting without addressing concrete issues of commercial fishing mitigation. Attending meetings and not fishing with no concrete discussion of mitigation, has led to a great deal of frustration and resentment through the fishing fleets in both Morro Bay and Port San Luis.

We sent the Developers an agenda ahead of the last meeting (also attached) to address any concerns or question about the details of adopted Bylaws and Trustees' Charter of the incorporated Morro Bay Lease Areas Mutual Benefits Corporation and Trustees' Committee which are now ready to move forward for site survey mitigation and monitoring with the participation of the developers. The developers used their own agenda and promised only a further "long process," indicating a refusal to acknowledge commercial impacts (despite the CCC consistency findings) or being prepared to agree to any commercial fishing mitigations and monitoring.

As Bill Walter will explain in his communications as well as broad membership input, we are very concerned about these issues and others:

- There are no enforceable commercial fishing mitigations.
- Under the CCC "functional equivalent" CEQA procedures, commercial fishing mitigation cannot be "deferred" but must be established before any phase of the project proceeds ("the whole of the action"); mitigation must be definite and enforceable; there must be an approved mitigation monitoring plan for each phase of the project, including site surveys.
- The project developers must internalize all of the costs of their projects, and not externalize those costs upon the commercial fishermen or their organizations, including site surveys. The Bylaws of the MBC address those issues and establish the methods of coordination with the project developers and internalizing these costs within their own projects.
- There is new evidence of significant impacts from site surveys, creating serious policy conflicts which should be mitigated, and monitored independently of the developers. **
- Conducting site surveys requires enforceable mitigation of serious California public trust policy conflicts, express constitutionally protected rights of commercial fishing in the California jurisdiction, Coastal Act policy violations, local coastal program policy conflicts, protected vested rights and good will (in California, "benefits of location") belonging to commercial fishermen/business.
- The combination of public trust conflicts, protected fishing rights and vested interests of commercial fishing businesses requires a heightened level of scrutiny concerning any phase of the project especially when potential adverse impacts to the natural environment may occur during the site survey and subsequent phases.

We very much want to work with the regulatory and trustee agencies to air our concerns and improve the process. Any suggestions are welcome.
Will there be a CCC hearing prior to permit issuance, opportunity for public comment and review, and public posting of the permit before issuance? Is there any further BOEM public process before site surveys? What site survey approval is required from the State Lands Commission?

Thank you for your consideration in this matter,

Tom Hafer,
President of the Morro Bay Commercial Fishermen's Organization (MBCFO) and Morro Bay Lease Area Mutual Benefit Corporation (MBLA MBC)

Cc : Directors of MBCFO and MBLA MBC

* Email to Morro Bay Wind developers from Bill Walter:

After our fourth meeting with the Developers, there was a consensus among the commercial fishing representatives that the position of the Developers about process and substance renders further meetings futile. The associations will address their concerns about the absence of enforceable commercial fishing mitigation and site survey monitoring/impacts/mitigation to the regulatory and trustee agencies.

It's unfortunate that the process has come to an impasse when the solutions are simple and would achieve the developer goals with appropriate mitigation:

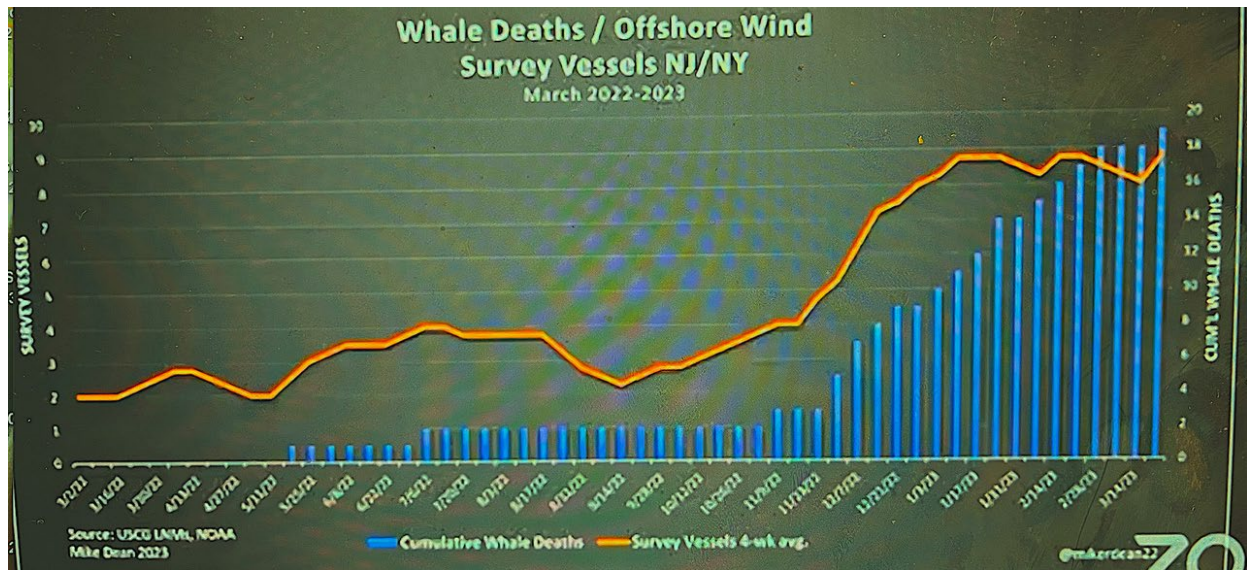
- Perkins Coie attorneys wrote and approved the Bylaws, have the original work product on their computers, and now represent at least one of the developers. They could expeditiously process the technical, ministerial amendments (number of developer trustees) reflecting the current three project developers where referenced in the Bylaws and Attachments. The mitigation and coordination processes could be implemented immediately.
- The developers can then submit the requests for meetings concerning site surveys to the Trustees' Committee, as currently constituted, which can meet, review, coordinate and address concerns about impacts, monitoring, mitigation, timing, etc., of the site surveys. The names and officers of the duly appointed Trustees' Committee are shown on the Committee Charter. This avoids tying up two fishing fleets with more meetings with no end in sight or prospect of agreement, and growing frustration, risk, uncertainty, and resentment. The "process" the developers can follow has been approved by the associations and the votes of their members and laid out already. The mechanisms for funding the costs of the coordination work which directly benefits the developers is provided and overseen by developer representation in the MBC Bylaws with the few technical, ministerial, "clean-up" amendments to the Bylaws. It's appropriate and necessary to internalize those costs as part of the projects rather than externalize administrative costs on the individual fishermen and their organizations who don't benefit from the displacements or the projects.

Sincerely,

Bill Walter

William S. Walter,
A Professional Corporation
Counselor at Law
677 Monterey St.
San Luis Obispo, CA 93401
805-541-6601 (office)
805-541-6640 (fax)

**



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EMAIL
williamswalterpc@gmail.com

CONCERNS AND SUGGESTIONS OF THE MORRO BAY COMMERCIAL
FISHERMEN'S ORGANIZATION (MBCFO) AND PORT SAN LUIS
COMMERCIAL FISHERMAN ASSOCIATION (PSLCFA) REGARDING
IRREVERSIBLE IMPACTS TO COMMERCIAL FISHING FROM
OFFSHORE WIND SITE SURVEYS WITHIN THE
BOEM MORRO BAY LEASE AREAS Submittal # 2
December 8, 2023

Holly Wyer, Senior Environmental Scientist
California Coastal Commission
Energy, Ocean Resources and Federal Consistency
455 Market Street, Suite 300
San Francisco, CA 94105-2421 (Via Email; Facsimile 415-904-5400)

VIA EMAIL TO: **BOEM** c/o
douglas.boren@boem.gov; enjennifer.miller@boem.gov;
California Coastal Commission c/o
kate.Huckelbridge@coastal.ca.gov; holly.wyer@coastal.ca.gov
California State Lands Commission c/o Jennifer.Mattox@slc.ca.gov
and Jennifer.Lucchesi@slc.ca.gov;
CSLC.CommissionMeetings@slc.ca.gov
Cc: Haas, Greg greg.haas@mail.house.gov

RE: Response to Holly Wyer Correspondence DTD 11-28-2023

Dear Holly Wyer:

The Morro Bay Commercial Fishermen's Organization (MBCFO) and Port San Luis Commercial Fisherman Association (SLCFA) appreciate your email and letter of November 28, 2023 responding to an email dated October 18, 2023 from MBCFO. This office sent correspondence and emails to the regulatory and trustee agencies dated November 12, 2023, (40 pages) followed by separate emails with documents, studies, records, testimony, etc., organized in four Appendices.

Additional materials have been sent by MBCFO in subsequent emails containing related evidential materials.

Without repeating what has already been communicated to the regulatory and trustee agencies, and in a good faith spirit of collaboration and cooperation, here's a short version of why the Organizations believe that the points and conclusions in your letter are factually and legally incorrect:

1. The Coastal Commission's Consistency Determination, adopted June 8, 2022, expressly made the following finding concerning immediate impacts on commercial fishing from the Consistency Determination allowing BOEM leasing and provisionally authorizing developer site surveys of the Morro Bay Lease Areas. Finding "immediate effects on fishing communities" triggers the mandatory legal duty for enforceable mitigation and monitoring of commercial fishing impacts before any further project activities (such as site surveys) commence:

"However, issuance of leases will have immediate effects on fishing communities even before any lease development activities occur, as the leases and overall BOEM process injects uncertainty into an occupation that is already heavily regulated and uncertain." (CD-0004-22 (BOEM) p. 24.

The Organizations could not agree more with this short but compelling finding by the Commission which BOEM accepted when it did not challenge any portion of the Consistency Determination.¹ The mitigation and monitoring of these "immediate effects" on commercial fishing expressly protected by California's Coastal Management Program and State Constitution² cannot be deferred and unenforceable while *any* portion of the BOEM projects proceed. This prohibition literally and unambiguously includes "issuance of leases," "any lease development activities" which includes site surveys, and "the whole of the action." Impacts must be mitigated when they occur and the impacts to commercial fishing have been

¹ (See July 1, 2022 correspondence from the Commission by Holley Wyer to Doug Boren, Director, BOEM Regional Director; "Consistency Determination CD-114-22 (Morro Bay Wind Energy Area)".

² See Walter Correspondence, November 14, 2023, pp. 10-20.

found to be occurring *now* in direct conflict with various policies identified at length in our prior submits.

2. Your letter presents the opinion that the “concept of deferred mitigation under CEQA” does not “apply to the Commission’s action. The reason suggested for this conclusion is “CEQA does not generally extend to the Commission’s CZMA” authority “on federal land” and the “outer continental shelf.”

The Consistency Findings of the Commission do not support these straight-jacket characterizations which would prevent achieving CCMP consistency because of (a) “spillover effects” into the Coastal Zone from federal activities, (b) easements through State waters (and tidelands) to the shoreline for energy transmission. and (c) findings of the Commission’s “authority to review activities” within “federal waters.” The only methodology available to the Commission in this process must be the “functional equivalent” of CEQA, which is why the Commission formulated both findings and “conditions” for BOEM to accept or reject under its own procedures:

- (a) Spillover effects: **“Thus, in its evaluation of this proposed lease sale’s consistency with the Coastal Act, this Commission analyzes spillover effects on coastal resources beyond federal waters.”**
(CCC Consistency Determination CD-0004-22, p. 19.)

These “spillover effects” include the immediate impacts of leasing on the commercial fishing industry identified above (#1) in the Commission’s findings. Also, spillover effects to the coastal zone expressly include sound used in geophysical surveys which will last for five years:

“In this instance, the Commission’s review of activities in federal waters focuses on spillover effects on coastal resources within the coastal zone. This review may include effects that activities in federal waters may have on resources within the coastal zone, or effects that activities in federal waters may have on species in federal waters that travel in and out of the coastal zone. For example, the sound used to conduct geophysical surveys may travel from where the survey is

being conducted in federal waters to the coastal zone and affect marine life within the coastal zone. Similarly, geophysical surveys could impact marine species that travel large distances and are known to move between the coastal zone and federal waters, such as marine mammals.” (pp. 18-19, see 25.)

The spill-over effects from site surveys have been found to extend for a lengthy time period:

“BOEM expects that lessees would survey their entire proposed lease area during the 5-year site assessment term....” (p. 29.)

The spill-over effects from site surveys directly impacts the Morro Bay Harbor and commercial fishing:

“...BOEM expects that lessees would stage their lease exploration activities from the Port of Morro Bay.” (p. 29.)

(b) There are also easements which extend through State waters contemplated by the approval, including site survey, construction and eventual decommissioning activities through State waters:

“These easements would all be located within the Central California OCS, extending from the WEA through to federal and state waters and to the onshore energy grid.” (p. 24.)

(c) The Commission findings assert discretion and review authority over federal waters:

“Although numerous other state agencies have been involved and have an interest in the offshore wind leasing and development process, the Coastal Commission is the only state agency with authority to review activities that occur more than 3 nautical miles offshore in federal waters.” (p. 3.)

3. The Commission’s Consistency Findings also reject the analytical premises of that portion of BOEM’s Consistency Determination submittal

to the Commission, and the Environmental Assessment deferring the identification of impacts, including commercial fishing, as not “reasonably foreseeable.” BOEM acknowledges that:

“The analysis found here and found in the EA does not consider construction and operation of any commercial wind power facilities.... based on several factors...

“First, the issuance of a lease only grants the lessee the exclusive right to submit to BOEM a Site Assessment Plan (SAP) and Construction and Operations Plan (COP) proposing development of the leasehold; the lease does not, by itself, authorize any activity within the lease area. ...”

“Second, BOEM does not consider the impacts resulting from the development of a commercial wind power facility within the WEA to be reasonably foreseeable.” (BOEM, “Consistency Determination,” April 15, 2022, pp. 11-12):

The Commission’s Consistency Determination recognized BOEM’s approach and disagreed in two regards to which BOEM lodged no objections under the CZMA and therefore accepted:

First: the Commission found: **“However [identifies impacts of leasing on commercial fishing quoted above and then] ...Based on past BOEM leases and authorizations for wind development on the east coast, it is also reasonably foreseeable that the leases will lead to construction and operation of at least some offshore wind facilities, and it is feasible to describe, at least at a high level, the types of impacts that such facilities could have on coastal resources.”** (CD-0004-22, p. 24.)

Second: the Commission identifies ten pages of potential impacts on commercial fishing, noting that, **“These concerns were brought forth by the fishing community during interagency outreach meetings, as well as derived from a list of concerns submitted by numerous fishing organizations in a public comment letter.”** (CD-0004-22 (BOEM), p. 88, note 2.)

The reasonably foreseeable impacts on commercial fishing were summarized by the Commission as **“common potential impacts that have already been identified and articulated by the industry. These include:**

“I. Exclusion. The ocean is a shared space. Fishing and other uses must coexist and work through complex management and regulatory requirements. It is anticipated that offshore wind development areas will become exclusionary zones and will restrict already limited ocean space.

“II. Displacement. Related to Exclusion, fishers that are excluded from the WEA may be forced to relocate into other, already limited fishing grounds, placing additional environmental pressure on the remaining habitat, and potentially increasing conflicts between user groups.

”III. Increased costs and time at sea to avoid wind development. Placement of wind facilities can delay direct access to fishing grounds and force fishers to fish or drift far outside of lease boundaries due to movement of gear and vessels on the open ocean.

“IV. Loss of future fishing grounds. Fishing grounds are highly variable. Continuous and often rapid changes in ocean conditions cause changes to fish populations which in turn result in changes to fishing behavior year over year. Large-scale wind development would eliminate a huge portion of potentially viable fishing area, limiting fishermen’s ability to adapt to changes in fishing grounds.

“V. Loss or disruption of harbor space and fishing infrastructure at ports due to increased presence of wind related facilities.” (CD-0004-22 (BOEM), p. 88.)

See also the impacts on commercial fishing explained in more detail, including the site survey phase, on pp. 84-98 of the Commission’s Consistency Determination findings, many of which occur commencing with site surveys, attached as Appendix V.³

³ To create a coordinated record, the Appendixes are consecutively numbered starting with the prior correspondence submitted to the regulatory and trustee agencies.

BOEM did not object to these commercial impact findings according to its own procedures and is now bound to accept “reasonable foreseeable impacts on commercial fishing” now existing which triggers immediate requirements for complete, enforceable, mitigation and monitoring before the commencement of site surveys.⁴ Later, of course, mitigation can be expanded with flexible procedures similar to the MBLA MBC and Trustees’ Mitigation Fund Committee, when the specificity of project designs and placement call for more and different mitigation and during a further Certification or Permitting by the State Agencies. Having **no** enforceable mitigation based on this Consistency Determination, however, is not an option under either CEQA, NEPA, or CZMA.

4. Without citation to statutes, regulations, findings, judicial authority or a balanced consideration of opposing perspectives, the Commission would dismiss some of the most fundamental principles of modern land use and environmental law: the broad consensus and undisputed principles against deferred mitigation, unenforceable mitigation before any part of the “whole of the action” (or “project”) commences, no minimal or unsubstantial mitigation, a completely public and transparent process with an opportunity of the “concerned citizenry” to be heard, and consideration of “new information” through additional analysis and public review. When agencies’ action and procedures drift away from keystone principles, there is cause for all involved to take a critical look at the “drift” before irreparable damage occurs to either the environment or commercial fishing protected by the State’s Coastal Management Program, the California Constitution, etc. Substance controls form when findings of existing impacts to commercial fishing merely from leasing have been adopted.
5. The Consistency Determination contains an omission in the consistency findings related to the Certified Local Coastal Program of the City of Morro Bay – where, of course, the largest commercial fishing fleet is harbored, closest to the Morro Bay Lease Areas, and most likely to be highly impacted from leasing, surveys, construction, operation through

⁴ See July 1, 2022 Consistency Determination correspondence from Holly Wyer to Doug Boren, BOEM Regional Director, confirming the conditions and findings of the Commission.

de-commissioning. (See CD-0004-22, p. 17, only references Commission certification of "LCPs for portions of San Luis Obispo

County that are relevant to this CD".) Morro Bay is an incorporated city with its own Certified Local Coastal Program. This material omission should be remedied through further NEPA/CEQA compliance and identification of enforceable mitigation and monitoring of existing and reasonably foreseeable commercial fishing impacts from offshore wind projects.

6. We appreciate your references to the Work Group process, the recommendations of which are not enforceable without further action, adoption and ratification through a public hearing process and related environmental review. More to the immediate point, however, and identified in prior correspondence, no site surveys can occur or be permitted by either BOEM, State Lands Commission or the Coastal Commission until review, adoption, and completion of the protocols and best practices for site surveys. The site surveys cannot be commenced before the complete compliance, prior to the issuance of any permits or commencement of site survey activities, with Public Resources Code Section 30616 (c) (b) "statewide strategy ...shall include best practices for addressing impacts to the commercial...fishing industries...associated with offshore wind energy projects, including, but not limited to, the following: ... (3) Best practices for offshore surveys and data collection to assess impacts." It would be a futile exercise for the Legislature to have required best practices for site surveys to be developed *after* site surveys lasting up to five years have occurred.
7. All of the agencies have to follow the procedures required when "new information" about impacts have been presented whether under NEPA, the Commission's functional equivalent process for impacts to State submerged and tidelands, and/or the State Lands Commission permitting of site surveys and CEQA compliance requirements.

Please appreciate that emails and correspondence from this office and from the MBCFO and PSLCFA are intended to raise legitimate concerns, present substantial evidence, to clarify processes, and to foster confidence in the process

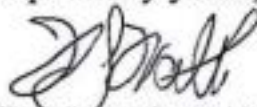
of assuring the highest, transparent, and complete compliance with both NEPA and CEQA.

As we explained in prior correspondence, the solution we have proposed for these and the many other deficiencies have been described by the joint work of the President's Council on Environmental Quality (CEA) and the California Governor's Office of Planning and Research quoted at length in at pp. 5-6 of my prior correspondence dated November 14, 2023, to which no regulatory or trustee agency has responded. The obvious gravitas of these two agencies at the pinnacle of authority for both the U.S. Government and the State of California is clearly described in "*NEPA and CEQA: Integrating Federal and State Environmental Reviews*" (2014).

The current status of these projects seems to be the exact situation of single projects crossing Federal and State jurisdictions where NEPA and CEQA integration would be appropriate and mandatory based on the joint recommendations of the CEQ and OPR. The new information submitted cannot be dealt with via email evaluations at the staff level or other non-statutory procedures which do not involve complete public transparency and compliance with established CEQA and NEPA procedures with which no one can reasonably disagree given the combined gravitas of CEQ and OPR.

We constructively urge the Coastal Commission, State Lands Commission, all other State agencies with jurisdiction, and BOEM (and other federal agencies) to follow the procedures identified for "*Integrating Federal and State Environmental Reviews*" under CEQA and NEPA. The process can not only address new information regarding site survey impacts which mandate a further NEPA/CEQA review, but also provide an opportunity to enact enforceable mitigation and monitoring of commercial fishing impacts from the projects *before* further project actions such as site surveys commence, and reconcile omissions and inconsistencies in the Consistency Determination identified above.

Respectfully yours,



WILLIAM S. WALTER

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APPENDIX V

COASTAL COMMISSION CONSISTENCY DETERMINATION FINDINGS DISCUSSING PRESENTLY KNOWN IMPACTS FROM THE BOEM MORRO BAY LEASE AREAS OFF SHORE WIND PROJECTS

CALIFORNIA COASTAL COMMISSION

ENERGY, OCEAN RESOURCES AND FEDERAL CONSISTENCY
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W7a

CD Filed: 4/15/2022
60th Day: 6/14/2022
Staff: HW-SF
Staff Report: 5/20/2022
Hearing Date: 6/8/2022
Vote: 8-0

ADOPTED FINDINGS

Consistency Determination No.: CD-0004-22

Applicant: Bureau of Ocean Energy Management

Location: In federal waters offshore of San Luis Obispo County, approximately 20 miles off Cambria

Project Description: Conduct a lease sale for up to 240,898 acres of federal waters for the future development of offshore wind energy facilities. Permit lessees to conduct site characterization and assessment activities and submit a construction and operations plan for development of offshore wind energy on their leases.

Commission Action: Conditional Concurrence

SUMMARY OF COMMISSION ACTION

The Bureau of Ocean Energy Management (BOEM) seeks the Commission's concurrence that proposed leasing and lease activities within the Morro Bay Wind Energy Area (Morro Bay WEA, or WEA), located approximately 20 miles off Cambria, is consistent with California's Coastal Management Program (CCMP). The CCMP consists of the enforceable policies of Chapter 3 of the Coastal Act (Cal. Pub. Res. Code §§ 30200-30265.5). BOEM anticipates issuing up to three leases, covering up to 240,898 acres, as part of the Morro Bay WEA lease sale. BOEM's leases would allow lessees to perform geophysical, geotechnical, and biological surveys and would permit site assessment activities, including the temporary placement of up to three metocean buoys and oceanographic devices. After BOEM's lessees complete surveys and site assessment activities, the lessees would submit a construction and operations plan (COP) to develop a lease. The submission of a COP starts the federal environmental review process for specific wind development projects and would require BOEM's lessees to receive consistency certifications from the Commission prior to any further development being approved by BOEM.

The proposed lease sale is the culmination of many years of work by BOEM, as well as other federal and state agencies, to develop offshore wind resources in California. The state of California has set aggressive goals to reduce greenhouse gas emissions, move to clean energy sources, and achieve carbon neutrality as soon as possible, but no later than 2045. California will need to roughly triple its current electric power capacity to meet the 2045 target for clean energy, and the California Energy Commission has modeled scenarios that involve producing up to 10 gigawatts of energy from offshore wind. Likewise, the federal government has set a goal to deploy 30 gigawatts of offshore wind in the United States by 2030 and has been working hard to develop those wind resources quickly, while still protecting coastal uses and resources. On the U.S. east coast, there are currently two operating offshore wind farms, one more that is fully permitted, and fifteen additional projects that have reached the permitting phase. This is the first proposed lease sale of offshore WEAs on the west coast.

The federal Energy Policy Act of 2005 set up the legal framework under which BOEM analyzes potential WEAs, conducts planning, leases sites, and oversees the site assessment and construction and operation of commercial wind facilities. Pursuant to its authority under that law, in 2016 BOEM established a Renewable Energy Task Force with California to facilitate coordination among federal agencies and affected state, local, and tribal governments throughout the offshore wind leasing process. Following the first Task Force meeting, BOEM and the state, led by the California Energy Commission, engaged in a collaborative, data-based offshore wind energy planning process to foster coordinated and informed decisions about California's ocean resources. In addition to participating with the Task Force, Commission staff also participate in a state interagency working group to coordinate the state's regulatory, research, and planning work on offshore wind. Other agencies participating in the working group include the California Energy Commission, Ocean Protection Council, Department of Fish & Wildlife, Public Utilities Commission, State Lands Commission, Governor's Office of Planning and Research, and Department of Parks & Recreation. This working group provided joint comments to BOEM on that agency's environmental

targeted by fishers on the West Coast were rockfishes²², albacore tuna, lingcod, halibut and salmon.

Pacific coast-wide in 2019, marine recreational anglers took an estimated 3.8 million trips and caught a total of more than 11 million fish. Almost 90 percent of these trips were made in California, followed by approximately 6 percent in Oregon, and 4 percent in Washington. The most commonly caught (as opposed to targeted) non-bait species (in numbers of fish) across all trips were Pacific (chub) mackerel, kelp bass, black rockfish, California scorpionfish, and vermilion rockfish. The largest harvests by weight across all trips were albacore, lingcod, black rockfish, Chinook salmon, vermilion rockfish, and coho salmon. Approximately 71% of trips occurred in state waters, 17% in federal waters, and 12% in inland waters. Of those trips that fished primarily in federally managed waters, the non-bait species most commonly caught (in numbers of fish) were California scorpionfish, ocean whitefish, vermilion rockfish, squarespot rockfish, and bocaccio. Other popular recreational catch, particularly on CPFV vessels, are salmon and halibut (NMFS, 2019).

Recreational fishing typically uses smaller scale fishing methods, such as hook and line, trolling, hand nets, or occasionally harpoon. With limited exceptions, recreational fishing is generally a nearshore activity due to the limited trip lengths, smaller size of vessels, weather conditions, and cost. One recreational fishery that does operate farther offshore in the Central Coast region is the HMS fishery, although there is limited overlap with the boundary of the WEA. As can be seen in [Exhibit 3-13](#), which shows CPFV activity (recreational for hire fishing), fishing intensity is higher closer to shore, but still present in the WEA.

Social and Cultural importance of Fisheries

Aside from the economic importance of fisheries described above, fishing activity is also interwoven into the societal and cultural fabric of communities up and down the coast. Modern fishing has been a part of the Central Coast community economy since modern cities were founded but has been an integral part of the indigenous coastal communities since time immemorial. Monterey, in particular, invokes a historical connection to Cannery Row, and the abundance of sardines and other CPS that supported much of the region's early economy. Liu et al (2019) describe how current Central Coast fishing communities provide a vital link to the past, especially in Morro Bay, which once supported a prominent abalone fishery that is quintessentially tied to the seafood identity of coastal California. Fishing communities and the infrastructure associated with them provide jobs and amenities to the surrounding community, as well as promote a broader connection with the public to the ocean. For Tribes and other entities that rely on fisheries for subsistence, access to even a small quantity of fish is important for food security and to the continuance of cultural traditions. Thus, even those fisheries that make up a smaller component of the overall economic value in the Central Coast may still be critical to the existence and identity of an area, even when value or poundage of

²² Fishing for certain types of rockfish on the Central Coast is currently depth limited but is proposed to be moved outside of the [50 fathom depth contour](#) for recreational fishing of certain species in order to reduce nearshore fishing impacts to copper and quillback rockfish.

landings itself conveys a less substantial role.

Lease Exploration Impacts

During the leasing period, a lessee may conduct lease exploration activities within the WEA including shallow hazards assessments, geological, geotechnical, archaeological, and biological surveys, and installation, operation, and decommissioning of data collection buoys. These activities have the potential to interfere with commercial and recreational fishing in and offshore of Cambria primarily through impacts to important fishery species and space-use conflicts within staging locations and offshore.

Data collection buoys may exclude fishing operations that frequent deeper water, in particular mobile gear fisheries. Mobile fishing is typically defined as any operation with active gear such as nets or dredges that are set out and hauled back with winches or drums while the vessel and gear are underway, typically on a cycle measured in minutes or hours. Using this type of gear significantly hinders a fisher's ability to maneuver their vessel during operations, including around structures that are affixed to the seafloor, such as buoys. Fishermen could also suffer decreased efficiency (such as spending more time on fishing by setting and hauling gear) when trying to avoid buoys during their operations. Decreased efficiency can result in increased time at sea, fuel expenses, and additional wear on equipment. The spatial extent of de facto exclusion from fishing grounds may be estimated (as a proxy) using US Coast Guard (USCG) safety zone considerations for OCS facilities where 500-meter (1,640 feet) safety zones were established to promote the safety of life and property.²³ Using this approach estimates a 0.785 km² (0.303 mi²) circular exclusion zone per buoy. Although the exclusion area itself is not very large, avoiding this area could mean that fishermen have to modify fishing activity or transits to continue fishing and navigating safely. If fishermen fail to avoid buoys, subsequent entanglement may result in damage to or loss of fishing gear for which they could be held financially liable. Mobile gear types appear to have limited operations in the Morro Bay WEA, however, other fisheries operating within the WEA may also be affected by buoy placement, but the impact is expected to be minimal: deployment and retrieval of other gears may have more maneuverability compared to mobile bottom gear such as trawls.

As described above in more detail in section E, sampling or site assessment activities may result in adverse impacts to fish and other marine species that could lead to an indirect impact on commercial or recreational fishing. Geophysical surveys that use acoustic methods may negatively impact fish in the larval stage as well as have negative impacts on the ability of fish to hear within the water column. To address this concern, BOEM has clarified that high-energy acoustic surveys are not assessed in the EA and will not be authorized as part of a lease, and as such, impacts to fish species are not expected to be significant. Furthermore, [Condition 1\(c-e\)](#) requires geophysical surveys to be conducted using low-energy equipment, including subbottom profilers, echosounders, and side-scan sonars, and requires BOEM to encourage lessees to collaborate on their survey plans to increase efficiency and minimize impacts to coastal

²³ [33 CFR §147.1109](#)

resources associated with the surveys. In addition, survey vessels could disturb important seafloor habitats or accidentally release oil or other hazardous materials into the ocean. As described in more detail in section E, Conditions 1(f) and 2 require BOEM to ensure lessees avoid hard substrate habitat and submit a variety of plans, including an Anchoring Plan, a project-specific Spill Prevention and Response Plan and a Critical Operations and Curtailment Plan to ensure that vessels operate safely and avoid impacts to the marine environment. In addition to data collection buoys, site characterization and assessment activities may result in conflicts to the marine operations and fishing vessels located near offshore of the Central Coast and in the WEA. Proposed lease exploration activities involve survey vessels mobilizing and transiting from port (it is unknown which port at the present time) to the WEA. The number of round trips for project-related vessels over a 3-year period will range from 188–274 for 24-hour operations or 566–598 for 10-hour daily operations. An additional 21–30 round trips will be conducted over a five-year period for the deployment, maintenance, and decommissioning of up to three metocean buoys. The addition of more vessels into the area may reduce efficiency of fishing operations due to time delays associated with congestion. In addition, vessels associated with the leasing activities may accidentally damage fishing gear (e.g., by cutting trap floats) or release marine debris which could cause entanglement or interfere with other fishing operations. Nearshore fishing activities may be further impacted due to the presence of survey vessels conducting site analysis or fish surveys²⁴ (for example) along potential cable routes. It should be noted, however, that both lease exploration activities and placement of buoys are a temporary impact, which will conclude after approximately 5 years and result in the removal of any installed metocean buoys and their associated gear that may have been anchored to the ocean floor, per BOEM regulations.

Typical mitigation measures to reduce the previously described space-use conflicts focus on avoidance and procedures to increase navigation safety. For example, vessel operators are required to comply with regulations regarding pollution/discharge at sea such as those under the Federal Water Pollution Act which regulates the release of oil at sea, and those under the Clean Water Act, which regulates the discharge of pollution at sea, and the Marine Pollution Convention (Annex V) which regulates discharge of trash at sea. These requirements reduce the likelihood of discharges into the marine environment and ensure that if any accidental releases of trash and debris do occur, the operator is responsible for reporting spills as appropriate, recording authorized discharges, and held accountable through violations and fines if found not in compliance.

Furthermore, at the end of the approximately 5-year lease exploration term, data collection instrumentation will be decommissioned, and large marine objects removed so any existing de facto exclusion zones will be eliminated. To enhance navigational safety, lessees will develop survey plans and SAPs that will include site-specific

²⁴ Although specific fish surveys have not been proposed, NOAA (NMFS) has indicated that it may be necessary to obtain an Exempted Fishing Permit or Letter of Authorization for the take species. CDFW also has indicated that it may be necessary to obtain a scientific collection permit (dependent on survey activities and locations).

measures to mitigate navigational concerns. Such measures may include a local notice to mariners, designation of vessel traffic corridors, lighting specifications, incident contingency plans, or other appropriate measures. According to BOEM, survey development is an ongoing process, and each survey plan will be carefully evaluated, not only for scientific rigor, but also incorporation of best management practices to ensure measures are taken to minimize impacts to fish species, mammals, and to promote safe navigation.

In authorizing similar marine survey or infrastructure projects, the Commission has typically required a series of mitigation measures to reduce or eliminate impacts to fishermen and fisheries resources. Many of these measures are similar if not identical to those required by BOEM.²⁵ For example, communication with the maritime industry, updating nautical charts and providing notice to mariners are commonly incorporated measures. However, the Commission has also typically included a few additional measures that are not currently included in BOEM's proposed activities. These include specific prohibitions on contact with hard substrate, a submission of several emergency response plans such as spill, anchoring, and critical operations and curtailment (Conditions 1(f) and 2).

To ensure these measures are implemented, Condition 1(a-b) states that BOEM will encourage continuous and open communication and dialogue between BOEM, the lessees, the Coastal Commission, and other relevant state agency staff during review of survey plans and site assessment plans; BOEM will also coordinate with the Coastal Commission and other relevant state agencies to provide access to the lessees' survey plan submissions. Additionally, Condition 7 will require continued close coordination with members of the fishing industry, primarily through a fishing liaison, to ensure that timing of surveys is considered (i.e.; in relation to fishing seasons) as well as ensuring proper channels of communication are in place to minimize potential on-water conflict. With these measures included and as described above, the proposed lease activities will be implemented in a manner that recognizes and protects the economic importance of marine resources and commercial/recreational fishing and are therefore consistent with Sections 30230, 30234, and 30234.5 of the Coastal Act.

Future Lease Development Impacts

As described in section B, the purpose of this section is to identify and assess reasonably foreseeable impacts associated with potential future development of offshore wind leases. At this stage, there is not enough information to conduct the type of comprehensive and cumulative socioeconomic analysis for potentially impacted fisheries that will be necessary to evaluate specific projects. However, there is sufficient information to conduct a siting-level analysis that incorporates information on the size of the wind area and the maximum potential build-out capacity, development and infrastructure likely needed to support offshore wind development, the types of fisheries

²⁵ BOEM guidance for providing information on fisheries social and economic conditions for renewable energy development on the Atlantic OCS is available here: <https://www.boem.gov/sites/default/files/documents/about-boem/Social%20%26amp%3B%20Econ%20Fishing%20Guidelines.pdf>

present that have a potential to be impacted, and different strategies that have or could be employed to ensure that impacted fishing communities remain protected, viable and resilient.

As described earlier in this section, the waters offshore California support numerous types of fishing, and there is a high cultural and economic significance associated with these activities. In its EA, BOEM identified the fishing grounds for sablefish, thorny heads, chinook salmon, and swordfish as overlapping with the WEA. These fisheries are an important part of the overall landings value in the Central Coast region, and BOEM's finding is consistent with CDFW data presented in the first section. Other fisheries present within or near the WEA include coastal pelagic species, shrimp and prawn, market squid, and Dungeness crab. Market squid, the highest value fishery in the region, is generally fished nearer to shore ([Exhibit 3-8](#)) and does not have an identified overlap with the WEA, although could be impacted by cable routes and other lease development activities that would occur closer to the coast. Impacts to fishing from potential wind development are complex and will vary on a fishery by fishery, and even individual basis. However, there are common potential impacts that have already been identified and articulated by the industry.²⁶ These include:

- I. **Exclusion.** The ocean is a shared space. Fishing and other uses must coexist and work through complex management and regulatory requirements. It is anticipated that offshore wind development areas will become exclusionary zones and will restrict already limited ocean space.
- II. **Displacement.** Related to Exclusion, fishers that are excluded from the WEA may be forced to relocate into other, already limited fishing grounds, placing additional environmental pressure on the remaining habitat, and potentially increasing conflicts between user groups.
- III. **Increased costs and time at sea to avoid wind development.** Placement of wind facilities can delay direct access to fishing grounds and force fishers to fish or drift far outside of lease boundaries due to movement of gear and vessels on the open ocean.
- IV. **Loss of future fishing grounds.** Fishing grounds are highly variable. Continuous and often rapid changes in ocean conditions cause changes to fish populations which in turn result in changes to fishing behavior year over year. Large-scale wind development would eliminate a huge portion of potentially viable fishing area, limiting fishermen's ability to adapt to changes in fishing grounds.
- V. **Loss or disruption of harbor space and fishing infrastructure at ports due to increased presence of wind related facilities.**

Each of these impacts will be explored further below.

²⁶ These concerns were brought forth by the fishing community during interagency outreach meetings, as well as derived from a list of concerns submitted by numerous fishing organizations in a public comment letter. The impacts have been summarized in this document, but the full list of concerns/potential impacts can and should be considered in the scope of future project development.

(1) Exclusion

There are currently a multitude of protected and/or conservation areas in both state and federal waters that specifically impact when and where fishing can take place. These areas, which include Essential Fish Habitat (EFH), HAPCs, Marine Protected Areas (MPAs) and National Marine Sanctuaries, also affected the siting of the WEA itself. EFH designates areas important for fish spawning, breeding, feeding or growth, and can include full or partial fishing closures, especially for groundfish. EFH areas near the WEA include Monterey Bay/Canyon, West of Sobrantes Point, Point Sur Deep, Big Sur Coast/Point San Luis, La Cruz Canyon, West of Piedras Blancas State Marine Conservation Area, East San Lucia Bank, and Point Conception ([Exhibit 3-14](#)). Northwest of the Morro Bay WEA is the Davidson Seamount, an area which fishing below 500 fathoms is prohibited.

A HAPC is a discrete subset of EFH, which designates areas that provide extremely important ecological functions or are especially vulnerable to degradation. On the western portion of the WEA, there is a large overlap with HAPC (most likely hard bottom habitat), shown in [Exhibit 2-1b](#). MPAs designate important marine habitat areas and may include fishing closures. There are 29 state protected areas in this region between Pigeon Point and Point Conception that cover approximately 204 square miles (three are north of Monterey County): approximately half allow some amount of commercial and recreational fishing (CDFW, 2019b). The Monterey Bay National Marine Sanctuary is adjacent to a northeast portion of the WEA in federal waters, and the proposed Chumash Heritage National Marine Sanctuary (which is still in process of pursuing designation) shares its southern border.

The protected area exclusions described above are just one example of fishing exclusion. Certain types of fishing areas are also limited by seasonal closures, depth limitations, gear restrictions, and quota limits, which affect the amount of allowable catch. These limitations result in much smaller areas in which fishermen are able to continue to harvest catch. Although not yet completed, this is expected to be illustrated through a story map created by Central Coast fishermen that is similar to the North Coast Fisheries Mapping Project.²⁷

On top of the exclusions described above, offshore wind development within the WEA would likely result in an additional up to 376 square miles closed to fishing for at least the next three decades and likely longer. Based on a review of current fisheries data, several different fisheries could be affected by exclusion from the WEA. These include salmon, hagfish, groundfish, and HMS (including recreational). While fishing for salmon could potentially occur in the WEA, based on the expansive range of the species, most documented fishing activities for the species occur in closer proximity to the coast. The dominant form of groundfishing in the WEA is pot (typically for sablefish) which would be impacted by leasing and future development projects. Trolling gear and some gear used with HMS and fishing techniques are slightly more flexible, it is not certain that salmon trolling or all HMS fishing would be wholly excluded from the WEA. With respect

²⁷ [\(North Coast Fisheries Mapping Project \(arcgis.com\)\)](#)

to HMS, it is anticipated that this fishery (both commercial and recreational) may be impacted by the execution of leasing activities and wind development because it will inhibit direct access to some fishing grounds such as those used by the swordfish fishery. Additionally, given the variability of the temperature margins that HMS species follow, it is possible that the species distribution could overlap at higher (or lower) levels with a physical location of future development. Like salmon, hagfish activity is also generally reported closer to shore, although the depth range of the species overlaps with the WEA. With respect to shrimp fishing, the pink shrimp and spot prawn fishery range is shallower than the current boundary of the WEA, and are not likely to experience significant impacts from the leasing activities ([Exhibit 3-15](#)). CPS also occur closer to shore and are not likely to experience significant overlap with survey activities.

(2) Displacement

Displacement occurs when fishermen can no longer access historic grounds and instead seek fishing opportunities elsewhere, which can overlap and lead to conflicts with other fisheries. The impacts associated with displacement can be difficult to quantify in areas such as the Central Coast where fishing activity that takes place in and around the WEA may not be landed at one of the Central Coast ports (i.e., Moss Landing, Monterey, Morro Bay or Port San Luis/Avil), but in more distant ports, such as Santa Cruz, San Francisco or farther south in Santa Barbara or LA/LB. Or, even if fish are caught and landed in the Central Coast, it is often the case that a significant portion of the fishing vessels are homeported outside the region, making it difficult to track impacts associated with displacement.

For offshore fisheries such as groundfish, salmon, and HMS, development within the WEA could result in the need to relocate to other fishing grounds that are less valuable, farther away or already in use by other fishermen, if adequate fishing grounds are available under current environmental and regulatory conditions. Displacing fishermen into fishing grounds that are farther away could result in increased costs related to time and fuel, and safety risks resulting from fishing farther away from port, or close to wind facilities.

Nearshore fisheries, such as CA halibut, market squid, CPS and Dungeness crab, that are caught in waters primarily inshore of the WEA, are not expected to experience direct impacts from offshore wind turbines in the WEA but may be displaced by related development. Offshore wind development will require power cables and other infrastructure to bring the power onshore. Construction and operation of these cables can adversely affect fishermen through temporary displacement or interference during construction, and as an ongoing hazard especially for fishermen using bottom contact gear. For example, fishermen using trawls or other gear that has bottom contact run an increased risk of snagging on the cable and losing or damaging gear. For some previous fiber optic cable projects, fishermen and cable companies have agreed to a "no fishing" buffer around the fiber optics cables in order to minimize potential interaction and snags. In addition, nearshore fisheries are likely to be competing for space with other fisheries that have been displaced. For example, the nearshore area directly offshore of the Central Coast supports high, episodic squid fishing activity, and this is certainly a concern for this and other nearshore fisheries.

For the recreational sector, the presence of fishing within the WEA is somewhat limited. It is possible, however, that development within the WEA could inhibit access to fishing grounds for highly migratory species, such as albacore tuna or swordfish, or other species that may occur farther offshore such as rockfish. There is significant variation with the location of fishing for HMS activity due to the variability of temporal habitat. However, the general trends of the fishery appear to be to the north (in their highest density) of the WEA, which suggests that the recreational (as well as commercial HMS fishery) is not likely to be significantly displaced from its fishing grounds ([Exhibit 3-13](#)). As future conditions shift, conflicts could occur.

(3) Increased costs and time at sea

The potential development of wind facilities offshore of the Central Coast could result in increased time (and therefore cost) of being at sea for many fishermen. Displaced fishermen may need to travel farther away to achieve the same catch. This could mean much longer trips in and out of ports, which increases fuel costs, vessel wear and tear, and potentially the number of overall trips a vessel could take due to time on the water. The simplest way to describe this is through an example. As shown in [Exhibit 3-10](#) the albacore tuna fishery is active primarily on the north side of the WEA. Currently, fishing that takes place from the ports south of the WEA would access fishing grounds through a direct route.

According to the data generated by Coastal Commission staff (and inspired by the North Coast fishermen's mapping study) ([Exhibit 3-16](#)) it currently takes approximately 7 hours to access the center of the WEA. If fishermen are no longer able to take a direct route through the WEA, but instead have to go around, that can add at least one or more hours to the trip depending on the wind facility layout. That additional transit time adds fuel costs, and reduces the amount of time the fishermen spend actually fishing (depending on the fishery). More time to access fishing grounds can ultimately result in an overall reduction of trips that a vessel is able to take. Less trips generally equate to less overall harvest, or in the case of recreational/CPFV fishing, less business. Vessels also report that in circumstances where the vessels remain at sea overnight, a vessel can drift as far as 10 nautical miles. This would mean that fishermen in this situation would need to leave a 2-hour buffer from a wind farm to ensure that they were not placing their vessels or persons at risk of collision.

Finally, many fishermen have brought up the fact that fishing around wind development will require additional space beyond the boundary of the WEA. Certain types of fishing gear, such as a sablefish pot, drift horizontally in the water column before it reaches the bottom. The horizontal distance travelled varies with ocean conditions, but can drift up to a mile from where it was set. If fishing in or around a wind facility, this would add a mile buffer around the entire perimeter of the lease area that would also be considered unfishable (subject to an individual fishermen's assumption of risk).

(4) Loss of future fishing grounds.

Fishing is a highly variable vocation, and as such, the construction and operation of a stationary offshore wind facility and its associated infrastructure have a high probability of impacting the ability of fisheries to adapt to the changing spatial-temporal conditions that define fishing. This makes predicting the exact potential for loss of future fisheries

as a result of wind development extraordinarily difficult. Fishing activity, especially for HMS fisheries which vary seasonally in relation to water temperature, are already difficult to predict year to year with precision. When coupled with broad scale predictions and uncertainty related to climate change, including expectations that species will shift north with warming water trends, it's nearly impossible to say with precision what fisheries will look like in the future. However, given the realities of a warming ocean and climate change, it is highly likely that future fishing grounds will be different than they are today.

A potential loss of future fishing grounds could apply to multiple fisheries, whether or not they have occurred in the WEA in the past. This includes the HMS fishery, ocean salmon, groundfish, and hagfish (an open access fishery). Specifically described with the groundfish trawl industry was the recent return of permits to the industry in 2019, which allow the activity to resume after nearly two decades of cessation.²⁸ While activity of this type is not currently occurring in great volume, the construction of offshore wind facilities would substantially lessen the area where it could.

Currently under development is a comparable study to the North Coast Fishermen's Mapping Project,²⁹ which mapped potential future fishing grounds in the North Coast (see [CD-0001-22 exhibits](#)), which is expected to show fishing potential on the Central Coast, which may (or may not) overlap with the Morro Bay WEA. Regardless, a loss of area to use for future fishing operations makes it more difficult to adapt fishing operations over time, and as such, business planning for successful years of operations takes on a higher level of uncertainty. This uncertainty can also expand to related fishing businesses such as processors and wholesale retailers. As aptly explained in a public comment letter on the Morro Bay Draft EA from Alliance of Communities for Sustainable Fisheries:

...ex-vessel values translate into waterfront economic activities. As stated in a 2017 report prepared for the Morro Bay Commercial Fishermen's Organization (MBCFO), ex-vessel values from commercial fishing are: "...directly responsible for approximately 200 jobs for skippers, deckhands, dock workers and local seafood processors, and represents a success story in attracting and retaining businesses and supporting local business ownership and employment. The commercial fishing industry and the activity driven by the working waterfront make up the backbone of Morro Bay's Robust and Diverse economy."

This sentiment echoes concerns raised by fishermen and processors on the North Coast: that even a small loss of fishing grounds and activity can have much more

²⁸ Another example of future fisheries that may be limited by development is Box Crab (Coates, 2018). The species is currently authorized for limited/exploratory harvest under an experimental fishing permit overseen by State fish and wildlife regulators. Three EFPs were authorized for fishing in state waters north of Pt. Conception (and 5 south of Pt. Conception).

²⁹ [North Coast Fisheries Mapping Project \(arcgis.com\)](#): A similar exercise is occurring for Central Coast fisheries.: A similar exercise is occurring for Central Coast fisheries.

expansive impacts to associated businesses.

(5) Loss or disruption of harbor space and fishing infrastructure at ports due to increased presence of wind related activities and facilities.

Offshore wind development in the Morro Bay WEA may require substantial port and harbor space to support assembly and staging of turbines and other equipment. There are a few existing and ongoing studies examining feasibility of various ports the state, to serve as a support base for the offshore wind industry. However, ports such as Los Angeles/Long Beach, Port Hueneme, Diablo Canyon, Morro Bay, and even ports farther north such as Oakland could serve to support OSW in a future development capacity. As these studies and decisions are ongoing, the scope and scale of upgrades needed to support offshore wind infrastructure on the north and Central Coasts, and thus any coastal resource impacts that would result from those upgrades, is uncertain. However, examples from the east coast can provide some information that can assist in describing potential impacts.

As noted above, staging for offshore wind and the associated pier/berth facilities can take up a significant amount of space. In the Port of New Bedford, which is an urban port in Southeastern, MA being developed as a staging area for (currently) two offshore wind projects, a 29-acre site is being developed on an existing waterfront site. Features of the New Bedford OSW marine terminal include:

- Co-location with more than 200 maritime businesses
- 29-acre facility, including 21-acres of heavy-lift capacity: uniform loading up to 4,100 pounds/square foot and crane loads of up to 20,485 pounds/square foot
- 1,200 feet of bulkhead, including 800 feet of deep draft berthing and 400 feet of barge berthing space
- Within the most protected port in the U.S., with the U.S. Army Corps Hurricane Barrier that guards against storms up to Category 3 hurricanes
- No height restrictions on site, and no overhead restrictions from the Terminal to open water
- Easy roadway connections to interstate highway system via I-95 or I-495 (via connections through New Bedford Route 18 and MA Route 140 and/or Route I-195)
- No Harbor Maintenance Tax

In terms of fishing, New Bedford is considered one of the most economically valuable fishing ports in the country supporting more than 100 (homeported) vessels and landing more than a million pounds of seafood a day (Commercial Fishing, 2018). It is home to vessels, processors, wholesalers and restaurants that all rely on the industry. The incorporation of the offshore wind site in New Bedford is on an existing developed parcel, and part of the design includes expanded seafood offloading facilities. An important distinction between the two coasts is that the wind turbines on the West Coast have the potential to be much larger than those used on the east coast, and thus, the space needed to stage them (and the vessels needed to transport them) will likely have

to be larger.

For the fishing industry, expanded development within the many of the aforementioned ports could result in additional concerns related to traffic, loss of port and harbor space and facilities. For example, large vessels, such as those needed to transport turbine structures could prevent other vessels from transiting in designated channels and delay in and outbound transits when they are operating. It could also force vessels to operate outside of main channels, which may harm sensitive natural resources such eelgrass. However, as noted in the industry letter received on February 9th, 2022, there can also be some benefits of co-location such as decreased fuel prices and even general harbor space improvements/repairs. Keeping this siting information in mind, it will be important to consider the location of offshore wind staging within the harbor, overall spatial requirements, and the additional impact minimization measures that can be incorporated into the design that could lessen impacts to the fishing industry and thus be consistent with Coastal Act Section 30234.

Coastal Act Analysis and Approaches to Avoidance, Minimization and Mitigation

As described in detail in the previous sections, activities related to offshore wind leasing and foreseeable future development within the Morro Bay WEA will result in impacts to the fishermen and fisheries of California's Central Coast. Several fisheries: pot (sablefish) drift gillnet (thresher shark/swordfish), and trolling (albacore tuna) currently overlap with portions of the WEA and would likely be excluded from these areas if offshore wind development is authorized. To varying degrees, all Central Coast fisheries would likely be affected by temporary or permanent displacement, increased cost and time at sea, traffic, loss or disruption of harbor space and fishing infrastructure within the port and potential loss of future fishing grounds. As described above, some of these effects would be felt directly and immediately with lease exploration activities. Other effects would be felt later in time—likely in the context of lease development activities—but are still reasonably foreseeable and need to be analyzed and addressed, at least at a broad scale, at this point in time. In addition, the leasing action itself will have immediate effects on fishing because it creates uncertainty for fishermen about where they will be able to fish in the future, which affects their ability to conduct longer term financial planning, such as deciding whether to take on debt to purchase new equipment. Communications with the fishing industry during outreach activities and through comments on the BOEM Draft EA reiterate this concern.

Although the exact impacts of future wind development are not known at this time, there are immediate and reasonably foreseeable future effects that need to be addressed in order to protect the economic and commercial importance of fishing activities, as required by Coastal Act Sections 30234.5 and 30230. The Central Coast landings averaged \$19.6 million annually (2010-2020 average), accounting for approximately 12% of commercial landings statewide³⁰. This value does not fully address the economic value of fishing crews, fish processors, gear manufacturers, ship supply and

³⁰ The Fisheries of the U.S. report, page 38, states \$164,327,000 of annual landings in 2019 for the state of California.

repair businesses, seafood retailers and restaurants in the Central Coast and beyond. As such, the high-value fishing grounds in the Central Coast and the species that are fished there can be considered areas and species of special economic significance that garner specific protection under Section 30230. For example, the pot fishery for sablefish, which contributes a significant portion of the overall catch landed in the Central Coast, is likely to experience direct impacts (i.e.; economic loss) given the overlap in fishing activity with the WEA boundaries.

The Coastal Act requires the protection of commercial and recreational fishing activities, and there are a variety of actions that could be taken to ensure that California's Central Coast fishermen are protected and recognized. These could include disallowing offshore wind development in portions of the WEA that correspond to the highest value fishing grounds for the affected fisheries, creating buffers within the boundaries of the WEA to allow for fishing activity to safely operate around the perimeter, developing a program that helps affected fisheries adjust to changes in fishing grounds, gear transitional programs, or developing a comprehensive mitigation package that adequately compensates fishermen for the loss of these fishing grounds, and many options in between.

It is possible, if not likely, that the ultimate solution will include elements of all these options. At this time, it is not necessary to decide exactly how all of these impacts need to be addressed. It is critical, however, that discussions about how to address impacts to specific fisheries, and to the Central Coast fishing industry as a whole, include affected fishermen and representatives of the fishing industry. It is also necessary at this point in time to have BOEM, in concert with the Coastal Commission, other state and federal agencies, Tribes, and fishing interests, begin setting forth a framework for how the entire wind development process- from leasing decisions through actual wind development-will address the effects that the process will have on fishing activities. If this framework is not set up until later stages of the offshore wind development process, such as during BOEM review of a COP, it will force the fishing industry to operate for the next several years with significant uncertainty about potential future development. In addition, if BOEM waited until lessees submitted COPs to analyze and address impacts to fishing, it would likely be too late to gather the necessary information about the scale and location of fishing activities as well as potential avoidance, minimization and mitigation measures that are needed to adequately evaluate and address impacts. This could significantly delay future project approvals.

In recognition of the importance of direct engagement, and in an effort to begin the discussion with fishermen about how best to address the impacts described above, representatives from State agencies, including Commission staff, and BOEM held a series of meetings with representatives of the fishing community in Crescent City, Eureka, Fort Bragg, Santa Barbara, and Morro Bay.³¹ At this stage of the offshore wind process, the goal of the outreach was to meaningfully engage the fishing community about the state and federal processes for OSW development, hear their concerns, answer questions, and determine what the most appropriate avenue for addressing

³¹ Meeting Summaries are available here: [Upcoming Projects \(ca.gov\)](http://UpcomingProjects.ca.gov)

impacts and mitigation would be moving forward. At these meetings, there were several concerns that were echoed coastwide, that have largely been reflected in the impact analysis above. Fishermen had many questions about the scale and type of development that might take place in the coming years, concerns that the exclusions, displacement and spatial conflicts would severely limit their ability to be profitable and to ensure the longevity of the industry, and an interest in an approach to mitigation that is fair, equitable, and focuses on resilience of the fisheries and of the fishing industry. These sentiments have also been reflected in follow up conversations with key representatives from the fishing community. Most of the fishermen who attended outreach meetings expressed their desire to continue fishing for years to come and to be able to pass down their knowledge and vocation to the next generation.

To achieve these goals, as well as the special protection required by the Coastal Act, all parties – fishermen, offshore wind developers and state and federal agencies – will need to work collaboratively towards a common strategy to avoid, minimize and mitigate impacts to the fishing industry in a consistent and equitable manner. As the Central Coast is not the only offshore region that is being considered for offshore wind development (see CD-0001-22), it is important that the overall strategy be consistent statewide to ensure fairness. BOEM has acknowledged the need for a comprehensive and fair way to address the impacts that offshore wind has on fishing interests and recently conducted a request for information and public comment period on the strategies to addressing impacts to the fishing industry from offshore wind energy development.³² BOEM is also working with NMFS to effectively manage potential impacts to fisheries surveys that are a critical component of the fisheries regulatory framework.

Similar to the fishing agreements required by CDPs authorizing fiber optic cable installation and operation, the strategy will need to include communication protocols, best practices for surveys and data collection, specific measures for avoiding and minimizing impacts for various stages of offshore wind development, and a framework for compensatory mitigation to address unavoidable impacts. These goals and strategy components are consistent with verbal and written correspondence the Commission has received from fishermen from across the state. For example, a February 9, 2022 letter from sixteen (statewide) fishing and maritime organizations discusses the need for fishing agreements (page 3):

The principals of impact avoidance, minimization, and non-monetary mitigations should be considered for all aspects of an OSW project prior to compensation-mitigation discussions. Make no mistake: fishermen would rather have their areas of opportunity preserved than have financial compensation for the loss.

Once the strategy is developed, it will need to be applied through fishing agreements between an entity representing fishermen and the developers. These agreements will

³² [Request for Information on Reducing or Avoiding Impacts of Offshore Wind Energy on Fisheries | Bureau of Ocean Energy Management \(boem.gov\)](#)

need to lay out how mitigation funds will be spent, how decisions will be made, and the process for amending the agreement as needed. It is the Commission's expectation that signed fishing agreements, consistent with the statewide strategy described above, will be completed and submitted as part of any application for a CDP or a consistency certification for an offshore wind project. To ensure progress toward development of the statewide strategy, [Condition 7](#) requires BOEM to work with Commission staff and other state agency staff to facilitate a working group consisting of fishing representatives, offshore wind industry representatives and federal and state agency staff to develop the components of the strategy including a fishing agreement template. [Condition 7](#) also requires that the strategy include specific consideration for those fisheries that are disproportionately and/or directly affected by offshore wind development. Finally, to ensure that potential impacts to commercial and recreational fishing during the lease exploration phase are minimized, [Condition 7](#) requires BOEM to require lessees to have an independent fisheries liaison that is responsible for coordination and communication with affected fishermen and harbor districts. The liaison will work with fishermen to coordinate timing of survey work, which has been a documented source of conflict on the east coast, to and develop a process for reporting and remediating conflicts.

In addition to development of the strategy described above, based on a review of projects developed on the east coast, it can be assumed that at a minimum, the design of future wind farms should incorporate measures that ensure safe navigation through the lease areas, including possible identification of transit corridors. This is needed to ensure continued, safe access to fishing grounds surrounding a potential wind farm, to alleviate lengthy transit times, and to ensure that the economic interests of the fishing industry are protected so that the industry can continue to effectively harvest from the region. BOEM has conveyed that these concerns will likely be addressed through the subsequent stages of its leasing process in which the USCG will be conducting a Navigational Safety Risk Assessment. This process has the goal of promoting navigational safety but is not a unilateral decision. Rather, the USCG makes recommendations based on the best available information to apply transit lanes and/or other safety measures to BOEM that the Bureau may then apply to its lessees. Commercial fishing traffic patterns are a component of this analysis and have been integrated into prior risk assessments, such as those that have been completed on the east coast (U.S. Coast Guard, 2018). [Condition 4](#) ensures that BOEM will work with stakeholders, including the USCG, NOAA, state agencies and the fishing and maritime industries to ensure navigation through the lease areas.

Conclusion

Leasing activities and foreseeable future offshore wind development within the Morro Bay WEA will result in project-specific and cumulative adverse impacts to multiple fisheries of economic and social importance to the state of California. Fisheries and fishing communities are likely to be directly impacted by lease exploration activities, including by having increased vessel traffic in the ports near the area, exclusion areas around metocean buoys, and the economic uncertainties caused by BOEM's leasing process. In addition, the exact scale and location of future wind development is

unknown at this time, but it is reasonably foreseeable that there will be future development of at least some OSW projects. Such projects would affect fishing directly due to the presence of wind turbines and related infrastructure (exclusion and displacement) as well as indirectly through increased vessel traffic, potential harbor development and decreases in trip efficiency. Although some of these activities will occur outside of the coastal zone, much of the development activity—such as harbor development and use, as well as cable-laying—will occur within the coastal zone. Also, both the activities in and outside of the coastal zone will have coastal effects, as they will both affect the coastal fishing community, the volume and value of fish landed at ports and harbors, and the coastal economy. As such, it is imperative that BOEM, lessees and developers work with the fishing community to minimize these effects in the planning and development of potential projects to ensure that the seafood industry in the Central Coast remains viable and robust. To achieve this, Condition 7 requires that BOEM require lessees to have an independent fisheries liaison to coordinate with fishermen and that BOEM work with state agencies to facilitate a process to develop a statewide strategy for avoiding, minimizing and mitigating impacts to the fishing industry from offshore wind development. With the measures incorporated by BOEM into its leasing program and the conditions imposed by the Commission, BOEM's proposed activities are consistent with the Coastal Act's mandate to protect commercial and recreational fishing.

G. OIL SPILLS

Section 30232 of the Coastal Act states:

Protection against the spillage of crude oil, gas, petroleum products, or hazardous substances shall be provided in relation to any development or transportation of such materials. Effective containment and cleanup facilities and procedures shall be provided for accidental spills that do occur.

Lease Exploration

The issuance of leases and subsequent site assessment and characterization activities have the potential to result in oil spills within or outside of the coastal zone, either of which could affect coastal resources. According to the CD, a spill of petroleum product could occur as the result of hull damage from collisions with a metocean buoy, collisions between vessels, accidents during the maintenance or transfer of offshore equipment and/or crew, or due to natural events (i.e., strong waves or storms). As described in previous sections of these findings, vessel traffic is expected to approximately triple as a result of lease exploration activities, increasing the risk of an oil spill incident.

The CD provides general information on potential impacts from an oil spill, concluding that an oil spill would dissipate very rapidly and would then evaporate and biodegrade within a day or two, limiting the potential impacts to a localized area for a short duration. Regarding the potential for a diesel spill to enter ocean waters and affect coastal resources, the CD states:

From 2000 to 2009, the average spill size for vessels other than tank ships

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