

MINUTE ITEM
This Calendar Item No. C62 was approved as
Minute Item No. 62 by the California State Lands
Commission by a vote of 3 to 0 at its
05/10/07 meeting.

CALENDAR ITEM
C62

A 67
S 35
PRC 8241
05/10/07
WP 8241.1
S. Young

**TERMINATION OF GENERAL LEASE - RECREATIONAL USE AND ISSUANCE OF
A NEW GENERAL LEASE - RECREATIONAL AND PROTECTIVE STRUCTURE USE**

LESSEE:
Arnold D. Feuerstein

APPLICANTS:
Del B. Brault and Jane L. Brault, as Trustees for Brault Family Trust dated
May 31, 1996

AREA, LAND TYPE, AND LOCATION:
Sovereign lands in Huntington Harbor, Huntington Beach, Orange County.

AUTHORIZED USE:
The continued use and maintenance of an existing boat dock and access ramp;
repair of an existing bulkhead that may include all or some of the following: (a)
existing pile repair; (b) replacement of sheet piles; (c) installation of rock slope
protection and (d) eelgrass planting within the lease premises if required by the
California Coastal Commission, as part of a mitigation program; and the use and
maintenance of a cantilevered deck extending no more than five feet waterward
of the existing bulkhead.

LEASE TERM:
Ten years, beginning May 10, 2007.

CONSIDERATION:
As to the boat dock, no monetary consideration pursuant to Public Resources
Code section 6503.5; as to the repair of the bulkhead, the public health and
safety with the State reserving the right at any time to set a monetary rent if the
Commission finds such action to be in the State's best interest; as to the existing
cantilevered deck, annual in the amount of \$585 with the State reserving the right
to fix a different rent periodically during the lease term, as provided in the lease.

CALENDAR ITEM NO. C62 (CONT'D)

SPECIFIC LEASE PROVISIONS:

Insurance:

Combined single limit coverage of no less than \$1,000,000.

OTHER PERTINENT INFORMATION:

1. Applicants own the uplands adjoining the lease premises.
2. On February 17, 2005, the Commission authorized the issuance of a General Lease – Recreational Use to Arnold D. Feuerstein for a ten-year term for the reconstruction and reconfiguration of the existing boat dock; use and maintenance of a boat dock and access ramp; repair of the existing bulkhead and for the construction and maintenance of a cantilevered deck extending no more than five feet waterward of the existing bulkhead adjacent to the existing residence. In February of 2005, the littoral land was deeded to Del B. Brault and Jane L. Brault, as Trustees for the Brault Family Trust. The Brault Family Trust is now applying for a new General Lease – Recreational and Protective Structure Use.
3. Staff is recommending that the existing lease be terminated and a new lease be issued to the Brault Family Trust. Since the deck is existing, staff is recommending that a lease be issued to the Applicants.
4. The existing boat dock and access ramp will remain rent-free as the Applicants are natural persons who have improved the littoral land with, and use the upland for, a single-family dwelling. As the cantilevered deck does not qualify for a rent-free lease, that portion of the deck extending over State fee ownership within the Harbour is subject to annual rent. Repairs and maintenance to the bulkhead will remain rent free.
5. **Termination of Existing Lease:** Pursuant to the Commission's delegation of authority and the State CEQA guidelines [Title 14, California Code of Regulations, section 15060(c)(3)], the staff has determined that this activity is not subject to the provisions of the CEQA because it is not a "project" as defined by the CEQA and the State CEQA Guidelines.

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

CALENDAR ITEM NO. C62 (CONT'D)

6. **Issuance of New Lease:** As to the proposed use and maintenance of the boat dock, access ramp and cantilevered deck, pursuant to the Commission's delegation of authority and the State CEQA Guidelines (Title 14, California Code of Regulations, section 15061), the staff has determined that these activities are exempt from the requirements of the CEQA as categorically exempt projects. The projects are exempt under Class 3, New Construction of Small Structures; Title 2, California Code of Regulations, section 2905(c)(1).

Authority: Public Resources Code section 21084 and Title 14, California Code of Regulations, section 15300 and Title 2, California Code of Regulations, section 2905.

7. As to the bulkhead repairs, a Mitigated Negative Declaration (SCH 200081028) was prepared and adopted for this project by the city of Huntington Beach. The California State Lands Commission's staff has reviewed such document. A Mitigation Monitoring Program was adopted by the city of Huntington Beach.
8. These activities involve lands identified as possessing significant environmental values pursuant to Public Resources Code sections 6370, et seq. Based upon the staff's consultation with the persons nominating such lands and through the CEQA review process, it is the staff's opinion that the projects, as proposed, are consistent with its use classification.

EXHIBITS:

- A. Location and Site Map
- B. Land Description

RECOMMENDED ACTION:

IT IS RECOMMENDED THAT THE COMMISSION:

CEQA FINDING:

TERMINATION OF EXISTING LEASE: FIND THAT THE ACTIVITY IS NOT SUBJECT TO THE PROVISIONS OF THE CEQA BECAUSE IT IS NOT A "PROJECT" AS DEFINED BY PUBLIC RESOURCES CODE SECTION 21065 AND TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTIONS 15060 (c)(3) AND 15378.

CALENDAR ITEM NO. C62 (CONT'D)

ISSUANCE OF NEW LEASE: AS TO THE USE, AND MAINTENANCE, OF AN EXISTING BOAT DOCK, ACCESS RAMP, AND THE EXISTING CANTILEVERED DECK, FIND THAT THE ACTIVITIES ARE EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15061 AS CATEGORICALLY EXEMPT PROJECTS, CLASS 3, NEW CONSTRUCTION OF SMALL STRUCTURES; TITLE 2, CALIFORNIA CODE OF REGULATIONS, SECTION 2905(c)(1).

AS TO THE BULKHEAD REPAIRS, FIND THAT A MITIGATED NEGATIVE DECLARATION AND A MITIGATION MONITORING PROGRAM WERE PREPARED AND ADOPTED FOR THIS PROJECT BY THE CITY OF HUNTINGTON BEACH AND THAT THE COMMISSION HAS REVIEWED AND CONSIDERED THE INFORMATION CONTAINED THEREIN.

ADOPT THE MITIGATION MONITORING PROGRAM, AS PREPARED BY THE CITY OF HUNTINGTON BEACH, A COPY OF WHICH IS ON FILE IN THE SACRAMENTO OFFICE OF THE COMMISSION.

SIGNIFICANT LANDS INVENTORY FINDING:

FIND THAT THESE ACTIVITIES ARE CONSISTENT WITH THE USE CLASSIFICATION DESIGNATED BY THE COMMISSION FOR THE LAND PURSUANT TO PUBLIC RESOURCES CODE SECTIONS 6370, ET SEQ.

AUTHORIZATION:

AUTHORIZE THE TERMINATION OF LEASE NO. PRC 8241.9, A GENERAL LEASE – RECREATIONAL USE, TO ARNOLD D. FEUERSTEIN.

AUTHORIZE ISSUANCE TO DEL B. BRAULT AND JANE L. BRAULT, AS TRUSTEES FOR THE BRAULT FAMILY TRUST DATED MAY 31, 1996, OF A GENERAL LEASE – RECREATIONAL AND PROTECTIVE STRUCTURE USE, BEGINNING MAY 10, 2007, FOR A TERM OF TEN YEARS, FOR THE USE AND MAINTENANCE OF AN EXISTING BOAT DOCK, ACCESS RAMP AND CANTILEVERED DECK AND FOR THE REPAIR OF AN EXISTING BULKHEAD, ADJACENT TO 16681 CAROUSEL LANE, HUNTINGTON BEACH, THAT MAY INCLUDE ALL OR SOME OF THE FOLLOWING: (1) EXISTING PILE REPAIR; (2)

CALENDAR ITEM NO. C62 (CONT'D)

REPLACEMENT OF SHEET PILES; (3) PLACEMENT OF ROCK SLOPE PROTECTION AND (4) EEL GRASS PLANTING IF REQUIRED BY THE CALIFORNIA COASTAL COMMISSION AS PART OF A MITIGATION PROGRAM; ON THE LAND SHOWN ON EXHIBIT A AND AS DESCRIBED ON EXHIBIT B ATTACHED AND BY THIS REFERENCE MADE A PART HEREOF; AS TO THE BOAT DOCK AND ACCESS RAMP, NO MONETARY CONSIDERATION PURSUANT TO PUBLIC RESOURCES CODE SECTION 6503.5; AS TO THE REPAIR OF THE BULKHEAD, THE PUBLIC HEALTH AND SAFETY WITH THE STATE RESERVING THE RIGHT AT ANY TIME TO SET A MONETARY RENT IF THE COMMISSION FINDS SUCH ACTION TO BE IN THE STATE'S BEST INTEREST; AS TO THE CANTILEVERED DECK, ANNUAL RENT IN THE AMOUNT OF \$585, WITH THE STATE RESERVING THE RIGHT TO FIX A DIFFERENT RENT PERIODICALLY DURING THE LEASE TERM, AS PROVIDED IN THE LEASE; LIABILITY INSURANCE FOR THE COMBINED SINGLE LIMIT COVERAGE OF NO LESS THAN \$1,000,000.

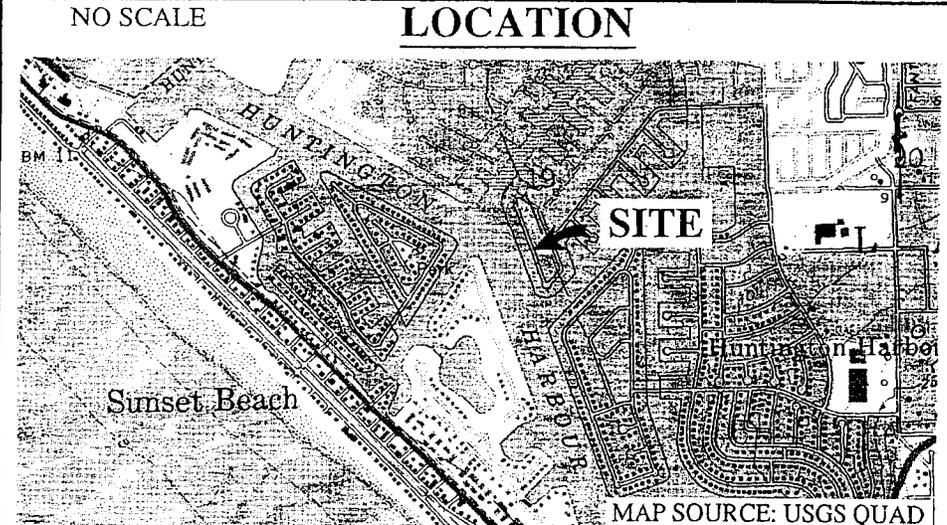
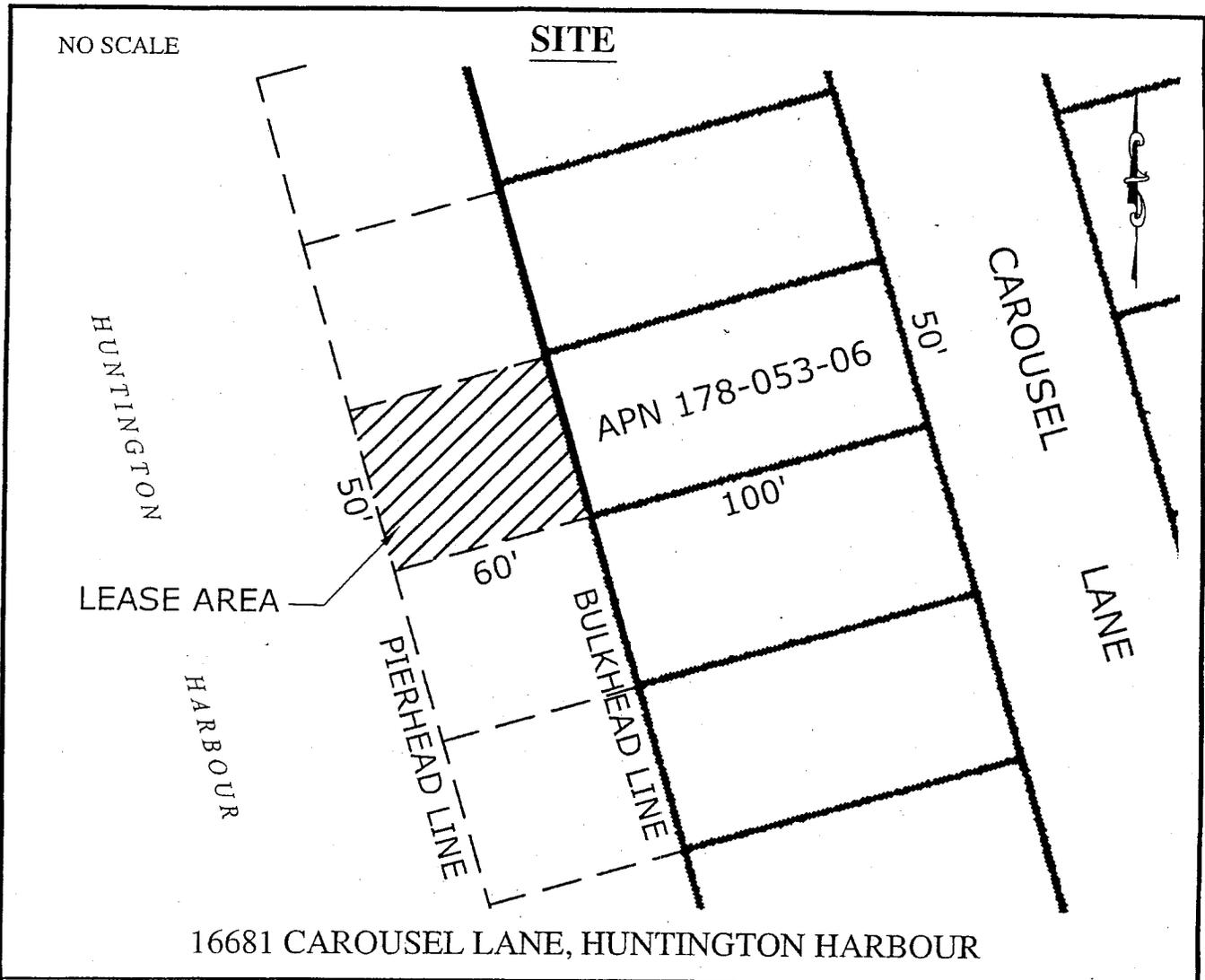


Exhibit A
 WP 8241

APN 178-053-06
 RECREATIONAL PIER USE
 HUNTINGTON HARBOUR
 ORANGE COUNTY



This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.

EXHIBIT B

WP 8241

LAND DESCRIPTION

A parcel of submerged land in Huntington Harbour in the City of Huntington Beach, Orange County, California, described as follows:

Beginning at the most southerly corner of Lot 144 as said lot is shown and so designated on that certain map of Tract No. 5481 filed in Book 215, Pages 11 through 22 of Miscellaneous Maps, Official Records of said County; thence along the westerly extension of the southerly line of said lot, 60.00 feet, more or less, to the pierhead line, as said pierhead line is shown on EXHIBIT 'A' of Resolution No. 5631, passed and adopted January 21, 1986 by the City Council of the City of Huntington Beach and recorded January 27, 1986 as Document 86-035081, Official Records of said County; thence northerly along said pierhead line to the westerly extension of the northerly line of said lot; thence along said extension 60.00 feet, more or less, to the most westerly corner of said lot; thence along the westerly line of said lot to the point of beginning.

END OF DESCRIPTION

Prepared 02/07/2005 by the California State Lands Commission Boundary Unit



000296

CALENDAR PAGE

001097

MINUTE PAGE