

MINUTE ITEM
This Calendar Item No. 27
was approved as Minute Item
No. 27 by the State Lands
Commission by a vote of 3
to 0 at its 2/2/87
meeting.

CALENDAR ITEM

A 16
S 3

27

AD 60 02/17/87
W 503.1463
Simmons
Peterson

AUTHORIZATION FOR SETTLEMENT OF
SAN FRANCISCO SOUTH BAY PARTNERSHIP

STATE OF CALIFORNIA AND CITY AND COUNTY OF SAN FRANCISCO
(SAN FRANCISCO SUPERIOR COURT NO. 854600)
\$125,000 CONTRIBUTION TO KAPILOFF LAND BANK FUND

In March 1986, the above-referenced action was filed by the private landowner of record to quiet title to property in San Francisco. The subject property is slated for Redevelopment and comprises the Southwesterly 20 feet of the area designated as Gale Street situated between the Southeasterly line of Townsend Street and the Northwesterly line of King Street, being a strip of land 20 feet wide and 275 feet in length, abutting Water Block 9 as shown on the "Official Map of the City of San Francisco" dated January 15, 1851 prepared by City Surveyor Wm. M. Eddy ("Eddy Map"). The parcel was filled to an elevation above the line of ordinary high tide and improved on or before 1900 and is presently filled and devoted to commercial purposes.

The San Francisco Beach and Water Lots were granted to the City for a term of 99 years by the Act of March 26, 1851 ("1851 Act"). The Water Blocks were subdivided into lots which were sold into private ownership pursuant to "An Act to Provide for the Sale of the Interest of State of California in Property Within the Water Line Front of the City and County of San Francisco" enacted May 18, 1853 ("1853 Act"). San Francisco South Bay Partnership contends that since sales of these lots were made by reference to the Eddy Maps; the underlying fee to the centerline of Gale Street passed to purchasers of lots abutting Gale Street and that San Francisco South Bay Partnership has succeeded to the interests of the purchasers of all of the lots adjoining Gale Street. The State contends that the 1851 Act and the 1853 Act did not provide for sale of areas designated as streets.

On January 19, 1945, the City purported to vacate officially the public street easement in Gale Street. The State maintains that the City did not have the authority under the 1851 Act or the 1853 Act to vacate a public trust street. In 1950 Gale Street reverted to the State. In 1968, through Stats. 1968, Chapter 1333 ("Burton Act"), the State authorized the transfer of certain property interests within the area of the Port of San Francisco to the City for the purpose of enabling the City to operate the Port through its Port Commission in accordance with that Act. The State contends that the subject property was included in said grant, subject to the limitations, exceptions and conditions therein provided. The Burton Act does not authorize alienation by the City to private parties of lands granted pursuant to it. The City contends that it received a fee interest in Gale Street by virtue of the 1851 and 1853 Acts and that any further interest of the State passed to the City by virtue of the Burton Act. It contends that its interests are proprietary and are held free from the public trust.

Settlement of this litigation by entering into a Compromise Settlement Agreement is proposed. The Office of the Attorney General, in consultation with staff of the State Lands Commission (Commission), has concluded that a reasonable settlement of the litigation can be accomplished by resolution of the title questions regarding Gale Street. As part of the settlement the City would quitclaim to the State its interest arising from the Burton Act. The State would quitclaim its title in Gale Street to the private party and the City would quitclaim any remaining interest, if any, it has in Gale Street to the private party. In exchange, San Francisco South Bay Partnership will deposit \$125,000 to the Land Bank Fund established by Public Resources Code Section 8610, to be used for the acquisition of other lands suitable for trust purposes that are equal to or greater in value than the \$125,000 to be received. San Francisco South Bay Partnership will pay \$25,000 to the City and County of San Francisco to settle their independent claim. San Francisco South Bay Partnership will also quitclaim, subject to the Burton Act, its interest, if any, in the abutting portion of Gale Street which extends 30 feet from the Settlement Parcel to the centerline of Gale Street (Exhibit "B").

The proposed settlement agreement is on file in the Sacramento office of the Commission. The staff and the Office of the Attorney General concur that execution and consummation of the

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agreement is in the best interests of the Commission and the public. The settlement will avoid long and costly litigation with uncertain results.

AB 884: N/A.

OTHER PERTINENT INFORMATION:

1. Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (14 Cal. Adm. Code 15061), the staff has determined that this activity is exempt from the requirements of the CEQA as a statutory exempt project. The project is exempt because it involves settlements of title and boundary problems.

Authority: P.R.C. 21080.11.

EXHIBITS:

- A. Land Description - Settlement Parcel.
- B. Land Description - Quitclaim to City, County and State.
- C. Location Map.

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO 14 CAL. ADM. CODE 15061 AS A STATUTORY EXEMPT PROJECT PURSUANT TO P.R.C. 21080.11, SETTLEMENT OF TITLE AND BOUNDARY PROBLEMS.
2. APPROVE THE EXCHANGE AS PROPOSED AND AUTHORIZE STAFF AND THE OFFICE OF THE ATTORNEY GENERAL, IN SETTLEMENT OF SAN FRANCISCO SOUTH BAY PARTNERSHIP V. STATE OF CALIFORNIA AND CITY AND COUNTY OF SAN FRANCISCO, SAN FRANCISCO SUPERIOR COURT NO. 854600, TO EXECUTE THE COMPROMISE SETTLEMENT AGREEMENT IN A FORM SUBSTANTIALLY SIMILAR TO THAT NOW ON FILE IN THE OFFICE OF THE STATE LANDS COMMISSION, WHICH IS INCORPORATED HEREIN BY REFERENCE.
3. FIND THAT THE EXCHANGE OF LANDS, INTERESTS IN LANDS, AND RIGHTS SET FORTH IN THE AGREEMENT REFERRED TO IN PARAGRAPH 2 ABOVE, ARE IN THE BEST INTERESTS OF THE STATE FOR AID IN RECLAMATION; THAT IT WILL NOT SUBSTANTIALLY INTERFERE WITH THE RIGHTS OF NAVIGATION AND FISHING; THAT THE STATE WILL RECEIVE LANDS AND INTERESTS IN LANDS EQUAL TO OR GREATER IN VALUE THAN ANY LANDS OR INTERESTS IN LANDS

- RELINQUISHED BY THE STATE PURSUANT TO SAID COMPROMISE SETTLEMENT AGREEMENT; AND THAT THE AGREEMENT WILL RESOLVE COSTLY AND LENGTHY LITIGATION OF UNCERTAIN RESULTS.
4. AUTHORIZE THE ACCEPTANCE OF A QUITCLAIM TO THE STATE OF CALIFORNIA FROM THE CITY AND COUNTY OF SAN FRANCISCO OF ITS INTEREST IN THE SETTLEMENT PARCEL ARISING FROM THE BURTON ACT.
 5. AUTHORIZE, THROUGH THE COMPROMISE SETTLEMENT AGREEMENT, THE EXECUTION AND DELIVERY TO SAN FRANCISCO SOUTH BAY PARTNERSHIP OF QUITCLAIM OF ANY INTEREST THE STATE MAY HAVE IN THE REAL PROPERTY DESCRIBED IN EXHIBIT "A", INCLUDING THE PUBLIC TRUST FOR COMMERCE, NAVIGATION, AND FISHERIES.
 6. AUTHORIZE ACCEPTANCE OF A QUITCLAIM, SUBJECT TO THE BURTON ACT, FROM SAN FRANCISCO SOUTH BAY PARTNERSHIP TO THE STATE AND THE CITY, OF THE SOUTHWESTERLY 50 FEET OF GALE STREET, EXCEPTING THEREFROM THE AREA OF THE SETTLEMENT PARCEL AND ABUTTER'S RIGHTS OF ACCESS AND STREET USE.
 7. FIND AND DECLARE THAT, UPON RECORDATION OF THE SETTLEMENT AGREEMENT, THAT THE REAL PROPERTY DEPICTED IN EXHIBIT "A" IN THE QUITCLAIM BY THE STATE TO SAN FRANCISCO SOUTH BAY PARTNERSHIP:
 - A. HAS BEEN CUT OFF FROM NAVIGABLE WATERS, IMPROVED, AND RECLAIMED BY PRIVATE PARTIES OR THEIR PREDECESSORS-IN-INTEREST;
 - B. HAS BEEN SEVERED FROM THE PUBLIC CHANNELS AND WATERWAYS, AND IS NO LONGER AVAILABLE FOR USEFUL OR SUSCEPTIBLE OF BEING USED FOR NAVIGATION AND FISHING, AND IS NO LONGER, IN FACT, TIDE OR SUBMERGED LANDS, AND THEREFORE, SHALL BE FREED FROM THE TRUST.
 8. AUTHORIZE THE DEPOSIT OF \$125,000 INTO THE KAPILOFF LAND BANK FUND OR ACQUISITION OF LANDS SUITABLE FOR PUBLIC TRUST PURPOSES;
 9. AUTHORIZE THE STAFF AND THE OFFICE OF THE ATTORNEY GENERAL TO TAKE ALL FURTHER STEPS NECESSARY TO IMPLEMENT THE ABOVE TRANSACTION, INCLUDING, BUT NOT LIMITED TO, THE EXECUTION OF ALL DOCUMENTS, ESCROW INSTRUCTIONS, MAPS AND PLATS, AND ANY APPEARANCES OR FILING OR PLEADINGS IN ANY LEGAL PROCEEDINGS NECESSARY OR REQUIRED TO ACCOMPLISH THE TERMS AND PROVISIONS OF THE ABOVE TRANSACTION.

EXHIBIT "A"

SETTLEMENT PARCEL
LEGAL DESCRIPTION

All of the real property situate in the city and county of San Francisco, State of California, described as follows:

BEGINNING at the point of intersection of the northeasterly line of Second Street and the southeasterly line of Townsend Street; running thence northeasterly along said line of Townsend Street, 275 feet to the point of commencement; thence at a right angle, southeasterly along the southwesterly line of Gale Street, now closed, 275 feet to the northwesterly line of King Street; thence at a right angle, northeasterly along said line of King Street, extended, 20 feet; thence northwesterly and parallel to the southwesterly line of Gale Street, 275 feet; thence southwesterly, along the southeasterly line of Townsend Street, extended, 20 feet to the point of commencement.

EXCEPTING THEREFROM that portion thereof lying below a depth of 500 feet, measured vertically, from the contour of the surface of said property; however, Grantor or its successors and assigns shall not have the right for any purpose whatsoever to enter upon, into, or through the surface of said property or any part thereof lying between said surface and 500 feet below said surface.

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EXHIBIT B
LAND DESCRIPTION - QUITCLAIM TO
CITY AND STATE

S.F. South Bay remises, releases, and forever quitclaims to the City and State, as lands of the legal character of tide and submerged lands, subject to all of the terms and conditions of the Burton Act and the agreements between the City and State thereunder, the southwesterly 50 feet of Gale Street, as shown on the Eddy Map, saving and excepting therefrom The Settlement Parcel, and also saving and excepting therefrom any and all abutter's rights of access and use of said land as a public street, which may be incident or appurtenant to The Settlement Parcel and the retained lands of S.F. South Bay.

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