

Staff Report 28

PARTY:

California State Lands Commission

PROPOSED ACTION:

Approve the 2024 Category 2 Sandy Beach benchmark rental rate.

LAND TYPE AND LOCATION:

Sovereign land in Mare Island Strait adjacent to Sandy Beach Road, Solano County.

STAFF ANALYSIS AND RECOMMENDATION:

AUTHORITY:

Public Resources Code sections 6005, 6216, 6301, 6321, 6321.2, 6501.1, 6503, 6503.5, and 6505.5; California Code of Regulations, title 2, sections 2000 and 2003.

The California Constitution specifically prohibits the Legislature from making or authorizing any gift of public money or thing of value to any individual, municipality, or corporation (Cal. Const., art. XVI, § 6). A “thing of value” includes the use of State-owned land for private benefit.

The Commission has broad discretion in all aspects of leasing state lands, including the method or amount of rent that is most appropriate and how rent should be adjusted during the term. (Pub. Resources Code, §§ 6501.1, 6503, 6503.5; Cal. Code Regs., tit. 2, §§ 2000, 2003.) Rents must be in the best interests of the State, and may be based on one or more of the following methods, including, but not limited to:

- 9 percent of the appraised value of the leased land

- A percentage of annual gross income, where the percentage is based on an analysis of the market for like uses and other relevant factors
- A comparison to rents for other similar land or facilities
- Benchmarks for regions with large concentrations of similar facilities, with benchmark rental rates to be based on analysis of similar or substitute facilities in the local area
- Other such methods or information that are based on commonly accepted appraisal practices and principles; and for leases for recreational piers or buoys, rent shall be based on local conditions and local fair annual rental values (Cal. Code Regs., tit. 2, § 2003; Pub. Resources Code, §§ 6503, 6503.5.)

The Commission may consider the amount of rent the State would receive under various rental methods, and whether relevant, reliable, and comparable data are available concerning the value of the leased land in determining which rent method should apply. (Cal. Code Regs., tit. 2, § 2003, subd. (d)(1), (2).)

PUBLIC TRUST AND STATE'S BEST INTERESTS:

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

The Commission has two types of benchmarks for rental rates:

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

This staff report addresses the Category 2 benchmark for Sandy Beach leases that mostly include portions of homes, decks, and other residential-related improvements.

METHODOLOGY:

Category 2 benchmarks are based on and associated with nearby upland land values because sovereign lands generally do not sell in the open market. Improvements on sovereign land (for example, portions of homes, sundecks, porches, or other non-water dependent encroachments) represent an extension of the private yard of the upland residence onto sovereign land. This private residential use is a purpose unrelated to the traditional Public Trust consistent uses of 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 vacant land sales only because the subject properties within the benchmark area are the underlying sovereign land, not the privately-owned residential improvements. If vacant land sales are unavailable, rather than use comparable sales that do not front the water, which would necessitate adjustments for location, an allocation method is employed. For the improved residential sales deemed similar to the subject properties, the land values are extracted through use of the improvement percentage assigned by the local Assessor's Office. For instance, if a house sold for \$1,000,000 and had an improvement percentage of 40 percent, then the allocated value of the land is 60 percent, or \$600,000. For analysis purposes, the unit of comparison used is the price per square foot of land area. Next, staff analyzes the compiled sale data to determine a per-square foot value representative of the area. The benchmark is calculated by applying a 9 percent annual rate of return to the appraised value of the leased land consistent with California Code of Regulations, title 2, section 2003, subdivision (a)(1).

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

Using the methodology described above, Commission appraisal staff identified 10 home sales fronting the Mare Island Strait along Sandy Beach Road, Solano County. The sales occurred between July 2020 and March 2024, with a sales price range of \$250,000 to \$1,200,000 with a corresponding land value range of \$25 to \$116 per square foot. Due to the physical uniqueness of each subject property and lack of significant land value trends relating to the comparable sales, the appraisal staff concluded that no particular sale was deemed a better indicator than any other sale in setting a land value benchmark. Therefore, an analysis of the overall dataset was warranted and deemed appropriate in concluding land value for the Category 2 Sandy Beach benchmark. Based on all the data gathered and analyzed, appraisal staff concluded that a unit land value between the mean (\$60 per square foot) and median (\$54 per square foot) was reasonable for the typical upland residential property. The concluded land value based on these sales figures is \$57 per square foot. Taking all the previously described inputs into account, the proposed undiscounted rental rate for the Sandy Beach Category 2 benchmark is calculated as follows:

$\$57 \times 9\% = \5.13 per square foot.

The 2018 Category 2 Sandy Beach Benchmark was set at \$3.69 per square foot. As proposed, the new benchmark rate of \$5.13 per square foot represents an increase of \$1.44 per square foot, or 39.02 percent overall, or 6.5 percent per year. The higher rental rate is attributed to increased residential land values fronting the Mare Island Strait and highlights the strong demand and appreciation in value for the limited supply of waterfront properties in the Bay Area. According to the 2018 Category 2 Sandy Beach Benchmark, after allocating out the value of the improvements, the average land value of the homes fronting the Mare Island Strait along Sandy Beach Road was \$179,195, while the median was \$183,745. The most recent survey indicates an average land value of \$264,854, while the median was \$229,545. According to the Solano County Assessor's Office, 39.02 percent represents a fair and a reasonable increase in land value for the immediate area over the last six years.

The methodology used is consistent with all other Category 2 benchmarks. The Commission is required by statute to charge fair market value for the use and occupation of its lands. Staff believes that use of this methodology and the proposed benchmark best achieve that statutory requirement.

This benchmark rate applies to non-water dependent encroachments that should be given no reduction in utility or intensity of use as compared to the upland land

value. For features such as open or covered sundecks or porches, staff recommends the application of a discount up to 75 percent to reflect the reduced utility and intensity of use of the sovereign lands occupied. Other non-water dependent features such as artificial fill and enclosed residential spaces have the full capacity to be utilized as part of the upland residential property. Barring special circumstances, staff recommends no discount on these uses. This approach is consistent with how staff applies discounts for similar facilities throughout the state.

CONCLUSION:

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

OTHER PERTINENT INFORMATION:

1. In 2014, the Commission adopted amendments to Sections 1900, 2002, and 2003 under articles 1 and 2 of title 2, division 3, chapter 1 of the California Code of Regulations that included regulations on rent-setting methods approving the use of benchmarks and the application of the Consumer Price Index ([Item 05, January 23, 2014](#)).
2. This action is consistent with Goal 4 of the Commission's Strategic Plan "Meeting Evolving Public Trust Needs," specifically Section 3 – "Maintain fiscal integrity through transparency, accountability", and subdivision 3.a. "Efficient and effective management of the revenue-generation portfolio."
3. Approval of the 2024 Category 2 Sandy Beach benchmark rental rate is not a project as defined by the California Environmental Quality Act because it is an administrative action that will not result in direct or indirect physical changes in the environment.

Authority: Public Resources Code section 21065 and California Code of Regulations, title 14, sections 15060, subdivision (c)(3), and 15378, subdivision (b)(5).

EXHIBIT:

A. 2024 Category 2 Sandy Beach Benchmark

RECOMMENDED ACTION:

It is recommended that the Commission:

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that approval of the Category 2 Sandy Beach benchmark rental rate will not result in a change in the use of, or impact on, Public Trust resources; is consistent with the common law Public Trust Doctrine; and is in the best interests of the State.

AUTHORIZATION:

1. Approve the 2024 Category 2 Sandy Beach benchmark rental rate of \$5.13 per square foot, effective August 29, 2024.
2. Approve the application of up to a 75 percent discount to the Category 2 Sandy Beach benchmark to adjust for any reduced utility or intensity of use of the sovereign land subject to this benchmark, effective August 29, 2024.

Exhibit A

State of California

California State Lands Commission

MEMORANDUM

To: Brian Bugsch, Chief
Land Management Division

Date: June 11, 2024

Grace Kato, Assistant Chief
Land Management Division

From: Chaun Wong
Associate Property Appraiser
Land Management Division

Subject: Sandy Beach Category 2 Benchmark 2024 - Rental rate for non-water dependent use areas extending on and over sovereign land in the Mare Island Strait near Sandy Beach Road, Solano 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 the Mare Island Strait near Sandy Beach Road, Solano County, California. These non-water dependent uses consist of porches, sundecks, small portions of residences, and other residential-related improvements that extend onto and over sovereign lands and essentially represent extensions of usable areas of 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 Sandy Beach. 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 the 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.

Sandy Beach Category 2 Benchmark

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 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 Sandy Beach Category 2 benchmark was last updated on May 4, 2018. It was last taken to the Commission on August 23, 2018.

Introduction

The subject properties consist of 51 parcels of patented tidelands located along the Mare Island Strait near the city of Vallejo, Solano County in an area known as Sandy Beach. All properties with encroachments onto sovereign lands are currently under lease. The uplands and adjoining subject tidelands were subdivided and developed into small residential lots of various sizes. Access to the residential lots is via Sandy Beach Road which is a private road exclusively used by the homeowners. There is no beach area along any of the subject properties and little, if any, opportunity for the general public to make use of these sovereign lands. A 1955 survey performed by California State Lands Commission staff determined that many of the porches, decks, and small portions of some residences located along Sandy Beach Road encroached below the low water line. Although the residential use of the subject properties is not consistent with the Public Trust, it may be authorized at Sandy Beach only to the extent that the structures now exist, and for so long as the sovereign lands are not needed for Public Trust purposes.

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:

Sandy Beach Category 2 Benchmark

“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.”

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 outline 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 Sandy Beach, the adjoining upland properties generally consist 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 Sandy Beach 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

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

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

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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 percent of the appraised value of the leased land.³ 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 LandVision⁴, a search was made to find recent sales of vacant residential lots, typical in size, fronting the Mare Island Strait along Sandy Beach Road in Solano County. However, due to its built-up nature, no comparable sales of vacant waterfront residential lots were found. Rather than use comparable sales that do not front the water, which would necessitate adjustments for location, an allocation method⁵ is employed. In this analysis, residential land values are removed from recent sales of single-family houses in the Sandy Beach area through use of the improvement percentage assigned by the Solano County Assessor's Office. For instance, if a house sold for \$1,000,000 and had an improvement percentage of 40 percent, then the allocated value of the land is 60 percent, 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 10 sales of single-family residences fronting the Mare Island Strait along Sandy Beach Road in Solano County. The sales took place between July 2020 and March 2024. According to the Indications of Comparable Sales Table (see Table 3), the lot sizes range from 2,613 to 8,276 square feet, with a mean of 4,835 square feet and a median of 3,920 square feet. The sale prices for the waterfront

³ Title 2, Administration, Division 3, State Property Operations, Article 2 Section 2003, subdivision (b).

⁴ 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.

⁵ 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.

Sandy Beach Category 2 Benchmark

lots ranged from a low of \$250,000 to a high of \$1,200,000, with a mean of \$681,000, and a median of \$635,000. According to the Assessor's allocations, the value of the land in these transactions accounted for between 31.25 percent and 69.44 percent of the total price. Based on these percentages, the value of unimproved residential waterfront land lies between \$25 and \$116 per square foot. The mean unit value is \$60 per square foot, while the median is \$54 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.

Table 1. Lot Area to Land Value per SF Table

| Lot Area (SF) | Land Value Per SF |
|----------------------|--------------------------|
| 2,613 | \$74 |
| 3,484 | \$57 |
| 3,920 | \$101 |
| 3,920 | \$64 |
| 3,920 | \$51 |
| 3,920 | \$27 |
| 4,356 | \$116 |
| 5,662 | \$52 |
| 8,276 | \$25 |
| 8,276 | \$36 |

As mentioned earlier, lease areas impacted by the Sandy Beach 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 Sandy Beach Category 2 Benchmark. As previously stated, the value of the unimproved land lies between \$25 and \$116 per square foot. The mean unit value is \$60 per square foot, while the median is \$54 per square foot. Based on all the data

Sandy Beach Category 2 Benchmark

gathered and analyzed, a unit value of \$57 per square foot is concluded as reasonable for the typical upland residential property.

Market Value of Upland Property \$57 per square foot

Benchmark Rental Rate

Applying the 9 percent annual rate of return to the previously concluded market value of the upland property results in an annual rental rate of \$5.13 per square foot⁶.

Benchmark Rental Rate \$5.13 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

⁶ Calculated as $\$57 \times 0.09 = \5.13

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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 | 0062-020-100 | 6 Sandy Beach Rd | 3/7/2024 | 3,920 | \$1,200,000 | 32.87% | \$394,409 | \$101 |
| 2 | 0062-020-220 | 7 Sandy Beach Rd | 12/28/2023 | 4,356 | \$725,000 | 69.44% | \$503,476 | \$116 |
| 3 | 0062-030-240 | 40 Sandy Beach Rd | 6/6/2023 | 8,276 | \$575,000 | 36.36% | \$209,090 | \$25 |
| 4 | 0062-020-160 | 11 Sandy Beach Rd | 12/2/2022 | 2,613 | \$620,000 | 31.25% | \$193,744 | \$74 |
| 5 | 0062-020-180 | 14 Sandy Beach Rd | 10/11/2022 | 5,662 | \$700,000 | 41.67% | \$291,665 | \$52 |
| 6 | 0062-020-140 | 9 Sandy Beach Rd | 7/15/2021 | 3,920 | \$650,000 | 38.46% | \$250,000 | \$64 |
| 7 | 0062-030-010 | 16 Sandy Beach Rd | 4/5/2021 | 8,276 | \$950,000 | 31.58% | \$300,000 | \$36 |
| 8 | 0062-030-110 | 26 Sandy Beach Rd | 2/1/2021 | 3,484 | \$570,000 | 35.09% | \$200,000 | \$57 |
| 9 | 0062-030-170 | 32 Sandy Beach Rd | 7/31/2020 | 3,920 | \$570,000 | 35.09% | \$200,000 | \$51 |
| 10 | 0062-020-130 | 8 Sandy Beach Rd | 7/10/2020 | 3,920 | \$250,000 | 42.46% | \$106,157 | \$27 |

Table 3. Indications of Comparable Sales Table

| Indications | Lot Area (SF) | Sale Price | % Assessed Land Value | Land Value | Land Value Per SF |
|-------------|---------------|-------------|-----------------------|------------|-------------------|
| Low | 2,613 | \$250,000 | 31.25% | \$106,157 | \$25 |
| High | 8,276 | \$1,200,000 | 69.44% | \$503,476 | \$116 |
| Mean | 4,835 | \$681,000 | 39.43% | \$264,854 | \$60 |
| Median | 3,920 | \$635,000 | 35.73% | \$229,545 | \$54 |