

MINUTE ITEM:

This Calendar Item No. 17
was approved as Minute Item
No. 17 by the State Lands
Commission by a vote of 2
to 0 at its 3/27/86
meeting.

CALENDAR ITEM

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03/27/86
WP 6504
Horn

AUTHORIZATION FOR STAFF TO SECURE PAYMENT OF
DELINQUENT RENTAL ON LEASES PRC 6504, 6505 AND 6506,
INCLUDING AUTHORIZATION TO TERMINATE THE LEASES

BACKGROUND:

At its meeting on October 26, 1983, the Commission authorized the issuance of three leases to the Burlingame Group covering approximately 8.8 acres of filled tidelands along San Francisco Bay. The leases contemplated the construction of a low-rise hotel of approximately 300 rooms and two free-standing restaurants. The lease was later assigned to Burlingame Joint Venture I. The leases commenced November 1, 1983 and anticipated a two year construction period. During the first two years of the lease, the lessee was allowed a nominal rental of \$5,000 per year for the three leases. Beginning November 1, 1985 rental under the three leases was scheduled to increase to \$50,000 per year.

Just prior to the November 1, 1983 anniversary, the lessee requested a three-month extension of time to pay the rental. The request was made because a new general partner was joining the lessee which would require SLC approval. An escrow would be opened to provide for the new partner's buy-in and SLC rental would be paid at close of escrow in January, 1986.

Staff approved a three-month delay in payment of rental, provided that the lessee would pay penalty and interest on the delinquent rental as provided in the lease (penalty - five percent of amount due; interest at 18 percent per annum).

CURRENT SITUATION

The escrow has not closed and the lessee has again requested an extension of the rental payment date.

(REVISED 03/19/86)

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| CALENDAR CASE | 97 |
| REPORT NO. | 783 |

CALENDAR ITEM NO. 17 (CONT'D)

Staff believes that the lessee should not be granted an extension to pay rental currently due. Nearly two and one-half years have passed since the lease was issued and the hotel project has not yet commenced construction. The tenant has had internal management problems. It also has changed the design of the project and continues to delay final development of the site.

The Commission does have access to a \$50,000 irrevocable letter of credit to use towards securing the tenant's performance under the lease; however, it would not cover the total amount currently due the State.

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THIS ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA BECAUSE IT IS NOT A PROJECT AS DEFINED BY PRC 21065 AND 14 CAL. ADM. CODE 15378.
2. AUTHORIZE STAFF AND/OR THE ATTORNEY GENERAL TO TAKE ALL STEPS NECESSARY, INCLUDING LITIGATION TO SECURE LESSEE'S PAYMENT OF RENTAL (TOGETHER WITH PENALTY AND INTEREST) OVER DUE UNDER LEASES PRC 6504, 6505 AND 6506.
3. AUTHORIZE STAFF AND/OR THE ATTORNEY GENERAL TO TAKE ANY STEPS NECESSARY TO TERMINATE LEASES PRC 6504, 6505 AND 6506 AS ONE REMEDY PROVIDED UNDER THE LEASES FOR BREACH OF THE LEASE TERMS AND CONDITIONS.