

Samantha McDonald, PhD
Mooring , Newport Beach

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California State Lands Commission
100 Howe Avenue, Suite 100-South
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Topic: Legal Risks and Protection Strategies for Liveaboards in Newport Beach

My name is Samantha McDonald. I am a PhD graduate from UC Irvine in Informatics and Computers and a liveaboard in Newport Beach. I live with my partner Michael, who also has a PhD from Irvine in Chemistry, on our 37ft sailboat named Ambrósia. We have sailed over 7,000 nautical miles between California, Mexico, and the South Pacific, but we call Newport Beach our home.

We are responsible tenants of the tidelands. We pay all permittee rent to the City on time, pass annual environmental and safety inspections, and notify the City whenever we leave our mooring for extended periods, allowing them to rent our mooring to temporary vessels. We take pride in being stewards of the harbor and contributing members of the community.

I am deeply nervous about the outcomes of the SLC's investigation. While the newly proposed mooring rates are a significant concern, my greatest fear is actually what the SLC has not addressed: the existence—and protection—of liveaboards.

Liveaboards occupy an under-discussed legal space that has been largely overlooked in this commission's investigation. I understand there are an overwhelming number of aspects to this investigation that require attention, but our right to live aboard our vessels in Newport Beach hinges on its outcome. It is my belief that the SLC has an obligation to recognize and protect this community, and its final report must include a clear stance on our rights.

Below I provide a list of five cases why the SLC needs to have liveaboards as part of their final investigatory report. All of these cases cite current and historical legalities that support a precedent for State Land's authority to maintain the liveaboards and prevent discrimination by the City, as well as discrimination within the State Land's own actions as part of this investigation.

1. Newport's Attempt to Eradicate Liveaboards Is Continued Discrimination of Tidelands and A Reduction in Recreation

As part of Newport Beach's ordinance, the City plans to convert all mooring permits to city-owned licenses, what are currently called 'short term' mooring licenses within the code 17.60.045. These licenses do not allow liveaboards, and they threaten to take people's moorings if they leave with their boat for a considerable period of time¹.

This act is continued discrimination. While the ordinance dictates that moored vessels will no longer be available for moored liveaboards, from what I can infer, marinas can have as many liveaboards as they like for as long as they wish. Even today, liveaboards at the Marina can declare themselves liveaboards as long as they reside for six months out of the year, compared to mooring's required eight months². Addressing Newport's discrimination in rates but neglecting Newport's discrimination in liveaboards is an incomplete and inconsistent approach that fails to uphold fairness, accountability, and equal treatment under the law.

This ordinance also prevents everyday boaters from many forms of recreational boating. Code 17.60.045 G for these City licenses dictates that leaving a mooring for more than 25 consecutive days can be deemed as abandonment, leading to an automatic termination of your mooring license.

Boats leave the harbor for more than 25 days frequently. Some boats participate in races to Hawaii and back, also called the TransPac. Our neighbor just sailed to French Polynesia and back in one year to fulfill his life goal. My partner and I frequently travel to Mexico in order to obtain affordable boat work and bottom repairs. Other sailors spend a few weeks to a month sailing around the Channel Islands, Catalina, or the Sea of Cortez - returning to Newport Beach during hurricane season for safety.

Under this new ordinance, if our vessels do not return to Newport Beach in 25 days, we are at risk of losing our mooring. This ordinance will destroy the ability for people to use their vessels for its primary purpose, recreational boating.

2. The Ordinance Runs afoul of California's No Net Loss Provision

Government Code Section 65863 (No Net Loss Law) must ensure that development opportunities remain available throughout the Housing Element planning period to accommodate the jurisdiction's Regional Housing Need Allocation (RHNA). From what I understand this code uses the term 'parcel' to indicate housing locations, but it does not signify a parcel being only on

¹ **City of Newport Beach.** (n.d.). *Newport Beach Municipal Code*, § 17.60.045(G). Retrieved from <https://www.codepublishing.com/CA/NewportBeach/html/NewportBeach17/NewportBeach1760.html>

² **City of Newport Beach.** (n.d.). *Live-aboard permit applications for marinas and moorings*. Retrieved from <https://www.newportbeachca.gov/government/departments/harbor/live-aboards>

land. There is some evidence that moorings in other cities like Los Angeles have parcel #s, setting some precedent for moorings to apply to this code. Nevertheless, the State has set a precedent for cities across California to prevent affordable housing reductions.

If the SLC is in charge of the tidelands, they have the authority to dictate tidelands as an opportunity for development. Would the State of California be violating the essence of its own rules around No Net Loss by allowing affordable housing that exists on State Lands to disappear?

From what I understand, the City does not own the tidelands and thus cannot presumably include liveboards in their required Housing Element submitted to the State. Yet Newport Beach believes it has full authority to dictate its removal. How can the City have the power to create and destroy a form of housing on the State's behalf, while ignoring such housing in their assessments of the City and their affordable housing expectations?

Newport Beach has already shown no interest in upholding a No Net Loss mindset in their other development projects. For example, the creation of Marina Park, a public park, restaurant, and home to the new Harbor Department building, eliminated 52 affordable-rent mobile homes³. They City also purchased a 1920's vintage tri-plex on the Peninsula to bulldoze to make a small parking lot, when an extremely large parking lot is just blocks away⁴.

Eliminating liveboards is further City efforts to rid the community of any form of affordable housing, and anyone they deem as undesirable. Does the City have the legal authority to remove a form of housing that is on State Lands and within your authority?

3. The Ordinance Goes Against The Governor's Executive Order and State Lands For Affordable Housing.

The Governor's Executive Order N-06-19 seeks to release all state land identified as suitable and available for affordable housing development. I would presume such an order enables the State Lands Commission to increase jurisdiction related to housing and take increased action on protecting the ability for people to maintain affordable housing, even for those who are currently associated with state lands and tidelands. The State Lands Commission has an opportunity right here in this investigation to maintain California's protection of affordable housing.

³Newport Indy Staff. (2013, August 23). *City gets go ahead on Marina Park*. Newport Beach Independent. Retrieved from <https://www.newportbeachindy.com/city-gets-go-ahead-on-marina-park/>

⁴ Licas, E. (2024, September 10). *Newport Beach purchases triplex for conversion into parking on Balboa Peninsula*. Los Angeles Times. Retrieved from <https://www.latimes.com/socal/daily-pilot/news/story/2024-09-10/newport-beach-purchases-triplex-for-conversion-into-parking-on-balboa-peninsula>

From what I understand, the multi-million dollar homes in Beacon Bay (where one Newport Harbor Commissioner and other very wealthy individuals live), are on leased public tidelands⁵. Allowing people to own houses on tidelands is setting a precedent of housing in other tidelands contexts. The SLC cannot ignore liveaboards who reside on public tidelands while allowing multi-million dollar homeowners to live on those same tidelands a stone's throw away.

4. There is A Precedent for Private Living on California State Land.

The last time I spoke to the SLC, it was unclear if liveaboards were part of public trust consistent use. However, there are clear examples of when the State allows others to reside on public lands in a much similar fashion than Beacon Bay.

A few miles down the road from Newport Beach is the neighborhood of University Hills in Irvine, California. University Hills was created by The University of California, Irvine as a way to house its faculty. It is restricted to the people that work for the University and almost 2/3rds of the faculty live there. University Hills is extremely similar to our liveaboard situation for the following reasons:

- **Residents live on state owned land.** The land is owned by The Regents of the University of California, which is a governing board of the State University system⁶.
- **Residents own the home, not the land.** Although they do not own the land, residents of University Hills can buy/sell their homes to others within the community.
- **Residents pay rent in exchange for state land use.** Residents of University of Hills pay 'ground rent' in exchange for the use of the state land.
- **Residents pay to maintain the structures on state land.** Residents are responsible for maintaining the property on which the land resides.
- **The land provides unique access to housing for specific users.** University Hills was designed for a specific community and their opportunity/needs in a regulated public/private market.

As the system works today - the mooring field reflects these same characteristics. I have re-written the statement above to reflect the current situation for liveaboards in the mooring field.

⁵**California State Lands Commission.** (2012). *Review of City of Newport Beach proposed Beacon Bay lease involving legislatively granted filled tide and submerged lands located in Beacon Bay, City of Newport Beach, Orange County.* Retrieved from https://www.slc.ca.gov/Meeting_Summaries/2012_Documents/03-29-12/Items_and_Exhibits/C77.pdf

City of Newport Beach. (n.d.). *Map of sovereign tide and submerged lands.* Retrieved from <https://www.newportbeachca.gov/government/departments/harbor/resources/beacon-bay-bill>

⁶ This is all information confirmed by a current resident of University Hills. I have a copy of their contract to pay 'ground rent' that I can provide, if desired.

- **Liveboard residents live on state owned tideland.** The tideland is owned by the state and given to the City to manage through the state tidelands charter.
- **Liveboard residents own the boat, not the tideland.** Liveboards own their home (i.e., their boat) but do not own the tideland beneath it. They are able to sell their boat on a private market and move their mooring permit to other boaters privately.
- **Liveboard residents pay rent in exchange for state tideland use.** In addition to the rent paid to maintain a mooring permit, the
- **Liveboard residents pay to maintain mooring and tackle in tidelands.**
- **The tidelands offer unique access to housing for specific users.** The liveboard permit offers a unique housing opportunity for those with seamanship skills and is restricted to those that meet specific criteria.

University Hills is a state-owned property with private residents buying and selling their property on a privately regulated market. It is designed to protect and preserve high-quality educators in California. I argue that the liveboard community is of the same vein. The tidelands are state owned with private residences buying and selling their private boats. It is designed in a way that preserves a community of tradesmen of the sea who are keeping the California maritime culture alive.

University Hills was created to protect affordable housing for the University faculty. Although the liveboard community was not designed to be an affordable housing solution, it has become one as a result of external economic circumstances. If the City continues its efforts to eradicate a form of affordable housing during a housing crisis, the City is sending strong signals about its ability to uphold its fiduciary duties in tidelands, housing, or otherwise entrusted upon them by the State. If the City does not care to protect its own residence in the face of economic greed, how can we expect them to care for the tidelands?

5. Newport Beach Avoids Defining Moorings As Affordable Housing

It's unclear to us in the liveboard community why the City has not worked with the SLC and utilized the mooring fields as a defined form of affordable housing, especially given the pressure from State Authorities for Newport Beach to comply with affordable housing development expectations and a potential lawsuit with Project Greenlight⁷.

The City (pre-ordinance) allows 7% of mooring permits to be liveboards. If the City were to increase the number of allowable liveboards, perhaps doubling from 7% to 14% of total mooring permits, it would be a low impact way to add to the affordable housing inventory. It

⁷Smith, A. (2024, July 29). *Newport Beach council decides not to put city's housing element out to voters.* Orange County Register. Retrieved from <https://www.ocregister.com/2024/07/29/newport-beach-council-decides-not-to-put-citys-housing-element-out-to-voters/>

would be an easy, heavily regulated form of housing where the primary use is boating and the secondary use is residential.

Liveaboards offer additional benefits by being relatively easy and quick to implement. It does not require building of permanent structures on State Lands, it is easily adjustable in housing scale up or down depending upon conditions of the future, it occupies a very small space compared to a house on land, and there is already a clear system, regulatory body, payment, and inspection process in place.

To be clear, I am not stating that liveaboards in Newport Beach should be a means of affordable housing appropriate for everyone. The liveaboards of the harbor are *first and foremost* recreational boaters. Housing is secondary, and every liveboard that I am aware of is a mariner with ample experience and ability to maintain and navigate their vessels to the highest environmental and safety standards. Those standards need to be maintained.

This situation is nothing like, for example, the recent events in Richardson Bay outside of Sausalito⁸. We are not illegal anchor-outs and we are not housing-only use. We signed a contract with the City, we pay our rent on time, we maintain the safety and navigability of our vessels, and we keep all documentation up to date and registered. For those that maintain this standard of environmental, safety, and maritime-focused care, a liveboard situation will enhance recreational access to the harbor.

Given the legal and policy implications outlined above, I respectfully request that the State Lands Commission:

1. **Explicitly recognize and protect liveaboards as a valid use of tidelands** under the Public Trust Doctrine and ensure their continued existence as part of Newport Harbor's maritime culture.
2. **Prevent Newport Beach from arbitrarily eliminating liveaboards through regulatory changes** that disproportionately impact a specific class of mooring permit holders.
3. **Ensure consistency in housing-related decisions on state tidelands**, preventing discriminatory treatment of mooring-based liveaboards while marina-based liveaboards remain unaffected.

The State Lands Commission has the authority and obligation to uphold equitable access to California's tidelands. Without clear intervention, Newport Beach's ordinance will set a dangerous precedent that undermines public access and opportunities in the harbor.

⁸**Latitude 38.** (n.d.). *Anchor-outs' last days in Richardson Bay*. Retrieved from <https://www.latitude38.com/electronic/anchor-outs-last-days-richardson-bay/>

Thank you,
Samantha McDonald, PhD

Archived: Sunday, April 13, 2025 9:53:08 PM
From: [Tohotty04](#)
Sent: Sunday, April 13, 2025 12:06:28 PM
To: [CSLC CommissionMeetings](#)
Subject: Complaint about Public records and Public access.
Sensitivity: Normal
Archived: Sunday, April 13, 2025 9:53:08 PM

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

I would like to make a complaint. The videos on YouTube about your locations (that I will link below.) not allowing public access to public spaces in your offices or allowing access to public records per statute. Also there are MANY problems and more complaints within each video. 1. Calling anyone derogatory names like " " is definitely against policy of ANY state entity. 2. A public worker telling the public that " it's their job and are trained to give people a hard time". This is also against policy. I could keep going but I believe I have gotten my point across. You are public workers serve the public and your coworkers with respect. So far we the people only see disrespect and disservice ! It's no wonder why it's so easy to tear away government mismanagement when it's all over to see.