

SECTION F – City Owned Docks

Introduction

The City owns a dock located at the end of 29th Street along the Rhine Channel, in the Lido Village neighborhood of the City. The dock is commonly referred to as the "Schock Dock" as Schock Boats has a License Agreement with the City that encumbers the dock. Based on a review of the City files and the License Agreement that encumbers the dock it includes approximately 57-feet of dock with floats and an access ramp. Schock conducts a boat sales, service and repair business at 2900 Lafayette Avenue and owns the commercial properties on both sides of the 29th Street Street end.

License Agreement

As noted above, the dock is encumbers with a License Agreement that is summarized as follows:

Licensor:	City of Newport Beach
Licensee:	Schock Boats, a California Corporation
Date:	December 14, 1998
Term:	May 1, 1998 to June 30, 2006
Services By Schock:	Maintain the dock in safe and working condition Maintain vehicle access on surrounding streets Prohibit vessels from being moored overnight
Restrictions:	Shock agrees that the dock is and continues to be public property and that the public shall not be denied access to and use of dock.
Base Rent:	\$6,000 per year
Rent Adjustment:	Commencing July 1, 2001 fees adjusted to rental rate per lineal foot of comparable facilities.

The Licensee is responsible for insurance for the dock.

Commercial Dock Rental Survey

Based on a review of the above referenced License Agreement, the rent for the dock space is based on the price per lineal foot for comparable facilities. The table on the following page is a summary of the commercial dock space surveyed to establish the current market rent for the subject dock. A discussion of each data items is presented on the pages following the summary table.

COMMERCIAL DOCK SPACE SUMMARY SEPTEMBER 2006			
DATA NO. LOCATION	LEASE TYPE	LENGTH (Lineal Feet)	MONTHLY RENT /L.F.
1/ Mainer's Mile Newport Beach	Direct	35' Side Tie	\$24.29
2/ 2804 Lafayette Newport Beach	Direct	50'	\$30.00
3/ 28 th Street Marina Newport Beach	Direct	Various	30-40 Feet@ \$20.00/LF Over 40 Feet @ \$24.00/LF
4/ Cannery Village Marina Newport Beach	Direct	Various	30-40 Feet@ \$20.00/LF Over 40 Feet @ \$24.00/LF
5/ Lido Marina Village 3400 Via Oporto Lido Village	Direct	Various	Under 36' @ \$25.00 - \$30.00/LF 36' – 56' @ \$40.00/LF
6/ Lido Marina Village 3400 Via Oporto Lido Village	Sub-lease	40'	\$47.50
7/ 27 th Street Newport Beach	Sub-Lease	68'	\$55.88
8/ 2300 Newport Boulevard	Sub-Lease	100'	\$40.00
9/ 401-2 & 401-3 Edgewater Newport Beach	Sub-Leases	45' 45'	\$44.44 \$44.44

Conclusion – Commercial Dock

Rental Data One is a 35-foot side tie in the Mariner's Mile neighborhood of Newport Beach. Like the subject, **Rental Data Nos. Two, Three and Four** are all located in the Rhine Channel in the Lido Village neighborhood and are most similar compared to the subject in terms of locational characteristics.

Rental Data Five was included in Section C and reflects the fact that most (reportedly 85%) of the slips in the Lido Marina are leased to commercial users. The overall location is slightly superior compared to the subject. **Rental Data Six** is a sub-lease within the same marina.

Rental Data Nos. Seven, Eight and Nine are all sub-leases of a single slip within other commercial marinas in Newport Harbor. As these are sub-lease they are given secondary consideration in estimating market rent for the 29th Street Dock.

All of the rental data are commercial docks/slips that are leased on an “exclusive” basis, unlike the subject, which has a requirement in the License Agreement that “the public shall not be denied access” and the licensee is required to get the City’s permission for overnight mooring. Based on my limited observations during the course of completing this assignment, the fact that the dock is available for public use is not well advertised and it appears that the Licensee has full use of the dock. Given the restrictions on use of the dock I have concluded that the market rent is at the low end of the range. The rental data uncovered indicate a range for the most comparable dock space (Data Nos. 1, 2, 3 & 4) from \$20.00 to \$40.00 per lineal foot. Based on the market data presented and the lease restrictions I have concluded that **the 29th Street Dock has a monthly market rent of \$20.00 per lineal foot, or a total monthly rent of \$1,140.00.**

Addenda – Section F

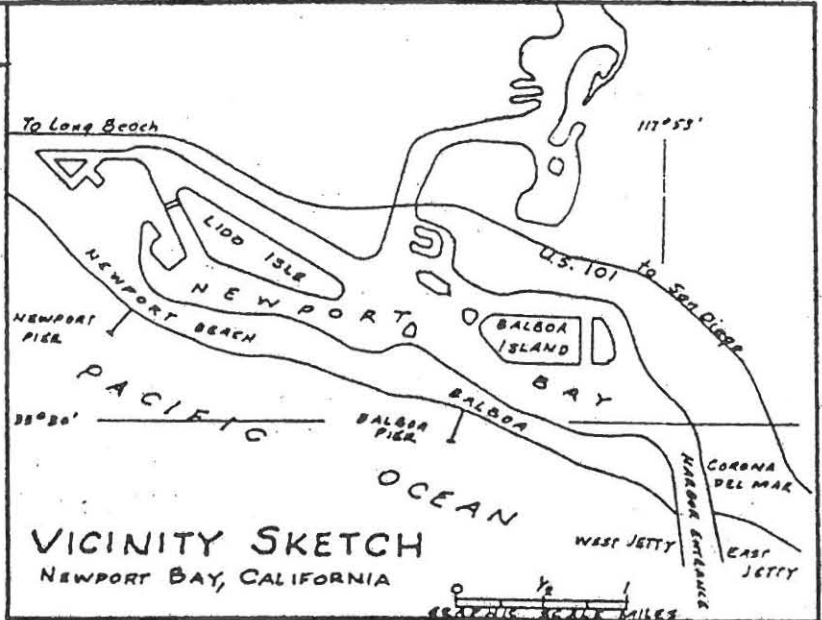
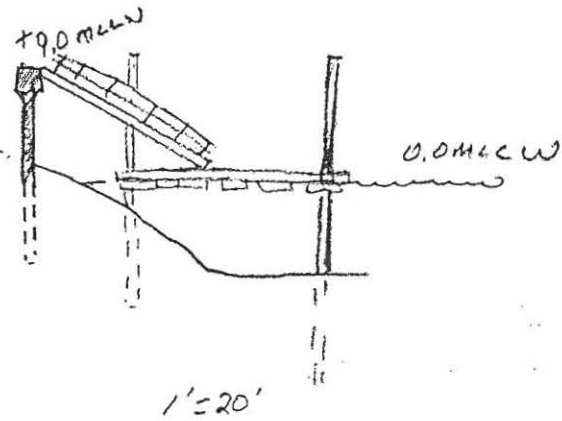
Subject Photographs



A view of the 29th Street Dock, with two boats on it.

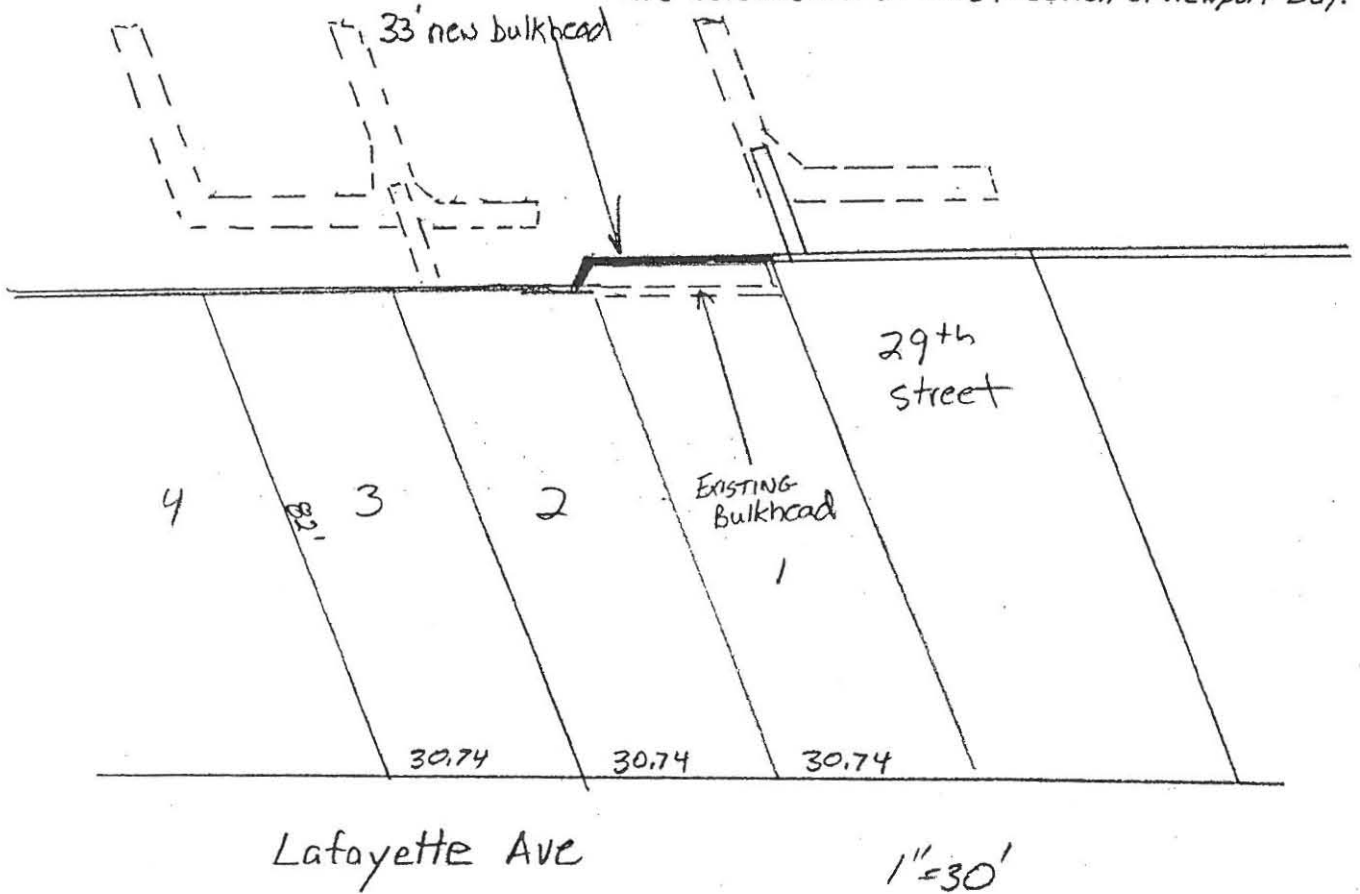
29th Street Dock Drawing

CITY OF NEWPORT BEACH



VICINITY SKETCH
NEWPORT BAY, CALIFORNIA

Soundings are expressed in feet and denote depths below Mean Lower Low Water. Maximum range of tide approximately 10 feet. Harbor lines are established in this section of Newport Bay.



APPLICANTS NAME SCHOCK BOATS

LOT 23 BLK. 328 TRACT Lancaster

OB ADDRESS 2900 LAFAYETTE AVE

CONTRACTOR SWIFT DATE 4-2-90

SECTION G – On-Shore and Off-Shore Moorings

Introduction

This section of the report applies to the “transfer value” and market rent for both on-shore and off-shore moorings within Newport Harbor. There are approximately 1,235 on-shore and off-shore moorings in Newport Harbor. The offshore moorings are located at ten locations throughout the harbor with two additional locations located by the Newport Harbor Yacht Club and the Balboa Yacht Club. These two locations are for the exclusive use of the yacht club membership. The on-shore moorings are located surrounding Balboa Island and Newport Island, on sections of both the north and south sides of Lido Isle and along various sections of the bay side of the peninsula from Peninsula Point to 20th Street. Two maps showing the location of the moorings are included in the Addenda to this section.

City Mooring Regulations

The city of Newport administers the moorings through the County Harbor Patrol, and the following is a summary of the mooring regulations:

1. Telephone numbers and addresses of all mooring permittee must be up to date at all times through the Harbor Patrol Office.
2. It is **illegal to rent your mooring** to anyone. If said mooring is unoccupied, it may be temporarily assigned as a mooring for guest vessels by the City Manager, via the Harbor Patrol.
3. Mooring permittees may not loan their moorings out to anyone without a letter of permission, submitted prior to the vessel going on the mooring, and approved by the Harbor Patrol. **Note: A mooring may only be loaned out for 30 days out of a 90-day period.**
4. Vessels on moorings **must** be registered to the permit holder **and** assigned to the mooring permit through the Harbor Patrol.
5. Only one boat is allowed on a mooring at any one time.
6. Spreader lines must be adequately marked and buoyed at all times.
7. Living aboard a vessel on a mooring, without a City permit, is a violation of the Newport Beach Municipal Code.
8. All offshore mooring buoys and shore mooring post must be painted white with the mooring number painted in black, 3” block letters, clearly visible.
9. Mooring pendants must be kept in good condition at all times.
10. Boats over 18’ in overall length are not allowed on shore moorings.

11. No boats with a fixed keel, fixed rudder, or fixed underwater propulsion apparatus or gear are allowed on shore moorings.
12. Moorings may not be vacant for a period longer than 90 days.
13. Off-shore moorings have been rated for a maximum size and cannot be decreased.

**VIOLATION OF MOORING REGULATIONS MAY RESULT IN THE
CANCELLATION OF THE MOORING PERMIT**

In addition to the above regulations mooring permits are not transferable, unless the vessel that occupies the mooring is sold and then the mooring permit can be “transferred” with the sale of the vessel. According to the Harbor Permit Policy, mooring Fees for both onshore and offshore moorings shall be set annually by Resolution of the City Council.

Mooring “Sale” Survey

As noted above, the “sale” of on-shore and off-shore moorings is not permitted in Newport Harbor. They may be transferred if the registered mooring permit holder sells the registered vessel, then the mooring permit can be “transferred” to the new vessel owner, who can then remove the vessel and place a new vessel on the mooring. In some cases, the vessel that transfers has virtually no value, or if the vessel has a motor and fuel tanks the vessel may have be a burden to the mooring due to the cost associated with removing the vessel and the environmental concerns associated with the removal of the fuel and oil.

Given that the “sale” of a mooring is not permitted, gathering data relative to the “sale” of on-shore and off-shore moorings was difficult as most of the parties interviewed would not disclose any terms of the “transfer” for fear of loosing the mooring. In the context of this appraisal, all of the “sales” discussed in this section involve the sale of a vessel and the permitted transfer of a mooring permit. In interviews with people that have transferred several moorings over the years, it was noted that several factors impact the “value” of a mooring, including the following:

1. Location of the mooring within the harbor (sheltered v. not sheltered);
2. Location within the mooring field or group (interior v. edge);
3. Size (length) of the mooring;
4. Balance in supply and demand for moorings and slip space.

One of the parties interviewed noted that in 2001 through 2003/04 the average price of a mooring was from \$8,000 to \$12,000, which equated to approximately \$200 to \$300 per lineal foot for an offshore mooring. On shore-mooring did not transfer that often but when they did they transferred for \$1,000 (\$55.55/LF) to \$5,000 (\$277.77/LF). The relatively low prices were due to

limited demand for moorings at that time. As the following table will show, the current transfer values have appreciated substantially and tend to be in the \$1,000 per lineal foot range. A review of City records indicates that in the second half of 2004 approximately 42 mooring transferred, in 2005 approximately 74 moorings transferred and through June 2006 approximately 32 moorings transferred, excluding those to related parties. Some of the transfers were boat “trades: between existing permittees (i.e. vessel at J-101 trades with vessel at J-102).

The following table is a summary of the mooring “transfers” that information was disclosed. A discussion of each data items is presented on the pages following the summary table.

MOORING TRANSFERS SEPTEMBER 2006				
DATA NO. LOCATION	BOAT (Type/Length)	LENGTH (Lineal Feet)	TRANSFER PRICE	PRICE /L.F.
1/ H Group Lido Isle	N.Av.	40' Outside	\$54,000	\$1,350
2/ Not Disclosed	50'	60' Corner	\$90,000	\$1,500
3/ Not Disclosed	1987 Apollo Sportfisher	40'	\$55,000	\$1,375
4/ No Disclosed	Cal 34 Sailboat	35'	\$53,000 (asking)	\$1,514
5/ H Group Lido Isle	Islander 36	40'	\$50,000	\$1,250
6/ J Group Lido Isle	40' motor Boat	40'	\$38,000	\$950
7/ J or H Group Lido Isle	Not Disclosed	40' Outside	\$50,000 (asking)	\$1,250
8/ D Group Balboa Island	Not Disclosed	45'	\$49,500	\$1,100
9/ Not Disclosed	Not Disclosed	30'	\$30,000	\$1,000
10/ A Group Peninsula Point	1997 Catalina 25	40'	\$58,000 (asking)	\$1,450
11/ H Group Lido Isle	Not Disclosed	65' Inside	\$30,000	\$461.50

Conclusion – Mooring Transfer Value

The data presented above is for off-shore moorings only and includes both completed “transfers” and the prices being asked to transfer a boat and mooring. The market data is somewhat incomplete as most of the parties interviewed were very hesitant to discuss the transfer and would only give partial information.

Transfer One is a 40-foot outside mooring that transferred with a boat that was reported to be of nominal value. It was reported that this is a prime mooring due to its accessibility on the outside of the H-Group in a relatively sheltered section of the group.

Transfer Two is a 50-foot corner mooring that transferred with a 50-foot boat. It was reported that the transferee valued the boat at approximately \$20,000 and the mooring was worth \$70,000, or approximately \$1,166 per lineal foot. The mooring reportedly is in a sheltered area with very easy access and the transferee was reportedly had an “empty” 50-foot mooring and needed a place for a 60-foot boat.

Transfer Three is the transfer of 40-foot mooring with a 1987 Apollo Sportfisher. Neither the location of the mooring nor the condition of the boat was disclosed.

Transfer Four is the current offer to sell a Cal 34 sailboat along with the transfer a 40-foot mooring. The location of the mooring was not disclosed.

Transfer Five is the sale of an Islander 36 that included a 40-foot mooring that is located in the H Group. The specific location within the group was not disclosed and it was noted that the boat had “some value”.

Transfer Six is the sale of a “nice” 40-foot motor boat with a 40 foot mooring that is located in the J Group. The transferee noted that the boat has value and that this was a “good deal” given the quality and condition of the boat.

Transfer Seven is the current offer of a 40-foot outside mooring in either the J or H Group. The type of boat on the mooring was not disclosed and it was indicated that it would likely be removed.

Transfer Eight is the transfer of a 45-foot mooring in the D Group on the north side of Balboa Island. The location reportedly is sheltered from the winds and is a desirable location. It was noted that the transferee has replaced the vessel.

Transfer Nine is a 30-foot mooring that recently transferred with a boat; however, the type and condition of the boat and the location of the mooring was not disclosed.

Transfer Ten is the current listing of a 25 foot sailboat that includes a 40-foot mooring. The boat was built in 1997 and is reported to be in good condition. This mooring is located in the A Group near Peninsula Point.

Transfer Eleven is the transfer of a 65-foot mooring with a virtually worthless vessel. The transferee reportedly had transferred it to the transferor several years ago when he did not need a 65-foot mooring. The transferee has subsequently acquired a larger boat and needed to acquire a boat on a large mooring so that he could moor his larger boat. It was reported that this transfer may be artificially low due to the prior relationship between the parties.

All of the "transfers" are for off-shore moorings and they are located throughout the harbor. The transfers included boats that had some value and others that have little or no value to the transferee. The limited market data uncovered supports the information gather from the interviews completed that the "transfer" value of the average mooring in the harbor is approximately \$1,000 per lineal foot. It should be noted that depending on the location (sheltered v. non-sheltered) in the harbor, the location within the group (interior v. outside) and the size (lineal feet) of the mooring the value may be higher or lower than the concluded Transfer value of \$1,000 per lineal foot; however, **when all of the moorings in the Harbor are considered in bulk I have concluded that the market "transfer value" of the off-shore moorings is \$1,000 per lineal foot.**

I did not uncover the transfer of any on-shore mooring were the sale of the boat could be confirmed. The on-shore moorings are not as desirable as the off-shore moorings due to the restrictions on the length (18-feet) and type of (no boats with a fixed keel, fixed rudder, or fixed underwater propulsion apparatus or gear) vessel permitted. The motivation of the owner of the upland parcel adjacent to an on-shore mooring is also a factor in the limited transfers uncovered. If the upland property owner holds the mooring permit they are unlikely to transfer it due to the loss of control of what is in the tidelands beyond their property and the potential impact on the view. The interviews conducted indicate that on-shore moorings will typically transfer with a vessel that barely meets the specifications required to maintain a mooring permit and that they typically transfer for \$7,000 to \$10,000, which equates to \$389 to \$556 per lineal foot. It was reported by one party that they had heard of one on-shore mooring transferring for \$12,000 to a nearby upland property owner that wanted to control the view from their property. Based strictly on the interviews conducted **I have concluded that the average on-shore mooring has a market "transfer value" of \$475 per lineal foot.**

Mooring Rental Value

As set forth in the City Mooring Regulations it is specifically emphasized that it is **illegal to rent your mooring** to anyone. The exceptions to this regulation are the off-shore mooring fields that are controlled by the Newport Harbor Yacht Club and the Balboa Yacht Club. Although no formal agreement was uncovered, the yacht clubs are permitted to lease moorings to their club members. According to the City, there is no city policy with regard to these two mooring groups and this arrangement has been around for as long as anyone can remember.

The Balboa Yacht Club has a total of 70 moorings in the basin in front of the Yacht Club, which is located at 1801 Bayside Drive. They lease their mooring for \$7.25 per lineal foot and report that they are virtually 100 percent occupied, 100 percent of the time.

The Newport Harbor Yacht Club is located at 720 W. Bay Avenue and has moorings that range from 20-feet to 80-feet. It was reported that they lease them to their members for \$7.25 per lineal foot. They also report that they are 100-percent occupied.

None of the other parties interviewed would even admit to knowing of any mooring that is being rented by the permit holder to a third party and would not speculate as to the potential lease rates. It was noted that some permit holders will become a "partner" in a boat and register the in their name and the partnership pays them a monthly fee to maintain the mooring permit. These "partnerships" are usually set up with the mooring permit holder having a 1-percent "partnership" interest and the boat owner having a 99-percent "partnership" interest. The majority owner pays the minority owner for the use of the mooring and the payments within partnerships are negotiated individually by the partners. I was unable to uncover any fees being paid to the mooring permit holder within one of these partnerships.

Based on the lease rates being paid at the two yacht clubs, I have concluded that **the moorings within the harbor have a monthly market rental rate of \$7.25 per lineal foot**. This applies to both the on-shore and off-shore moorings.

Addenda – Section G

Subject Photographs



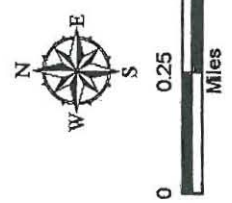
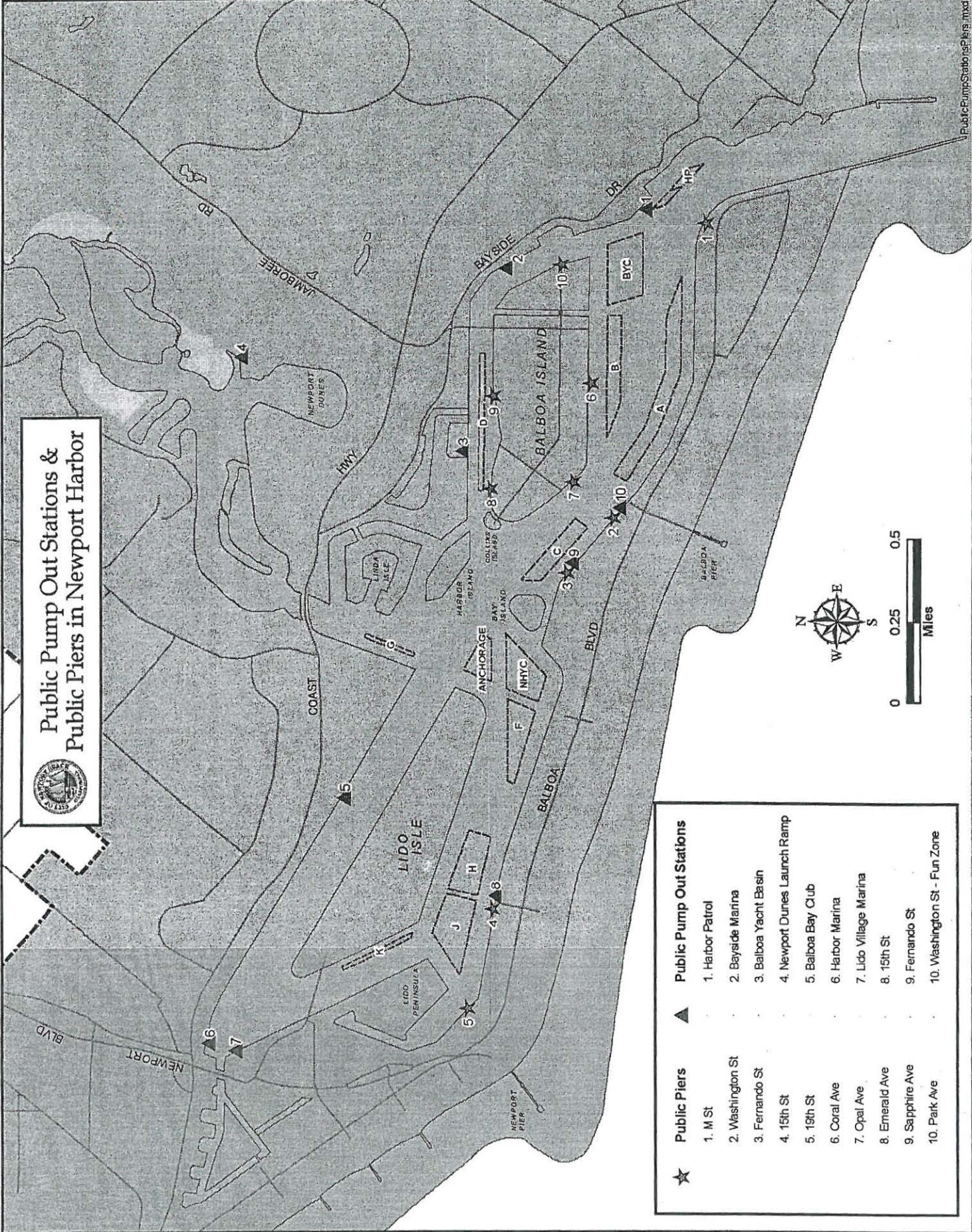
A view of an off-shore mooring field.



A view of on-shore moorings.

Mooring Maps

Public Pump Out Stations & Public Piers in Newport Harbor



★	Public Piers	▲	Public Pump Out Stations
1. M St		1. Harbor Patrol	
2. Washington St		2. Bayside Marina	
3. Fernando St		3. Balboa Yacht Basin	
4. 15th St		4. Newport Dunes Launch Ramp	
5. 19th St		5. Balboa Bay Club	
6. Coral Ave		6. Harbor Marina	
7. Opal Ave		7. Lido Village Marina	
8. Emerald Ave		8. 15th St	
9. Sapphire Ave		9. Fernando St	
10. Park Ave		10. Washington St - Fun Zone	

SECTION H – Oceanfront Encroachments

Introduction

Much of the southern boundary of the City is comprised of the beaches along the Newport Peninsula and West Newport extending from Newport Harbor and the Wedge Jetty on the southeast to the Santa Ana River Channel on the northwest. Along portions of this stretch of beach there is no boardwalk or other man-made barrier between the houses and the beach. In certain areas, residential property owners have extended their yards beyond their property line and created an encroachment onto the beach. The two locations that the encroachments occur most frequently is in West Newport from 36th Street where the boardwalk ends to the Summit Street at the Santa Ana River Jetty and in the general area of Peninsula Point from the E Street to the end of the Peninsula at the Wedge Jetty.

Based on a review of the City data base, the encroachments extend into the public right of way (beach) anywhere from 1-foot to 15-feet for the width of the lot. Depending on the location, individual lot widths range from 25-feet to 40-feet; however, in a few locations property owners have combined more than one legal lot and they have more beach frontage. Most of the property owners that have an encroachment pay an annual fee that ranges from \$308 to \$925, which is set forth as follows:

Depth of Encroachment	Annual Fee
1-foot to 2.49-feet	\$308
2.5-feet to 4.99-feet	\$308
5 feet to 7.49-feet	\$462
7.5-feet to 9.99-feet	\$616
10-feet to 15-feet	\$925

The City's summary of the address, depth of the encroachment and encroachment fee has been retained in my file. It should be noted that the individual encroachments have not been measured as a part of this appraisal assignment and the land values presented are for a "global" analysis of all the encroachments and may or may not be specific to any single parcel. The Newport Beach City Council voted on August 12, 2006 to hire a surveyor to complete a survey of the encroachments along the beach front in the Peninsula Point neighborhood.

Beachfront Land Sales

The following table is a summary of the beachfront residential land sales or nominally improved lots located between Peninsula Point on the southeast and West Newport and the Santa Ana River Jetty on the northwest.

RESIDENTIAL LAND SALE SUMMARY SEPTEMBER 2006					
DATA NO. LOCATION ASSESSOR PARCEL	SALE DATE DOC. NO.	SITE AREA (Sq.Ft.)	BEACH FRONTAGE (Lineal Feet)	TOTAL SALE PRICE	PRICE /SQ.FT. /L.F.
1/ 6410 W. Oceanfront West Newport 045-093-08	1/30/2003 03-116972	2,250	30 Feet	\$1,800,000	\$800.00 \$60,000
2/ 3204 W. Oceanfront West Newport 423-343-17	10/9/2003 03-1242294	2,250	25 Feet (Boardwalk)	\$1,800,000	\$800.00 \$72,000
3/ 7104 W. Oceanfront West Newport 045-024-06	11/18/2003 03-1401604	2,252	30 Feet	\$2,500,000	\$1,110.12 \$83,333
4/ 6904 W. Oceanfront West Newport 045-032-06	5/27/2004 04-476261	2,252	30 Feet	\$2,200,000	\$976.91 \$73,333
5/ 4508 Seashore Drive West Newport 424-442-02	8/3/2004 04-700229	2,550	30 Feet	\$2,500,000	\$980.39 \$83,333
6/ 5705 Seashore Drive West Newport 424-482-04	9/30/2004 04-875908	2,430	30 Feet	\$3,800,000	\$1,563.79 \$126,667
7/ 2060 E. Oceanfront Peninsula Point 048-262-16	12/17/2004 04-1120786	3,200	40 Feet	\$5,700,000	\$1,781.25 \$142,500
8/ 1018 W. Oceanfront Newport Beach 047-252-19	4/27/2005 05-318795	4,100	40 Feet (Boardwalk)	\$3,750,000	\$914.63 \$93,750
9/ 2156 E. Oceanfront Peninsula Point 048-282-22	8/22/2005 05-6577746	3,480	40 Feet	\$5,300,000	\$1,522.99 \$132,500
10/ 3911 Seashore Drive West Newport 423-326-03	1/31/2006 06-71279	2,125	25 Feet	\$3,700,000	\$1,741.18 \$148,000
11/ 3400 Seashore Drive West Newport 423-334-09	2/16/2006 06-109983	2,700	25 Feet (Boardwalk)	\$3,750,000	\$1,388.89 \$150,000

Conclusion – Beachfront Land Value

The comparable market data is analyzed on an absolute basis, a price per square foot of land area and a price per front foot. The sale data show a wide range in absolute terms from \$1,800,000 to \$5,700,000, a range from \$800.00 to \$1,741.18 per square foot of land area and \$60,000 to \$150,000 per front foot along the beach. All of the sales included above are nominally improved and any improvements located on the site, if not already razed for redevelopment of the site, are best described as “tear downs”. With the exception of Sales Two, Eight and Eleven, all of the sales area located along sections of the beachfront that do not have a boardwalk, and are judged to be most similar to the properties that have an encroachment.

In order to estimate the market value of the subject as of the date of value, an analysis of the change in market conditions from the date the comparable property sold to the date of value is warranted. The preferred method of quantifying the change in market conditions is the “matched pairs” analysis. Using the "matched pairs" analysis to measure the change in market conditions attempts to isolate the difference in market value (price) by comparing properties with otherwise similar characteristics that sold at a different time, or under different market conditions. The most reliable measure is the sale and subsequent resale of the same property, where no improvements have been made to the property between the two sale dates. In theory, if the sale properties have similar physical and locational characteristics any difference in market value can be attributed to the “changing market conditions”.

A second method of measuring and quantifying the changing market conditions is an analysis using the median price for detached single-family residential units in the subject’s Zip Code area (92663) during the time period between the comparable sale dates (January 2003 through February 2006) and the date of value (September 2006). It should be noted that the most recent figures available as of the date of this report are for August 2006. The median figures are based on the prices provided by DataQuick Information Services. The median prices are presented in \$1,000’s and the price per square foot is the actual median figure. I have also included the median figures for Orange County as a whole for the same time periods. The following table is a summary of the analysis for changing market conditions.

	Time Period (A)	Time Period (B)	Absolute Difference (B – A = C)	Percentage Difference (C :- A = D)	Monthly Percentage (D :- C)
Date	1/2003	8/2006	44 months	N.A.	N.A.
Median Home Price (92663)	\$1,000	\$1,703	\$703	70.3%	1.60%
Median Price /Sq.Ft. (92663)	\$695	\$1,113	\$418	60.1%	1.37%
Median Home Price (County)	\$395	\$685	\$290	73.4%	1.67%
Median Price /Sq.Ft. (County)	\$241	\$435	\$194	80.5%	1.83%

The analysis of the median detached home price within the subject Zip Code area reflects that over the time period covered there was relatively uniform appreciation between the subject market area and the county as a whole. Given the analysis of the change in market conditions using the median price and median price per square foot analysis, I have concluded that the sales warrant a non-compounded adjustment of 1.5-percent per month to reflect the change in the market conditions.

Based on the analysis presented, all of the sales are adjusted by 1.5-percent per month from the date of sale through August 2006, the most recent date that the statistics are available. It has generally been recognized that the market appreciation is slowing and the market has begun to level off. The adjustment for changing market conditions is presented in the following table.

Sale No.	Sale Price	Sale Date	Months	Total Adjustment @ 1.5%/Mo.	Adjusted Price (rounded)	Adjusted Price /Sq.Ft.	Adjusted Price /Front Foot
1	\$1,800,000	1/30/2003	44	66.0%	\$2,988,000	\$1,328.00	\$99,600
2	\$1,800,000	10/9/2003	34	51.0%	\$2,720,000	\$1,208.89	\$108,800
3	\$2,500,000	11/18/2003	33	49.5%	\$3,735,000	\$1,658.53	\$124,500
4	\$2,200,000	5/27/2004	27	40.5%	\$3,100,000	\$1,376.55	\$103,333
5	\$2,500,000	8/3/2004	24	36.0%	\$3,400,000	\$1,333.33	\$113,333
6	\$3,800,000	9/30/2004	23	34.5%	\$5,100,000	\$2,103.29	\$170,000
7	\$5,700,000	12/17/2004	20	30.0%	\$7,400,000	\$2,312.50	\$185,000
8	\$3,750,000	4/27/2005	16	24.0%	\$4,650,000	\$1,134.15	\$116,250
9	\$5,300,000	8/22/2005	12	18.0%	\$6,250,000	\$1,795.97	\$156,250
10	\$3,700,000	1/31/2006	7	10.5%	\$4,090,000	\$1,924.71	\$163,600
11	\$3,750,000	2/16/2006	6	9.0%	\$4,090,000	\$1,514.81	\$163,600

After adjusting the sale for the change in market conditions, the comparable sales reflect an absolute range is from \$2,720,000 to \$7,400,000, the adjusted price per square foot indications range from \$1,134.15 to \$2,312.50, and the adjusted price per front foot indications ranging from \$99,600 to \$185,000. Typically with beach front or waterfront property the most reliable measure is the price per front foot comparison; however, in the case of the subject sites, the encroachments do not extend the entire depth of the property, rather they extend from approximately 1-foot to 15-feet out beyond the beachfront property line into the public land. Given the nature of the encroachment, the price per square foot comparison is more appropriate than the price per front foot comparison.

As previously noted, the analysis does not apply to any specific property; rather it applies to all properties along the beachfront between the Wedge Jetty on the southeast and the Santa Ana River Jetty on the northwest. The market data and the interviews conducted suggest that in general land values can vary based on the location along the beachfront and the factors to consider include, but are not limited too, the depth of the beach, the location along the beach front, traffic patterns (on an alley vs. a street), availability of public parking and access to

commercial facilities (restaurants, stores, etc.). Lot specific factors to consider are the difference between corner and an interior lot, lot depth, amount of beach frontage and zoning (some lots permit 2 units).

In the final analysis, all of the sales are given generally equal emphasis and I have concluded that the beachfront lots have a market value of \$1,500 per square foot. This market value conclusion is a "global" conclusion as it applies to all the properties on the beachfront regardless of the influencing factors discussed above. A more specific analysis may be warranted if a property has a unique feature such as excess width along the beachfront (more than 25- to 40-feet), or a depth that is more or less than the "typical" depth of approximately 75-feet to 100-feet.

Based on the market data presented, I have concluded that the beachfront lots have a market value of \$1,500 per square foot; however, the land within the encroachment cannot be used for construction of permanent improvements and cannot be used to measure setbacks for construction purposes and its primary function is as additional yard area. Given that the overall utility is limited to yard area, I have concluded that the land value should be conditioned by a factor of 50-percent; therefore, the value of the land within the encroachment area has a market value of \$750 per square foot.

Residential Return Rate to Apply to Land Value

The second component of estimating the market rent for the land that is being utilized by the residential property owner's along the beachfront is the appropriate rate of return to apply to the market value of the land. As I did not uncover any recent arm's length lease transactions to compare to the encroachments, I have looked at historic data for other leasehold properties in Newport Beach and the surrounding communities.

In the City of Newport Beach, there are residential properties in Newport Harbor that lease the filled tidelands either from the City or the County. In particular, most of the residents of Harbor Island lease filled tidelands and the leases with the County and the City include re-adjustment provisions based on a formula for the value of the land with a 9.0-percent rate of return applied to the land value. Other tracts within the City that were originally developed as leaseholds include Irvine Terrace, Newport Shores, Beacon Bay and portions of Bayshores, Harbor View Homes and Eastbluff. In most cases the property owner's have had the opportunity to purchase the underlying leased fee interest at a discount relative to the market value and there are a very limited number of leasehold properties remaining making the derivation of an appropriate return rate difficult. As discussed in Section E, historically the return requirements for residential lots/land in Newport Beach and Orange County have ranged from 6.0-percent to 10.0-percent of the underlying land value. Based on the limited data available, given the current low interest rate

environment and low return requirements for real estate in general, I have concluded that the annual market rent should be based on a 6.0-percent rate of return applied to the underlying land value.

The following is the calculation of the annual rent for a “typical” beachfront encroachment assuming a 30-foot wide lot and a 5-foot encroachment:

Encroachment Area – 30’ x 5’:	150 Sq.Ft.
Market Value of Land:	x \$750/Sq.Ft.
Total Market Value of Encroachment:	\$112,500
Annual Rate of Return @ 6.0%:	x 0.06
Indicated Annual Rent:	\$6,750
Annual Rent Per Sq.Ft. of Land:	\$45.00/Sq.Ft.

Based on the analysis of the market data presented I have concluded that **the oceanfront encroachments have an annual market rent of \$45.00 per square foot of land** area that is being used in conjunction with the adjoining residential property.

SECTION I – Dory Fleet

Introduction

The Dory Fleet occupies a section of beachfront land at the foot of the Newport Pier. The City of Newport Beach policy on the Dory Fishermen's Fleet is as follows:

DORY FISHERMENS' FLEET

It is a general policy of the City of Newport Beach that an area immediately west of the Newport Pier be reserved for the Newport Dory Fishermens' Fleet. The dory fishing fleet, founded in 1891, is a historical landmark designated by the Newport Beach Historical Society.

The City Council, in developing an official position with respect to the dory fishing fleet, has examined and evaluated the following:

- A. The historical significance and relative size of the fishing fleet;
- B. The desirability of preserving a small area of public beach for commercial dory fishing fleet activity, primarily for catching and selling fish; and
- C. The responsibility of the City to protect the health, safety and welfare of beach users and swimmers in the vicinity of the dory fleet.

After considering these factors, the Newport Beach City Council has adopted policy provisions concerning the Dory Fishermens' Fleet operations.

- A. The dory fishing fleet zone is delineated by pilings erected by the City and is reserved for full time Dory Fishermen who derive their livelihood from commercial fishing. Dory Fishermen are required to maintain a current commercial fishing license.
- B. Dory Fishermen will have a current City business license.
- C. Dory fishing vessels allowed to be launched and stored on the public beach will be a traditional dory design vessel.
- D. The dory fishing fleet zone is not to be used as a launching facility for itinerant commercial or sport fishing enterprises.
- E. The use of vehicles to launch and retrieve boats during the summer months and weekends in the spring and fall when beach use is heavy, will be restricted to the hours before 11:00 a.m. and after 6:00 p.m. Vehicles and trailers used by the dory fleet will be parked in a location and manner prescribed by the Fire Department.
- F. The dory fishing fleet will be responsible for cleanup and maintenance of the designated dory fleet zone.

G. The City will furnish two water hose bib outlets to be shared by the Dory Fishermen. Electricity will consist of one light switch and one plug switch per shed, with the monthly costs prorated amongst the shed assignees.

H. The dory sheds permitted within the designated boundaries are to be used by the Dory Fishermen only for the storage of equipment and supplies and are not to be used for temporary or permanent housing occupancy.

I. There shall be a maximum of 20 dory storage sheds no larger than 10' by 10', with roof ridge heights not to exceed 9 feet. The size, type of construction and architectural style shall be developed with input from the dory fleet.

J. The Dory Fishermen will abide by all City ordinances and California Boating Laws in the operation of their vessels near the beach and surf zone where there are swimmers and surfers. Dory vessels will ingress and egress immediately ocean ward of their designated beach zone.

K. The dory fishing fleet may designate a spokesperson to represent their concerns and will meet with appropriate City department(s), as designated by the City Manager to resolve conflicts of use and safety problems.

Adopted - November 23, 1987

Reaffirmed - January 24, 1994

Amended - September 10, 2002

The City does not delineate the square footage of public land that the dory fleet occupies; however, based on the Assessor's Plat Map and my cursory inspection of the site it appears to occupy approximately one acre of land.

Commercial Land Sales

A search for unimproved, or nominally improved, oceanfront land was conducted to estimate the value of the land that the Dory Fleet occupies. Due to the built-out nature of the Orange County coastal strip and the limited amount of commercial development directly on the beachfront, the search was expanded to include bayfront commercial properties and commercial properties that are influenced by their location proximate to either the oceanfront or the bayfront in Newport Beach. The following table is a summary of the commercial land sales or nominally improved commercial sites that are judged to be pertinent to the valuation of the land occupied by the Dory Fleet.

COMMERCIAL LAND SALE SUMMARY SEPTEMBER 2006					
DATA NO. LOCATION ASSESSOR PARCEL	SALE DATE DOC. NO.	SITE AREA (Sq.Ft.)	PROPOSED USE WATERFRONT	TOTAL SALE PRICE	PRICE /SQ.FT.
1/ 2601 W. Coast Highway Mariner's Mile 049-150-05	8/7/2003 03-947657	12,000	Restaurant Bayfront	\$3,100,000	\$258.33
2/ 2300 Newport Boulevard Newport Peninsula 047-120-31	2/26/2004 04-150855	103,247	Redevelopment Bayfront	\$15,000,000	\$145.30
3/ 100-600 W. Coast Highway Mariner's Mile 049-280-39, -40, -51, -53, -55 thru -63, -71 thru -73	4/29/2004 04-371663	112,355	Redevelopment No	\$6,350,000 (approx.)	\$56.50
4/ 2209 W. Balboa Blvd. McFadden Square 147-143-30	7/29/2005 05-592507	17,100	Redevelopment No	\$2,589,000	\$151.40
5/ 209 Washington Street Balboa 048-116-05	5/11/2006 06-315831	3,000	Parking Lot No	\$900,000	\$300.00
6/ 503 W. Balboa Boulevard Balboa 048-122-02	7/27/2006 06-499472	2,565	Redevelopment No	\$900,000	\$350.57

Conclusion – Commercial Land Sales

The comparable market data are all commercially zoned parcels located along the coastal strip in Newport Beach and benefit from their location relative to the beach and/or bay front. With the exception of Comparable Five, which is a parking lot, all of the sites are improved and were purchased for the underlying value of the land and their redevelopment potential.

Comparable Sale One is located on the bayfront in the Mariner's Mile neighborhood. It is improved with an approximately 3,650 square foot restaurant (Josh Slocum's) that is in average condition and was nearing the end of a five year lease. The buyer acquired the site because it has a dock that will accommodate his boat which measures over 100 feet. Overall this comparable is judged to be superior compared to the subject.

Comparable Sale Two is located on the east end of the Mariner's Mile and is proposed to be developed with a high-end retail center. The sale price is approximate as there is a confidentiality agreement between the parties and they are not to disclose the exact sale price. Overall this comparable is judged to be inferior compared to the subject.

Comparable Sale Three is located on the bayfront on the peninsula in the general area of McFadden Square. The site has over 300-feet of bay frontage. The site is improved with an approximately 45,000 square foot retail and office building complex that also includes a sail loft and boat service facilities. The buyer is a residential developer that proposes to redevelop the site with a mixed use (commercial on ground floor and residential on two upper floors) development along with dock space. Overall this comparable is judged to be relatively similar compared to the subject.

Comparable Sale Four is a 17,100 square foot site that is improved with an approximately 12,700 square foot retail building. It is located on the corner of Balboa Boulevard and 23rd Street in McFadden Square. The improvements are leased to a surf shop; however, their lease expires in 2006 and it was reported that the site is scheduled for redevelopment; however, the exact plans were not disclosed. Overall, this comparable is judged to be relatively similar compared to the subject.

Comparable Sale Five is a small lot located near the Balboa Pavilion and the Fun Zone on the corner of Bay Avenue and Washington Street. It is improved with a parking lot and was acquired by the owner of the Pavilion for additional parking. Given the size of this lot relative the approximate size of the subject the price per square foot indication defines the extreme upper limit of the probable market value range for the subject.

Comparable Sale Six is located on Balboa Boulevard, one block west of Palm Street. The site is improved with an approximately 488 square foot commercial building that has no contributory value to the site. The buyer intends to raze the improvements and redevelop the site. Given the size of this lot relative the approximate size of the subject the price per square foot indication defines the extreme upper limit of the probable market value range for the subject.

All of the land sale data are commercial lots that are nominally improved and all but Sales One and Five are proposed for redevelopment. The sale data uncovered reflect a price per square foot range from \$56.50 to \$350.87, with the two most comparable sales (Nos. 3 & 4) reflecting a range from \$145.30 to \$151.40. Based on the market data presented, I have concluded that **the land underlying the Dory Fishermen's Fleet has a market value of \$150 per square foot.**

VALUATION

Based upon the work undertaken, and my experience as a real estate analyst and appraiser, I have formed the opinion, as of the 30th day of September 2006, subject to the Assumptions and Limiting Conditions contained in this report, that the subject has the following market values:

SECTION A

Current Fair Market Rent for the Fuel Docks is 5.0-Percent of Gross Sales.

SECTION B

Current Fair Market Rent for the Balboa Island Ferry is 6.0-percent of gross sales.

Current Fair Market Rent for the Newport Bait Barge is 4.5-percent of gross sales.

SECTION C

The slips at the Balboa Yacht Basin have the following fair market rent:

Slip Length (Lineal Feet)	Total Slips	Monthly Rent /LF
Under 30'	2	\$20.00
30' – 34'	43	\$21.00
35' – 39'	71	\$23.00
40' – 44'	32	\$25.00
45' – 49'	3	\$28.00
50' & Over	10	\$30.00
Side Ties	10	\$20.00
TOTAL	171	

The apartment units at the Balboa Yacht Basin have the following market rent.

Unit Type	Size (Sq.Ft.)	Market Rent
2-Bed, One-Bath	1,100	\$2,200
2-Bed, One-Bath	1,300	\$2,500

The storage garages at the Balboa Yacht Basin have the following market rent.

Size (Sq.Ft.)	Total Units	Market Rent	Total Monthly Rent
200	29	\$350	\$10,150
160	2	\$320	\$640

SECTION D

The submerged tidelands in Newport Harbor that are not leased in conjunction with the adjoining upland parcel have a current market rent of 22.0-percent of the gross income.

The submerged tidelands in Newport Harbor that are leased in conjunction with the adjoining upland parcel have a current market rent of 27.0-percent of the gross income.

SECTION E

Current fair market rent for a residential pier used for “commercial” uses is 20-percent of the gross rental income.

Fair market rent for a residential pier for non-commercial use is \$18.00 per lineal foot per year.

SECTION F

Fair market rent for the 29th Street Dock is \$20.00 per lineal foot per month, or a total monthly rent of \$1,140.00.

SECTION G

Fair market “transfer value” of the off-shore moorings is \$1,000 per lineal foot.

Fair market “transfer value” of the on-shore moorings is \$475 per lineal foot.

Monthly fair market rent for the on-shore and off-shore moorings is \$7.25 per lineal foot.

SECTION H

Annual fair market rent for the oceanfront encroachments is \$45.00 per square foot of land

SECTION I

The Dory Fishermen’s Fleet has a market value of \$150 per square foot.

ADDENDA

Unified Port of San Diego – Benchmarks

**Percentage Rents Adopted by the
Board of Port Commissioners
San Diego Unified Port District - December 7, 2004**

<i>Property Type</i>	<i>Category</i>	<i>Percentage of Gross Sales Revenue</i>
Lodging Properties	Guest rooms & related services	7.0%
	Rental conference/banquet rooms and related srvc	7.0%
	Revenues for barber/beauty shops	5.0%
	Revenues from boat and breakfast operations	7.0%
Restaurants	Food sales from full service restaurants	3.0%
	Food sales from limited service restaurants	3.0%
	Beverages for consumption off site	3.0%
	Beverages for consumption on site	5.0%
	Revenues from admission or cover charges	5.0%
Retail	Sales of California lottery tickets	0.5%
	Sale of groceries	3.0%
	Sales (or value) of fish exchanging operations	3.0%
	Sales of merchandise, sundries and incidentals	2% - 5%
	Revenues from vending machines owned by lessee	5.0%
	Revenues from ship chandlery operations	4.0%
	Revenues from health club/spa services	10.0%
	Revenues from rental of automobiles	10.0%
	Revenues from recreation lessons	10.0%
	Revenues from rental of office space	10.0%
	Revenues from bicycle and rec. equip. rental	15% & 10%
	Revenues from vending machine commissions (machines not owned by lessee)	25.0%
	Revenues from telecommunications equipment	50.0%
Marinas	Revenues from minor marine services	5.0%
	Revenues from slips, dock lockers, dinghy racks and dry storage spaces	22% & 15%
	Revenues from yacht club dues and guest fees	10.0%
	Revenues from sailing school operations	10.0%
	Revenues from boat rentals (< 24 hours)	10.0%
Sportfishing and Harbor Excursions	Revenues from crew operated excursion boats	6% & 6%/5%/3%
	Revenues from sportfishing and whale watching	6.0%
	Revenues from boat charters (> 24 hours)	6.0%
	Revenues from bait sales and equipment rentals	6.0%
Fuel Sales	Revenues from petroleum products other than gasoline, diesel or mixed fuel	5.0%
	Revenues from sales of gasoline, diesel or mixed fuel for use in motor vehicles	\$0.025/gal
	Revenues from gasoline or mixed fuel used in boats	\$0.04/gal
	Revenues from diesel fuel for use in boats	\$0.02/gal
Miscellaneous	Revenues from any activities permitted in the lease but not listed above	10.0%
	Revenues from any activities not permitted in the lease but not listed above	20.0%

Harbor Permit Policy

HARBOR PERMIT POLICY

HARBOR INSTALLATIONS GENERALLY

- A. Shore connected piers and floats bayward of residential zoned areas shall be controlled by the Harbor Permittee. Vessels moored at residential piers shall not create a nuisance with regard to vehicle parking, vessel waste, liveaboards, or noise disturbances to adjoining residents.
- B. Shore connected piers and floats bayward of commercial-zoned areas may be rented.
- C. Only piers, floats, certain patio decks and their appurtenances shall be permitted bayward of the bulkhead.
- D. No private piers shall be permitted at street ends.
- E. In R-1 zones, only a single pier and float or slip shall be permitted bayward of each parcel or lot.

DEFINITIONS

- A. The term "Pier" shall mean any fixed or floating structure for securing vessels, loading or unloading persons or property, or providing access to the water, and includes wharf, dock, float, or other landing facility, and dry dock.
- B. The "Harbor Lines" are established Bulkhead, Pierhead, and Project Lines.
- C. The "Bulkhead Lines," as established, shall define the limit of solid filling or solid structures.
- D. The "Pierhead Lines," as established, typically shall define the limit for pier and float-type structures.
- E. The "Project Lines" shall define the channel lines of the improvements and by the Federal Government in 1935-36.
- F. The term "Liveaboard" shall mean the use or occupancy of a vessel for living quarters either permanently or on a temporary basis for a period exceeding 72 hours.
- G. The term "Standard Drawings" refers to Standard Drawings adopted by the City of Newport Beach a minimum standards of construction whenever harbor permits are required.
- H. The term "Design Criteria" refers to Design Criteria adopted by the City of Newport Beach a minimum standards for design whenever harbor permits are required.
- I. The term "Mean Low Low Water" is abbreviated, M.L.L.W., and refers to the lowest tide of the daily two-tide cycle.
- J. The term "Harbor Structures" refers to any pier float, piling, bulkhead, sea wall, reef, breakwater or other structure in, upon or over the waters of Newport Harbor or the Pacific Ocean or any other water where the tide ebbs and flows within the City of Newport Beach.
- K. The term "Harbor Permittee" refers to upland property owner or long term lessee immediately adjacent to water in whose name the Harbor Permit is issued.

PERMITS REQUIRED FOR HARBOR STRUCTURES

- A. No person or agency shall build, maintain, extend or make structural alterations on any building, pier, piling, bulkhead, sea wall, reef, breakwater, or other structure in, upon or over the waters of Newport Harbor or the Pacific Ocean or any other water where the tide ebbs and flows within the City, or do any filling, excavating in said waters or ocean, without first obtaining a written "Building Permit" to do so from the City's Building Department.
- B. The Orange County District may do construction work or fill or dredge within Newport Harbor, or cause the same to be done, without such a permit so long as such work is done pursuant to a harbor development plan on lands not owned by the City or pursuant to a request therefore by the City Council.
- C. A separate permit will be required by the Harbor Resources Division for dredging.

GENERAL PROVISIONS FOR PERMITS FOR HARBOR STRUCTURES

- A. Acceptance of Provisions. It is understood and agreed by the Permittee that the doing of any work under the permit shall constitute an acceptance of all the applicable provisions of Municipal Code and City Council Harbor Permit Policies.
- B. Permit from Other Agencies. The party or parties to whom the permit is issued shall, whenever the same is required by law, secure the written order or consent to any work hereunder from the U.S. Corps of Engineers, California Coastal Zone Commission, or any other public body having jurisdiction, and the permit shall be suspended in operation unless and until such order or consent is obtained.
- C. Transferring Permit. The permit is not transferable without the written consent of the City of Newport Beach.
- D. Inspection. Inspection shall be done by the Building Department for conformity with the Uniform Building Code, design criteria and standard drawings for Harbor construction.
- E. Protection of Traffic. Adequate provisions shall be made for the protection of the traveling public. Barricades shall be placed on streets with lights at night, also flagmen employed, all as may be required by the particular work in progress.

The Permittee shall not attempt to forbid the full and free use by the public of all navigable waters at or adjacent to the work or structure. If the display of lights and signals on any work hereby authorized is not otherwise provided by law, such as lights and signals, as may be prescribed by Bureau of Light Houses, Department of Commerce, shall be installed and maintained at the expense of the Permittee.

Structures shall be so constructed as not to obstruct, interfere with or prevent the free use of adjacent harbor structures or passage of any sidewalks, street, alley, public way or navigable channel.

- F. Liability for Damages. The Permittee is responsible for all liability for personal injury or property damage which may arise out of work herein permitted, or which may arise out of the use or possession of said works, and in the event any claim is made against the City of Newport Beach or any department, officer, or employee thereof, though, by reasons of, or in connection with such work, permittee shall defend, indemnify and hold them and each of them, harmless from such claim.

C. Revocation of Permit. The rights given under this permit are permissive only and the City of Newport Beach reserves full right, power and authority to revoke this permit at any time. In the event the Permittee fails to remove said works within the time specified, then the Harbor Resources Division shall have the right to immediately remove same at the cost and expense of the Permittee.

H. Repairs. The Permittee shall keep the structures in good repair at all times. Failure to repair, when written notice has been given by the Harbor Resources Division, shall be cause for the revocation of the permit.

I. Pollution Control. The Permittee shall maintain the area delineated on the harbor permit free and clear from beached or floating rubbish, debris or litter at all times. Adequate safeguards shall be maintained by the Permittee to avert any other type of pollution of Newport Harbor from recreational and/or commercial use of the tidelands. Failure to comply with the provisions of this section shall be cause, after written notice has been given to the Permittee by the City, for the revocation of the permit. When unusual circumstances arise with respect to the collection of debris or litter, the City Manager may authorize by the use of City forces or by contract the removal of said debris.

J. Rights to Impose Rental or Other Charges. The approval of the foregoing permit by the City of Newport Beach shall not constitute a waiver of any rights which it may now have or hereafter have to impose rental or other charges in conjunction with the maintenance of the proposed facility and user of the same. The imposing of tidelands rental, or use, fees shall not be extended to include private residential piers and slips, constructed and used solely by the abutting uplands owner for recreational purposes, unless otherwise directed by State mandate.

K. In those areas of the harbor where the piers and floats are bayward of residential zoned areas, liveboards shall not be permitted.

L. Special Event Permits. If a Harbor Permittee proposes a use of the harbor installation, other than that allowed by the Newport Beach Municipal Code or the Council Harbor Permit Policy, he/she must first obtain a "Special Event Permit" as provided by Section 510 of the Newport Beach Municipal Code. Upon issuance of the Special Event Permit, the City of Newport Beach may impose conditions on the permit to assure that the proposed use does not affect the health, safety or welfare of the residents of Newport Beach.

ISSUING OF PERMITS

A. The Building Department is authorized to approve and issue new permits and revisions to existing permits that conform to the standard harbor drawings and the adopted Harbor Permit Policy in conjunction with plan reviews by the Harbor Resources Division.

B. Prior approval, when applicable, from the California Coastal Commission and/or the U.S. Corps of Engineers will be required before issuing any permit. Application to the California Coastal Commission and/or the U.S. Corps of Engineers may be made on forms provided by those agencies.

C. Prior approval of Orange County will be required when work extends over tidelands claimed by the County.

D. Before issuing a Permit for any work on oceanfront beaches or for any unusual type of harbor structure, or for a structure on which the applicant proposes a use that is not in keeping with the surrounding area, all property owners or long term lessees within 300' of the proposed work shall be

notified in writing by the Harbor Resources Division of the pending application. Notice will be sent ten (10) days prior to a decision by the Harbor Resources Division, and after the Department has rendered decision. The permit shall not be issued until the appeal period provided in Newport Beach Municipal Code Chapter 17.24 has run.

- E. Painting, replacement of rub-rails and work considered cosmetic in nature does not require a permit.
- F. Prior to the issuance of a permit, the applicant will show proof of insurance coverage as required by the Longshoremen's and Harbor Worker's Compensation Act.

APPLICATION FOR HARBOR PERMITS

- A. Applications for authority to erect, revise and do maintenance work on structures shall be submitted to the Building Department upon forms provided therefor. Plans showing the location, extent and character of the proposed work and required fees shall accompany the application.
- B. The application must be signed by the Harbor Permittee or his authorized agent.

PLANS TO ACCOMPANY PERMIT APPLICATIONS

- A. Plans accompanying the application will form a part of the permit and must be carefully prepared in the form prescribed in the Building Department.
- 3. Number of plans submitted shall be determined by the Building Department, depending on the nature of the work.

EXPIRATION OF PERMIT

- A. The time limit for the completion of all work authorized by a permit shall be 180 days from date of approval.
- 3. All permits shall expire unless the work contemplated shall have been completed within the time limit specified.
- 2. If the work contemplated has been started and diligently prosecuted but not completed in the time limit specified, a time extension may be granted by the Building Department upon receipt of written request from the Permittee.

BOND REQUIREMENTS

If the nature of the proposed work is such that if left incomplete it will create a hazard to human life or endanger adjoining property, a cash bond or surety bond satisfactory to the City Attorney in the sum of 10 percent of the estimated cost of the work will be required to guarantee the faithful performance of the proposed work.

TRANSFER OF ANNUAL HARBOR PERMITS

- A. Permits for harbor structures are issued subject to the condition that any improvements constructed shall not be sold in whole or part, leased, or transferred, without the written consent of the City.
- 3. Whenever a permittee sells the abutting upland property, a request shall be made to the City to

transfer the permit. Forms for this purpose may be obtained from the Harbor Resources Division. Failure to apply for a transfer within 30 days from the date that the abutting upland property changes ownership will result in an additional fee by the City.

- C. The Harbor Resources Division is authorized to approve transfers to the new owners or long-term lessee of the abutting upland property.
- D. Prior to the transfer of a Harbor Permit, all harbor structures shall be inspected for compliance with the City's minimum plumbing, electrical and structural requirements, and the conditions of the existing permit. All structural deficiencies must be corrected prior to the transfer of the permit. A fee will be charged for this inspection, established by Resolution of the City Council.

DREDGING

- A. All dredging will require a permit from the Harbor Resources Division and may be subject to engineering approval by the Public Works Department.
- B. Major dredging outside the established harbor lines will require prior approval by the Harbor Resources Division and the U.S. Corps of Engineers.
- C. Maintenance dredging bayward of residential and commercial property shall be the responsibility of the Harbor Permittee for the zone delineated by the bayward prolongations of upland side property lines and the U.S. Project line.

FEES

A. INITIAL PERMIT FEES

The Harbor Resources Division may charge the fees identified in the Master Fee Schedule for initial permits and for pier fees. Initial permit fees do not include Building Department fees, but they do include Public Works Department fees.

B. PIER FEES

Non-commercial pier permit fees are due and payable on the schedule established by the Administrative Services Director in accordance with the amount identified in the Master Fee Schedule.

All commercial piers over City Tide and Submerged Lands will be billed annually as follows:

1. Permittees having commercial piers over City Tide and Submerged Lands shall pay an annual rent identified in the Master Fee Schedule for each square foot on permit area (base rental).
2. Annual rent shall be paid on or before March 1.
3. The Base Rental shall be adjusted annually to reflect the increase or decrease in Consumer Price Index (CPI) for each twelve month period. The CPI (all urban consumers, all items) for the Los Angeles-Long Beach-Anaheim, California area as published and released by the Bureau of Statistics for the U.S. Department of Labor shall be the index utilized for calculating the rental adjustment.

4. The base rental shall be recalculated every ten years pursuant to an appraisal commission by the City of Newport Beach. In determining the value of tide and submerged lands, the appraiser shall consider the fact that commercial use of publicly owned tidelands economically feasible only in conjunction with privately owned uplands.
5. All appraisals shall be conducted by an MAI appraiser(s) with membership in the American Institute of Real Estate Appraisers and experienced in assessing the value of tidelands.
6. The provision of this subsection shall not apply to tidelands subject to a written lease requiring the payment of rent based on gross receipts.

STANDARD DRAWINGS

The following Standard Drawings have been approved and are on file in the Public Works Department:

Precast Reinforced Concrete Groin Panel	Dwg. No. STD-600-L
Detail For Raising Bulkheads	Dwg. No. STD-601-L
Grand Canal - Platform and Steps Type I	Dwg. No. STD-602-L
Grand Canal - Platform and Steps Type II	Dwg. No. STD-603-L
Single or Joint Residential Use Gangway	Dwg. No. STD-604-L
Single Residential Use Float Without Pier	Dwg. No. STD-605-L
Single Residential Use Float West Newport Channels	Dwg. No. STD-606-L
Commercial Pier and Float Installation	Dwg. No. STD-607-L
Single Residential Use Float With Pier	Dwg. No. STD-608-L
Single or Joint Residential Use Pier Sections	Dwg. No. STD-609-L
Pile Details	Dwg. No. STD-610-L
Eye Bolt For Boat Anchorage	Dwg. No. STD-611-L
Gangway Hanger Bracket	Dwg. No. STD-612-L
Datum Planes	Dwg. No. STD-613-L
Natural Sand Profiles in Newport Harbor	Dwg. No. STD-614-L

DESIGN OF STRUCTURES

- A. Design of harbor structures that do not conform to the Standard Drawings contained within "Design Criteria and Standard Drawings for Harbor Construction," needs the approval of the Building Department prior to the issuance of a harbor permit.
- B. Harbor structures shall be designed in accordance with design criteria adopted by the City of Newport Beach and contained within "Design Criteria and Standard Drawings for Harbor Construction."
- C. The decking of all piers and pier platforms shall not exceed an elevation of 9.0 M.L.L.W. nor be less than an elevation of 8.0 M.L.L.W.

JOINT OWNERSHIP PIERS

- A. Permits may be granted for joint ownership piers at the prolongation of common lot lines subject to the following conditions:
1. No permits will be granted to persons other than the owners or long-term lessee of the abutting upland properties.
 2. The permit application must be signed by the fee owners or long-term lessee of all abutting upland property having access to the facility.
 3. The permit shall provide that all parties shall have equal rights under the permit and shall be held jointly responsible for compliance with all rules, regulations, and conditions set forth in the permit.
- B. The policy for setbacks applies to joint ownership piers with the exception that the slips, floats and piers may extend over the common property line.

BULKHEADS

- A. All bulkheads in residential districts shall be installed on the established bulkhead line or at a location behind the bulkhead line that would preserve the design profile of the harbor. Any retaining or ornamental wall installed landward of the bulkhead line shall be considered a bulkhead if it also serves to contain the waters of the harbor and shall be processed in the same manner as if it were on the bulkhead line.

The Harbor Resources Division may issue permits for bulkheads, between U.S. Bulkhead Station Numbers 112-109 not to exceed the bayward side of the "Vacated East Bay Avenue." U.S. Bulkhead Station 104 for the addresses at 2209, 2223, 2227, 2231 and 2233 Bayside Drive: Staff recommendations for a bulkhead at these properties shall not exceed a point bayward of the average high tide line established at a point 40 feet landward of the face of the bulkhead at the property at 2137 Bayside Drive, and then on a straight line from that point to the bayward most point of the bulkhead at the property at 2301 Bayside Drive.

- B. Bulkheads shall be at the existing height established for the area and shall be connected to adjacent bulkheads. In cases where no adjacent bulkhead or bulkheads exist, a wing wall or wing walls shall be constructed from the bulkhead landward adequate to contain the fill behind the bulkhead. No solid or masonry structure shall be constructed on a bulkhead.
- C. The height and design of all bulkheads and wing walls shall be subject to the design and construction standards of the Building Department.
- D. All bulkhead permits may be subject to a detailed construction drawing being approved by the Building Department. Drawings signed by a Civil or Structural Engineer may be required.
- E. The bulkhead shall not be used to support any structure on the abutting upland property unless the bulkhead has been properly designed to carry the additional loads.
- F. In areas where there is existing development and it is of direct benefit to the City to have a bulkhead constructed, the City may contribute 1/3 of the cost of constructing a bulkhead across street ends.

PARKING REQUIREMENTS

- A. All commercially operated boat docking facilities shall provide 0.75 parking stalls for each single boat slip and 0.75 parking stalls for each 25 feet of available mooring space not classified as a slip.
- 3. For dry boat storage areas, 0.33 parking stalls shall be provided for each storage space available.
- C. For floating dry docks, at least two (2) off-street parking stalls shall be provided exclusively for each dry dock.
- D. All parking shall conform to the City of Newport Beach off-street parking standards.

E. Commercial Activities Permits

1. On-site Parking

a. On-site parking shall be provided as follows:

- i. Charter vessels: one parking space for each three occupants, including crewmembers;
- ii. Sport fishing vessels: one parking space for each two occupants, including crewmembers.

b. Said on-site parking shall be provided on the adjoining upland property. If adequate parking is not available on-site, all or a portion of the required parking spaces may be provided at an off-site location, subject to the approval of the Assistant City Manager and the Planning Director. The use of an off-site lot shall not be approved unless:

- i. Such is so located as to be useful in connection with the use of the vessel.
- ii. Parking on such lot will not create undue traffic hazards in the surrounding area.
- iii. Such lot and the adjoining upland property are in the same ownership and the owner is entitled to the immediate possession and use thereof. Ownership of the off-site lot is defined as ownership in fee or a leasehold interest of a duration adequate to serve the proposed commercial activity.

c. When a vessel will not offer services to the general public, all or a portion of the required parking may be provided at a remote off-site location, if transportation is provided from the off-site parking location to the site where the vessel is moored. Parking for the shuttle vehicles must be provided near the site where the vessel is moored unless said vehicles will be stored at the remote off-site location at all times when not in use.

d. If the use of the off-site parking location is approved, the owner(s) and the City shall execute a written instrument (the form and content of which is acceptable to the City Attorney) providing for the maintenance of the required parking spaces on such lot for the duration of the commercial activity. Said instrument shall be recorded in the office of the County Recorder prior to issuance of a Commercial Harbor Activities Permit, and copies thereof shall be filed with the Harbor Resources Division.

SAFETY REQUIREMENTS

- A. All commercially operated boat docking facilities shall be equipped with fire fighting facilities as specified by the Fire Chief of the City of Newport Beach.
- B. Any electrical service upon any pier, dock or float shall be installed under a permit obtained from the City of Newport Beach Building Department.
- C. Any domestic water service upon any pier, dock, or float shall be installed under a permit obtained from the City of Newport Beach Building Department.
- D. All commercial piers, floats or docks used for the loading of passengers, shall be lighted in such manner as to provide an illumination level of 0.5-foot candles for all areas used for the loading of such passengers.

JANITARY REQUIREMENTS

- A. A permit for a pier, dock or float shall not be issued until the rough plumbing for the dwelling unit or the required restrooms serving such pier, dock or float, has been installed and approved by the City Building Inspector. The use of a pier, dock or float will not be allowed until restroom facilities are completed and in operation.
- B. All public or private commercially operated shore-connected boat anchorages shall have a minimum of two restroom facilities, one for women and one for men, for each 20 boat slips or boat berths available in the anchorage area. The minimum walking distance from the farthest boat berth to the restroom facility shall not exceed 400 feet.
- C. Sewage Pumping Facilities.

Permission may be granted to install and operate sewage pumping facilities for boats moored to shore-connected structures providing such installations are first approved by the Harbor Resources Division.

In requesting approval, the following information must be submitted in letterform to the Harbor Resources Division:

1. The name and address of the person responsible for the installation;
2. The name and address of the manufacturer of all pumping equipment;
3. A complete description of the materials and the pumping equipment to be used;
4. An 8" x 11", or larger, sketch clearly showing the location of the sewage discharge lines, the connection to the sewer system, and the area to be served.

SETBACKS

- A. All piers and floats for residential properties shall be set back a minimum of five feet from the projection of the property line.
- B. All piers and floats for commercial properties may extend to the projection of the property line.

C. The projection of the property line bayward of the same bearing from the bulkhead shall generally be used in determining the allowable setbacks for piers and floats. Because there are certain physical conditions which preclude the strict application of this policy without prejudice to adjoining properties, special consideration will be given to areas where precise projections of the property line have not been determined and the following conditions exist:

1. Where property lines are not approximately perpendicular to the bulkhead line.
2. Where curves or angles exist in the bulkhead line.
3. Where bridges, topography, street ends or publicly owned facilities adjoin the property.

MOORINGS

- A. Boats moored at private or public docks shall not extend beyond the projection of the property line of the property to which the dock facility is connected in accordance with Section 20-C.
- B. Any boat moored at a pier, dock, or float shall not extend bayward a distance of more than the width of its beam beyond the pier, dock or float. Between bulkhead station 256, beginning at Collins Avenue to bulkhead station 255, boats moored at a pier dock or float shall not extend more than 10 feet bayward from the end of the pier dock or float or more than the width of the beam of the boat whichever is less.
- C. Mooring Fees for both onshore and offshore moorings shall be set annually by Resolution of the City Council.

BALBOA ISLAND

- A. No new, non-commercial piers on Balboa Island shall be approved unless in the public interest. New non-commercial piers, if approved, shall be constructed in strict conformance with this Policy and standard drawings. Piers presently permitted may be maintained and repaired upon securing a maintenance permit. Any revision of an existing pier or float shall be in strict conformance with this Policy and shall not be approved if the addition or revision would, in comparison to the existing structure, further restrict or impair the public's use of the bay or beach in the vicinity of the pier or floats.
- B. Revision to existing structures shall be limited to the following:
1. The overall square footage of the revised structure shall be equal to or less than the square footage of the permitted structure;
 2. The revised structure does not extend landward more than the permitted structure;
 3. The revised structure does not extend beyond the City permit line (the U.S. Pierhead line or such other bayward extension of the permit area that is permitted by this Policy; and
 4. The revised structure is wholly within the original permitted area as specified in the existing permit on file with the City.
- C. Whenever any application to install a new, non-commercial pier or revise an existing pier is

Submitted to the Harbor Commission all property owners (according to the latest equalized assessment prepared by the County of Orange and available to the City) within 300 feet of the exterior boundaries of the parcel for which the application is submitted shall be notified in writing by Harbor Resources Division of the pending application. The applicant shall provide the Harbor Commission with a list of property owners and envelopes addressed with postage prepaid.

BAYWARD LOCATION OF PIERS AND FLOATS

- A. U.S. Bulkhead Sta. No. 107 to No. 109. Piers will be permitted to extend out to the U.S. Pierhead Line.
- B. U.S. Bulkhead Sta. No. 109 to No. 110. Piers may be permitted to extend 16 feet channelward of the U.S. Pierhead Line.
- C. U.S. Bulkhead Sta. No. 110 to 112. Piers will be permitted to extend out to the U.S. Pierhead Line.
U.S. Bulkhead Sta. No. 112 to No. 113. Piers will be permitted to extend out to the U.S. Pierhead Line. Commercial piers between "A" Street and Adams Street will be subject to special permits approved by Harbor Commission.
- E. U.S. Bulkhead Sta. No. 113 to 114. Piers shall be subject to a special permit approved by the Harbor Resources Division.
- F. U.S. Bulkhead Sta. No. 114 to No. 119. Piers will be permitted to extend to the U.S. Pierhead Line.
- G. U.S. Bulkhead Sta. No. 119 to No. 120. Piers may be permitted to extend 20 feet beyond the U.S. Pierhead Line.
- H. U.S. Bulkhead Sta. No. 120 to No. 221. Piers may be permitted to extend 20 feet beyond the U.S. Pierhead Line.
- I. The Rhine. Special permits approved by the Harbor Resources Division shall be required for construction of piers in the Rhine, extending northerly from U.S. Bulkhead Sta. No. 120.
- J. U.S. Bulkhead Sta. No. 122 to No. 125. Piers or boat slips may be permitted to extend 20 feet channelward of the U.S. Pierhead Line.
- K. West Newport Channels. Piers may be permitted in the Rivo Alto, the Rialto, and the channel lying westerly of Newport Boulevard. Piers, slips, and floats will be permitted to extend channelward a distance of 30 feet maximum from the channel lines in the Rivo Alto, the Rialto, and the channel lying westerly of Newport Boulevard. Property extending to the ordinary high tide line, with a frontage exceeding thirty (30) feet will be allowed 1-foot increase in float width parallel to the Pierhead Line, for each additional 2 feet frontage.

The piers, slips and floats in Balboa Coves shall not extend into the channel a distance greater than 30 feet from north line of channel shown on Tract 1011. Floats. Up to 20 feet in length may extend into the bay the 30 feet from the said line of waterway; however, for floats over 20 feet in length, the 30 feet distance shall be reduced 1-foot for each 2 feet added to the length of the float. The maximum permissible length of float shall be 30 feet. (Second paragraph of Sec. 23 (k) added by Resolution No. 6139.)
- L. U.S. Bulkhead Sta. No. 226 to No. 227. Piers or boat slips will be permitted to extend to the U.S.

Pierhead line.

- M. U.S. Bulkhead Sta. No. 227 to 128. Piers or boat slips will be permitted to extend to the bulkhead line.
- N. U.S. Bulkhead Sta. No. 128 to No. 130. Piers or boat slips will be permitted to extend to the U.S. Pierhead line.
- O. U.S. Bulkhead Sta. No. 130 to No. 131. Piers or boat slips may be permitted to extend 20 feet channelward of the U.S. Pierhead Line.
- P. Upper Bay. Piers or boat slips may be permitted to extend to the pierhead lines as shown on Harbor Lines Map approved by City Council and on file in the Public Works Department.
- Q. U.S. Bulkhead Sta. No. 132 to No. 137. Pier or boat slips will be permitted to extend to the U.S. Pierhead Line.
 - R. U.S. Bulkhead Sta. No. 137 to east property line of Beacon Bay Subdivision. Piers shall be granted under special permits approved by the Harbor Resources Division to extend 16 feet beyond the U.S. Pierhead Line.
- S. East Property Line of Beacon Bay Subdivision to U.S. Bulkhead Sta. No. 104. Piers may be permitted to extend 20 feet channelward of the U.S. Pierhead Line.
- T. U.S. Bulkhead Sta. No. 104 to No. 106. Piers shall be subject to special permits approved by the Harbor Commission.
- U. Bay Island. Piers will be permitted to extend to the U.S. Pierhead Line on the west, northerly and easterly sides of the Island. Piers will not be permitted on the north side of the channel south of Bay Island.
 - V. Balboa Island. All new piers and revision to existing permits shall be subject to special permits approved by the Harbor Commission. Revisions to existing piers will be permitted providing they do not lessen the use of either the immediate water or land areas.
 - 1. South Bay Front East of U.S. Bulkhead Sta. No. 256. Piers may be permitted to extend 16 feet channelward of the U.S. Pierhead Line. Dredging around floats shall not exceed a depth of minus 4 feet at mean lower low water along a line 85 feet channelward of and parallel to the bulkhead line.
 - 2. South Bay Front between U.S. Bulkhead Sta. No. 256 and No. 259. Piers may be permitted to extend 10 feet channelward of the U.S. Pierhead Line. Dredging around floats shall not exceed a depth of 2 feet at mean lower low water along a line 60 feet channelward of and parallel to the bulkhead line.
 - 3. South Bay Front from Emerald Avenue Northwesterly to the Westerly Prolongation of the Northerly Line of Lot 5, Block 1, Resubdivision of Section 1, and Balboa Island. Piers will be permitted to extend to City pierhead line. Dredging around floats shall not exceed a depth of minus 2 feet at mean lower low water along a line 45 feet channelward of and parallel to the existing concrete bulkhead.

4. North Bay Front. Piers may be permitted to extend 10 feet channelward of the U.S. Pierhead Line, except where a pier line has been established by the City. Dredging around floats shall not exceed a depth of minus 2 feet at mean lower low water along a line 60 feet channelward of the parallel to the U.S. Bulkhead Line or the existing concrete bulkhead.
5. East Bay Front. Piers may be permitted to extend 10 feet channelward of the U.S. Pierhead Line northerly of the northerly line of Park Avenue and 16 feet channelward of the U.S. Pierhead Line southerly of the northerly line of Park Avenue. Dredging around floats shall not exceed a depth of minus 2 feet at mean lower low water along a line 60 feet channelward of and parallel to the bulkhead line.
- V. Collins Isle. Piers will be permitted to extend to the U.S. Pierhead Line on the southwest and west side of Collins Isle. No piers will be permitted on the north or east side of Collins Isle.
- Harbor Island. Piers will be permitted to extend to the U.S. Pierhead Line. Special permits approved by the Harbor Commission will be required for piers northeasterly of Lots 14, 15, 16 and 36.
- Lido Isle. Piers may be permitted to extend out to the U.S. Pierhead Line, except on the westerly side between U.S. Bulkhead Sta. No. 172 and No. 174. Piers may be permitted to extend 20 feet beyond the U.S. Pierhead Line between U.S. Bulkhead Sta. No. 172 and 174.
 1. Piers and floats will not be permitted in the beach area along the northerly side of Lido Isle between the easterly line of Lot 849 and the westerly line of Lot 493.
 2. Piers and floats will not be permitted in the beach area along the southerly side of Lido Isle between the easterly line of Lot 919 and the westerly line of Lot 457.
- Z. Linda Isle. Piers or boat slips will be permitted to extend to the pierhead lines as shown on Harbor Lines Map approved by City Council and on file in the Public Works Department.

*Based on Harbor Regulations adopted by the City Council on December 15, 1941.

EXCEPTIONS

Exceptions may be approved by the Harbor Commission to any of the requirements and regulations set forth if there are special circumstances or conditions affecting the harbor installations that would impose undue hardship on the applicant, or a waterfront property owner's access to the water is impacted by a public works project, or if it would be detrimental to the best interest of the City.

SIGNS

- A. No signs shall be permitted beyond the bulkhead lines with the exception of the following:
 1. Informational and directional signs of service to the public such as fuel, gasoline, live bait, ice, beer and similar signs which in general list services and commodities but do not advertise a specific brand.
 2. Brand name signs which are customarily a part of a fuel pump or a vending machine installation.

No sign permitted beyond the bulkhead lines shall exceed 4 square feet in total area.

STORAGE LOCKERS

Storage lockers and boat boxes may be installed on shore-connected piers and floats subject to the following limitations:

- A. The overall height shall not exceed 30 inches when located bayward of residential property zones
- B. The overall height shall not exceed 30 inches when located bayward of commercial and industrial property zones where the piers and floats are used primarily for the mooring of pleasure boats.
- C. The overall height shall not exceed 60 inches when located on facilities bayward of commercial and industrial zoned property where the use is not primarily for the mooring of pleasure boats.

The overall height shall be measured from the deck of the pier or float to the top of the storage locker.

(Sec. 26 adopted as Sec. 2 of Addendum No. 1 by Resolution No. 6041.)

RACE COMMITTEE PLATFORM

Race committee platforms and instruction platforms may be constructed bayward of the bulkhead lines recognized yacht clubs and recognized sailing schools. All work shall require issuance of a Harbor Permit.

ENCROACHING PIERS AND FLOATS

In areas where existing piers and floats encroach in front of abutting upland property owned by others, a new permit approved by the Harbor Commission, shall be required upon:

- A. Any change in type of existing use of the piers and floats.
- B. Any change in type of existing use of the abutting upland property owned by the permittee.
- C. Any change of existing ownership of the abutting upland property owned by the permittee or upon the death of the permittee.
- D. Any destruction of the pier and float in which over 60% of the replacement value of the pier and float has been destroyed.

Before the Harbor Commission acts on the new permit, the owner of the abutting upland property, in front of which the harbor facility encroaches, shall be notified in writing of the meeting in which the new permit will be considered.

PATIO DECKS

In areas where the waterways are privately owned, and within Promontory Bay, patio type decks may be cantilevered beyond the established bulkhead lines subject to the following conditions:

- A. The maximum projection of patio decks encroachments beyond the bulkhead line shall be limited to 5 feet.
- B. The minimum setbacks from the prolongations of the side property lines shall be 5 feet.

- C. No float shall be permitted within 2 feet of the decks.
- D. No permanent structure shall be permitted on the projecting portion of the patios except:
 1. Planters and benches not over 16 inches in height.
 2. Railings not over 42 inches in height with approximately 95% open area.

FLOATING DRY DOCKS

- A. Permits for floating dry docks may be considered by the Harbor Resources Division, subject to the following conditions:
 1. The location is in waters bayward of commercial, manufacturing or unclassified zones.
 2. The prior approval of a Use Permit by the Planning Commission.
- Permits for floating dry docks are issued for one location only. A new permit must be obtained to move a floating dry dock from one location to another location within the harbor.

PROMONTORY BAY

The following conditions are to be placed on each harbor permit when approved:

- A. That the permittee shall be responsible and maintain the area delineated on the harbor permit free and clear from floating rubbish, debris or litter at all times.
- B. That the permittee shall be responsible for all maintenance dredging, in accordance with the design profile for Promontory Bay, for the area between the bulkhead line and pierhead line as delineated by the harbor permit.

GRAND CANAL

- A. The following conditions are to be in effect and placed on each harbor permit for the Grand Canal:
 1. That the permittee shall be allowed either one pier platform, or in lieu thereof, two shore mooring type appurtenances per lot. Pier platforms and shore moorings shall be constructed according to "Design Criteria and Standard Drawings for Harbor Construction" adopted by the City of Newport Beach.
 2. That all vessels (maximum length 18 feet) moored in the Grand Canal shall be tied off to pier platform structures or shore moorings. Floating platforms or slips will not be allowed. Vessels tied to the bulkhead or by alternate methods not approved by the Harbor Resources Division shall be prohibited.
 3. That the permittee shall be allowed no more than one vessel per shore mooring.
 4. That any shore mooring approved for the Grand Canal shall display a permit number issued by the Harbor Resources Division.
 5. That each vessel tied to any pier platforms in the Grand Canal be anchored from the stern in

such a method as to prevent the vessel from swinging into adjoining vessels or across bayward prolongations of private property lines.

There shall be no permits issued for shore moorings or pier platforms fronting on alleys, avenues or other public easements terminating on the Canal.

There shall be no new permits issued for shore moorings or pier platforms bayward of those lots at the extreme south end and north end of Grand Canal.

OCEAN FRONT SAND DUNES

As a result of wind, storm and tidal conditions, sand has built up in specific locations forming sand dunes. These range from a height of a few inches to as much as five feet. This build up can present problems for adjacent property owners in the form of increased pressure on ornamental and retaining walls and interfering with views of the ocean. To resolve these problems, property owners may apply for a Harbor Permit to do excavation of beach sand directly oceanward of their property in the area bounded by the prolongation of their side property lines.

Reaffirmed - January 24, 1994

Amended - June 27, 1994

Amended - June 26, 1995

Amended - March 25, 1996

Amended - June 8, 1998 (effective July 22, 1998)

Amended - December 14, 1998

Amended - May 8, 2001

Amended - September 10, 2002

Amended - October 28, 2003

Amended - April 13, 2004



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Qualifications

QUALIFICATIONS

of

James B. Netzer, MAI

Professional Background

Prior to forming Netzer & Associates, he was associated for over three years with Urban Pacific Services Corp. Actively engaged as a real estate analyst, appraiser and consultant since 1987. Principal of the appraisal and consulting firm of Netzer & Associates with offices at:

170 E. Seventeenth Street, Suite 206
Costa Mesa, California 92627

Educational Activities

Bachelor of Arts in Liberal Studies with a Concentration in Economics, California State University, Long Beach, 1986.

Has successfully completed the following courses sponsored by the American Institute of Real Estate Appraisers and the Appraisal Institute:

A.I.R.E.A Course 1A-1: Principles of Real Estate Appraisal
A.I.R.E.A Course 1A-2: Basic Valuation Procedures
A.I.R.E.A Course 1B-A: Capitalization Theory and Techniques, Part A
A.I.R.E.A Course 1B-B: Capitalization Theory and Techniques, Part B
A.I.R.E.A Course SPP: Standards of Professional Practice
A.I. Course 2-1: Case Studies in Real Estate Valuation
A.I. Course 540: Report Writing and Valuation Analysis
A.I. Course 550: Advanced Applications

Professional Affiliations

Member of the Appraisal Institute - MAI Designation

State Licenses

State of California - Certified General Real Estate Appraiser - Certificate No. AG003143
State of California - Real Estate Broker License

Court Qualification

Qualified as an expert witness in the Superior Courts of Orange, Los Angeles and San Diego Counties, U.S. Bankruptcy Court – Los Angeles Division.

Teaching Experience

Orange Coast College - Adjunct Professor (retired) - Business 140 "Real Estate Appraisal Principles"

Scope of Experience

During the period in which Mr. Netzer has been engaged as a real estate appraiser and analyst, he has been involved in most aspects of the field having completed assignments for multiple purposes, including: estate planning; bankruptcy; conflict-of-interest analysis (Political Reform Act of 1974); construction defects litigation; soil subsidence; dissolution of marriage; ground lease re-valuation; leasehold & sub-leasehold valuation; property tax appeals; lease and ground lease arbitration; easement/access/encroachment disputes (based on Overholtzer v. Northern Counties Title); soils contamination litigation; mortgage lending; construction financing; portfolio valuation; market and feasibility analysis; fractional interest valuation; and, due diligence.

He has experience appraising the following property types:

Vacant Land

Residential lots, sub-division sites, condominium sites, commercial and industrial sites, mountainous acreage, raw acreage, mitigation land (Delhi Sands Flower Loving Fly, Stephens Kangaroo Rat & Open Space).

Residential

Single-family residences, condominiums, townhomes, planned unit developments, multi-family units, apartment buildings, mobile home parks, proposed and existing sub-divisions.

Commercial

Office buildings, medical office buildings, restaurant buildings, retail centers, neighborhood shopping centers, community centers, commerce centers, congregate care facilities, parking structures, golf courses, mixed-use developments, auto dealerships, gas stations.

Industrial

Manufacturing and warehouse buildings, distribution facilities, multi-tenant buildings, mini-storage facilities.

Special Use

Submerged tidelands, boat harbor, auto ferry, bait barge, civic center, fire stations, police stations, emergency communications facilities, temporary construction easements, steel fabricating plant, car wash facilities.

PARTIAL LIST OF CLIENTS

ATTORNEYS, LAW FIRMS & ACCOUNTANTS

Barton Klugman & Oetting
Law Offices of David G. Boss
Browne & Woods LLP
Burd & Naylor
Gibson, Dunn & Crutcher
Goldstein & Ward
Greines, Martin, Stein & Richland LLC
Jeffer, Mangels, Butler & Marmaro LLP
Landels, Ripley & Diamond
Larsen & Associates
Latham & Watkins
Law Offices of Michael Leight
Loeb & Loeb, LLC
Lynberg & Watkins

McDermott, Will & Emory
Law Offices of Erik B. Michelsen
Millar, Hodges & Bemis
Hart, King & Coldren
Palmieri, Tyler, Wiener, Wilhelm & Waldron
Richard Shaffer (Court Appointed Receiver)
Rubin & Eagan
Severson & Werson
Stradling, Yocca, Carlson & Rauth
Turner & Reynolds
Richard Wildman, Attorney at Law
Wolf & Richards
Wright Ford Browning & Young
Wynne, Spiegel & Itkin

LENDING INSTITUTIONS

Bank Midwest, N.A.
Bank of America
Bankers Mutual (Berkshire Mortgage)
California Federal Bank
Citicorp Real Estate, Inc.
Credit Suisse
Comerica Bank
Escondido National Bank

GE Capital Investment Advisors
Hawthorne Savings
Huntington National Bank
Merrill Lynch Credit Corporation
Park View Mortgage
Strategic Mortgage Services
Tokai Bank
Wells Fargo Bank

GOVERNMENTAL AGENCIES

City of Costa Mesa
City of Huntington Beach
City of Newport Beach

Federal Deposit Insurance Corporation (FDIC)
Resolution Trust Corporation (RTC)
Securities & Exchange Commission (SEC)

GENERAL CLIENTS

AMRESKO Management, Inc.
Arnold Construction
The Boy's Republic
Capital Guardian Trust
Chicago Title Company
Decron Management
First American Title Insurance
Hamilton Company
Kinder Morgan Energy Partners
Lee & Associates
Newport Sports Collection Foundation

PNL Asset Management
Pulte Home Corporation
Ramsey Color Lab, Inc.
S & S Construction/Shappell Industries
St. Clair Company LLC
Santa Fe Pacific Pipeline Partners, L.P.
Staples, Inc.
State Farm Insurance
Stewart Title Guaranty Company
Texaco Refining & Marketing, Inc.
Western National Properties