

MINUTE ITEM

8/29/74
RCH

26. STIPULATION FOR SETTLEMENT OF DAMAGE IN THE CASE OF CITY OF LONG BEACH V. FRANK W. BUTLER, LOS ANGELES COUNTY SUPERIOR COURT CASE NO. SOC-23014 - W 503.649.

After consideration of Calendar Item 27 attached, and upon motion duly made and carried, the following resolution was adopted:

THE STATE LANDS COMMISSION AUTHORIZES THE OFFICE OF THE ATTORNEY GENERAL TO EXECUTE A STIPULATION FOR SETTLEMENT OF THE DAMAGE ISSUE IN THE CASE OF CITY OF LONG BEACH V. FRANK W. BUTLER, LOS ANGELES COUNTY SUPERIOR COURT CASE NO. SOC-23014.

Attachment:

Calendar Item 27 (1 page)

STIPULATION FOR SETTLEMENT OF DAMAGE
IN THE CASE OF CITY OF LONG BEACH V. FRANK W. BUTLER,
LOS ANGELES COUNTY SUPERIOR COURT CASE NO. SOC-23014

In 1970, the City of Long Beach filed a complaint in ejectment to recover possession of real property and for damages for withholding possession (City of Long Beach v. Frank W. Butler, Los Angeles County Superior Court Case No. SOC-23014). The land which is the subject of this action is located on the edge of Alamitos Bay. Pursuant to Section 6308 of the Public Resources Code, the State was named as a necessary party since boundaries of granted tidelands or submerged lands were at issue.

For trial purposes, the case was bifurcated with the question as to the location of the common boundary between the abutting private property and the subject public lands being tried first. The City and State prevailed on the boundary issue. In the second phase of the trial, the court held that the city was entitled to possession of the subject property. Presently, the private defendants have requested a ruling by the trial court as to the extent of their littoral rights, if any, to Alamitos Bay in light of the City's intent to retake possession of the subject property. When the trial court rules, a final judgment will be entered. The private parties have indicated they will appeal, although negotiations for a complete settlement are pending.

The present transaction concerns the damage issue of the case. After evaluation of the facts and circumstances, including the favorable rulings for the City and State on boundary and ejectment questions, the City and private defendants agreed to a complete settlement of the damage issue by a compromise stipulation. Commission approval of this stipulation is necessary since the State is a party to the action and it is a matter concerning granted sovereign lands.

The stipulation provides that the private defendants will pay the City \$100 monthly for the use of the City-owned parcel until six months after the judgment in the pending case becomes final, at which time they will peacefully surrender the premises to the City. This rental rate has been determined upon the basis of existing City regulatory ordinances concerning small boat marina facilities.

The proposed stipulation is on file with the State Lands Division and is incorporated herein by reference. This stipulation has been reviewed and approved by the Office of the Attorney General.

EXHIBIT: A. Site Map.

IT IS RECOMMENDED THAT THE STATE LANDS COMMISSION AUTHORIZE THE OFFICE OF THE ATTORNEY GENERAL TO EXECUTE A STIPULATION FOR SETTLEMENT OF THE DAMAGE ISSUE IN THE CASE OF CITY OF LONG BEACH V. FRANK W. BUTLER, LOS ANGELES COUNTY SUPERIOR COURT CASE NO. SOC-23014.