

Rasmussen Appraisal Services

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*A Summary  
Appraisal of*

Newport Harbor Tidelands  
Fair Market Rent Study  
Phase 3 – Noncommercial Piers  
Newport Beach, CA



*Prepared For*

City of Newport Beach

*Report Dated*

November 2, 2012

# Rasmuson Appraisal Services

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November 2, 2012

File No. 12525-3

Mr. Rob Houston  
City Manager's Office  
City of Newport Beach  
3300 Newport Boulevard  
PO Box 1768  
Newport Beach, California 92658

Reference: Newport Harbor Tidelands Rent Study – Phase 3; Noncommercial Piers

Dear Mr. Houston:

In fulfillment of our agreement and letter of engagement, we are pleased to present the attached report of our Phase 3 appraisal of the above referenced parcel of real estate, as of June 28, 2012. This report, along with the Phase 1 and Phase 2 reports previously submitted, sets forth our opinions of market value along with supporting data and reasoning which form the basis of our opinion. The reader/user of this report is assumed to have a full and complete copy of the Phase 1 appraisal report dated August 8, 2012 and the Phase 2 report dated October 12, 2012. This report incorporates by reference all data, discussion and analysis presented in these previous reports.

The value opinion reported is qualified by certain definitions, limiting conditions, and certifications which are set forth on pages 1 through 7 of this report.

The attached appraisal report has been prepared to comply with the Uniform Standards of Professional Appraisal Practice (USPAP) and the Code of Ethics and Supplemental Standards of the Appraisal Institute.

This appraisal report has been prepared for and our professional fee is billed to the City of Newport Beach. It is intended only for your use for internal purposes. It may not be distributed to or relied upon by other persons or entities without our written permission.

It has been a pleasure to be of service to you in this assignment. I look forward to your review of this report, and welcome your further comments or questions.

Sincerely,

RASMUSON APPRAISAL SERVICES



Gary L Rasmuson, MAI, SRA

Certified General Real Estate Appraiser  
State of California  
OREA Appraiser I.D. No. AG 002571  
Expiration Date: 2/4/2014

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## TABLE OF CONTENTS

| <u>ITEM</u>   | <u>PAGE NO.</u> |
|---|-----------------|
| TABLE OF CONTENTS.....  | iii             |
| SUMMARY AND CONCLUSIONS .....                                   | iv              |
| PART I - INTRODUCTION AND DEFINITIONS .....                     | 1               |
| Purpose of the appraisal .....                                  | 1               |
| Scope of the appraisal .....                                    | 1               |
| Identification of the intended use and users of appraisal ..... | 2               |
| Interest appraised .....  | 2               |
| Effective date of appraisal.....                                | 2               |
| Definition of terms .....                                       | 2               |
| Limiting Conditions and Assumptions.....                        | 5               |
| PART II – AREA DATA.....  | 7               |
| Area Map .....  | 8               |
| Area description.....   | 9               |
| PART III – VALUATION.....                                       | 10              |
| Introduction.....   | 10              |
| Market Rent Analysis.....                                       | 10              |
| Market Rent Conclusion.....                                     | 13              |
| Certification of Appraiser .....                                | 16              |
| PART IV - ADDENDA .....   | 17              |
| Addenda A – Appraiser Qualifications .....                      | 18              |
| Addenda B – Huntington Harbour Sample Lease Summary .....       | 21              |

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## SUMMARY AND CONCLUSIONS

|                                    |   |
|------------------------------------|---|
| <i>Subject Property</i>            | Phase 3 of an appraisal assignment that estimates the benchmark market rent for several categories of Newport Harbor tideland uses. This phase estimates the current benchmark market rent for residential piers to be leased by the City of Newport Beach and used for "non-commercial" use by an associated uplands parcel owner.   |
| <i>Purpose of Appraisal</i>        | To develop an opinion of the subject's fair market rental value for internal purposes.  |
| <i>Effective Date of Appraisal</i> | June 28, 2012, date of subject property viewing   |
| <i>Value Conclusions</i>           | Benchmark Fair Market Rent Rate:<br><u>Noncommercial Piers:</u><br>\$0.50/Square Foot/Year  |
| <i>Date of Report</i>              | November 2, 2012  |
| <i>Specific Assumptions</i>        | This appraisal of fair market rent is for a benchmark rate of a generic parcel within a specified use category located within Newport Harbor, as further described within this report and is not intended to value a specific parcel or ownership.<br><br>The reader/user of this report is assumed to have a full and complete copy of the Phase 1 and Phase 2 appraisal reports dated August 8, 2012 and October 12, 2012 respectively. This report incorporates by reference all data, discussion and analysis presented in those reports.<br><br>I have made an extraordinary assumption that an adjacent upland parcel will be available through joinder for future development of the subject parcels for residential pier use. |
| <i>Appraiser</i>                   | Gary L. Rasmuson, MAI, SRA  |

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## PART I - INTRODUCTION AND DEFINITIONS

### Purpose of the appraisal

The purpose of the appraisal is to develop an opinion of benchmark fair market rent rates for various defined commercial and residential uses of the submerged tidelands located in Newport Harbor, in the City of Newport Beach, California. This appraisal is Phase 3 of a three-phase appraisal assignment. Phase 1 reported the benchmark fair market rent rate for commercial marina uses within Newport Harbor. Phase 2 presented analysis and conclusions of fair market rent for tidelands used for dock slips held by yacht clubs, HOAs and Non-Profits, slips associated with short-term stays/tie ups at upland properties and other commercial entities at fixed locations. This Phase 3 appraisal will estimate the fair market benchmark rent for tidelands used for noncommercial use as residential piers.

### Scope of the appraisal

The scope of this assignment is to estimate a benchmark fair market rent rate for the tidelands under lease from the City of Newport Beach for noncommercial residential pier use as defined in this report. The market rent estimate is not intended to be property specific, but rather a generic benchmark base rent rate for a "typical" leased parcel in Newport Harbor. It is my understanding that my client intends to use these benchmark fair market rent rates and apply them to specific leased parcels within Newport Harbor, subject to adjustments as required.

This is Phase 3 of a three-phased appraisal assignment. Phase 1 and 2 were previously presented in separate reports; however, all of the analysis, market data and conclusions presented in those reports will be carried forward to this report. The reader/user of this appraisal is assumed to have a complete copy of the Phase 1 appraisal dated August 8, 2012 and the Phase 2 report dated October 12, 2012. The contents, data and conclusions of those appraisals are incorporated into this report by reference.

This is a Summary Appraisal Report which is intended to comply with the reporting requirements set forth under Standards Rule 2-2(b) of the Uniform Standards of Professional Appraisal Practice (USPAP) for a Summary Appraisal Report. As such, it presents only summary discussions of the data, reasoning, and analyses that were used in the appraisal process to develop the appraiser's opinion of value. Supporting documentation concerning the data, reasoning, and analyses is retained in the appraiser's file. The depth of discussion contained in this report is specific to the needs of the client and for the intended use stated above. The appraiser is not responsible for unauthorized use of this report.

The scope of this analysis included the following:

- reading of the request for appraisal services and related attachments;
- meetings with city commercial pier permittees, city staff and councilpersons;
- physical viewing of a sampling of the subject parcels, neighborhood, and submarket by land and viewing from the water area by boat;
- consideration and identification of the benchmark "generic" subject parcels
- research public records, or other sources deemed reliable, relative to the subject;
- research public records, or other sources deemed reliable, for sales and leases of comparable properties;
- market data verified where possible with buyer, seller or participating broker and viewed by appraiser;
- consideration of several specific client-requested potential valuation-influencing factors as per the appraisal contract agreement;

- incorporates by reference the Phase 1 data, analysis and conclusions presented in a report dated August 8, 2012 and the Phase 2 report dated October 12, 2012;
- present the results in this Summary Report.

The appraisers used only the most applicable approach(s) to value. Support for the approach(s) used is discussed in the Valuation Section.

## **Identification of the intended use and users of appraisal**

The intended use of this appraisal is for internal purposes by my client. It was prepared for the exclusive use of the City of Newport Beach and may not be used or relied upon by any other party. Any party who uses or relies upon any information in this report, without the preparer's written consent, does so at his own risk.

## **Interest appraised**

The interest appraised is the fee simple interest in the subject property.

Fee simple estate defined as absolute ownership unencumbered by any other interest or estate, subject only to the limitations of eminent domain, escheat, police power, and taxation.

## **Effective date of appraisal**

The effective date of this appraisal is as of June 28, 2012. This date is the date of my tour by boat of the submerged tideland parcels within Newport Harbor and is the date that will be used for the purposes of this analysis.

## **Definition of terms**

### ***Market Value***

The term "market value", as used in this report, is defined as follows:

The most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus.

Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:

- Buyer and seller are typically motivated;
- Both parties are well informed or well advised, and acting in what they consider their own best interests;
- A reasonable time is allowed for exposure in the open market
- Payment is made in terms of cash in U.S. dollars or in terms of financial arrangements comparable thereto; and
- The price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.

Source: OCC, 12 CFR, Part 34, Subpart C – Appraisals, 34.42 Definitions (f)

***Market Rent***

The term “market rent” or “fair market rent”, as used in this appraisal report, is defined as follows:

The most probable rent that a property should bring in a competitive and open market reflecting all conditions and restrictions of the lease agreement, including permitted uses, use restrictions, expense obligations, term, concessions, renewal and purchase options, and tenant improvements (TIs).

Source: Appraisal Institute. Dictionary of Real Estate Appraisal, 5<sup>th</sup> Edition, (Chicago, 2010), p. 121

***Extraordinary Assumption***

An assumption, directly related to a specific assignment, as of the effective date of the assignment results, which, if found to be false, could alter the appraiser’s opinions or conclusions.

Extraordinary assumptions presume as fact otherwise uncertain information about physical, legal, or economic characteristics of the subject property; or about conditions external to the property, such as market conditions or trends; or about the integrity of data used in an analysis.

Source: The Appraisal Foundation. Uniform Standards of Professional Appraisal Practice, 2012 Edition

***Hypothetical Condition***

A condition, directly related to a specific assignment, which is contrary to what is known by the appraiser to exist on the effective date of the assignment results, but is used for the purpose of analysis.

Hypothetical conditions are contrary to known facts about physical, legal, or economic characteristics of the subject property; or about conditions external to the property, such as market conditions or trends; or about the integrity of data used in an analysis.

Source: The Appraisal Foundation. Uniform Standards of Professional Appraisal Practice, 2012 Edition

***Bulkhead***

The term “bulkhead” or “seawall” shall mean the retaining wall that separates dry land areas and water areas.

Source: City of Newport Beach Harbor Code, Chapter 17.01

***Bulkhead Line***

The term “bulkhead line” shall mean the harbor land/water perimeter lines established in Newport Harbor by the Federal Government which define the permitted limit of filling or solid structures that may be constructed in the Harbor. The establishment of bulkhead lines does not necessarily allow the property owner to build to the limits of the bulkhead line due to potential environmental considerations established by the State of California and/or the Federal Government.

Source: City of Newport Beach Harbor Code, Chapter 17.01

***Pierhead Line***

The term “Pierhead Line” shall mean the harbor water area perimeter lines established in Newport Harbor by the Federal Government that define the permitted limit of fixed pier, floating dock and other in-water structures which may be constructed in the harbor. The Pierhead Line typically shall define the

limit of pier and floating dock structures and defines the limit of construction except as otherwise approved by City Council. Vessels may extend channelward of the Pierhead Line.

Source: City of Newport Beach Harbor Code, Chapter 17.01

***Tidelands***

The term "tidelands" shall mean lands that are located between the lines of mean high tide and mean low tide (from California Code of Regulations, Section 13577).

Source: City of Newport Beach Harbor Code, Chapter 17.01

***Exposure Time***

Exposure Time is defined as the estimated length of time that the property interest being appraised would have been offered on the market prior to the hypothetical consummation of a sale at market value on the effective date of the appraisal.

Source: The Appraisal Foundation. Uniform Standards of Professional Appraisal Practice, 2012 Edition

## **Limiting Conditions and Assumptions**

This appraisal is made expressly subject to the following conditions and stipulations:

### ***General Limiting Conditions and Assumptions***

1. No responsibility is assumed for matters which are legal in nature, nor is any opinion on the title rendered herewith. This appraisal assumes good title, responsible ownership and competent management. The property has been appraised as though free and clear of any or all liens, encumbrances or indebtedness unless otherwise stated in this report.
2. The factual data utilized in this analysis has been obtained from sources deemed to be reliable; however, no responsibility is assumed for its accuracy.
3. Unless otherwise stated in this report, the existence of hazardous substances, including without limitation asbestos, polychlorinated biphenyl, petroleum leakage, or agricultural chemicals, which may or may not be present on the property, was not called to the attention of nor did the appraiser become aware of such during the appraiser's inspection. The appraiser has no knowledge of the existence of such materials on or in the property unless otherwise stated. The appraiser, however, is not qualified to detect or test for such substances. The presence of such hazardous substances may affect the value of the property. The value opinion developed herein is predicated on the assumption that no such hazardous substances exist on or in the property or in such proximity thereto, which would cause a loss in value. No responsibility is assumed for any such hazardous substances, nor for any expertise or knowledge required to discover them.
4. Except as noted, this appraisal assumes the land to be free of adverse soil conditions which would prohibit development of the property to its highest and best use.
5. This appraisal is of surface rights only, and no analysis has been made of the value of subsurface rights, if any.
6. It is assumed that all applicable zoning and use regulations and restrictions have been complied with, unless a nonconformity has been stated, defined, and considered in this appraisal report.
7. Disclosure of the contents of this appraisal report is governed by the By-Laws and Regulations of the Appraisal Institute.
8. Neither all nor any part of the contents of this report (especially any conclusions as to value, the identity of the appraisers or this appraisal firm, or any reference to the Appraisal Institute or to its designations) shall be disseminated to the general public or be conveyed to any person or entity, other than the appraiser's or firm's client, by the use of advertising media, public relations media, news media, sales media or other media for public communications without the prior written consent of the signatory of this appraisal report. Further, the appraiser or firm assumes no obligation, liability, or accountability to any third party. If this report is placed in the hands of anyone but the client, client shall make such party aware of all the assumptions and limiting conditions of the assignment.
9. Possession of this report or a copy thereof, does not carry with it the right of publication. It may not be used for any purpose by any person other than the party to whom it is addressed without the written consent of the appraiser, and in any event only with the proper written qualification and only in its entirety.

10. Any sketch in this report may show approximate dimensions and is included to assist the reader in visualizing the property. Maps and exhibits found in this report are provided for reader reference purposes only. No guarantee as to accuracy is expressed or implied unless otherwise stated in this report. No survey has been made for the purpose of this report.
11. It is assumed that the utilization of the land and improvements is within the boundaries or property lines of the property described and that there is no encroachment or trespass unless otherwise stated in this report.
12. The property which is the subject of this appraisal is within a geographic area prone to earthquakes and other seismic disturbances. Except as specifically indicated in this report, no seismic or geologic studies have been provided to the appraisers concerning the geologic and/or seismic condition of the property. The appraisers assume no responsibility for the possible effect on the subject property of seismic activity and/or earthquakes.

***Specific Limiting Conditions and Assumptions***

13. This appraisal of fair market rent is for a benchmark rate of generic parcels within specified use categories located within Newport Harbor, as further described within this report, and is not intended to value a specific parcel or ownership.
14. The reader/user of this report is assumed to have a full and complete copy of the Phase 1 appraisal report dated August 8, 2012 and the Phase 2 appraisal report dated October 12, 2012. This report incorporates by reference all data, discussion and analysis presented in those reports.

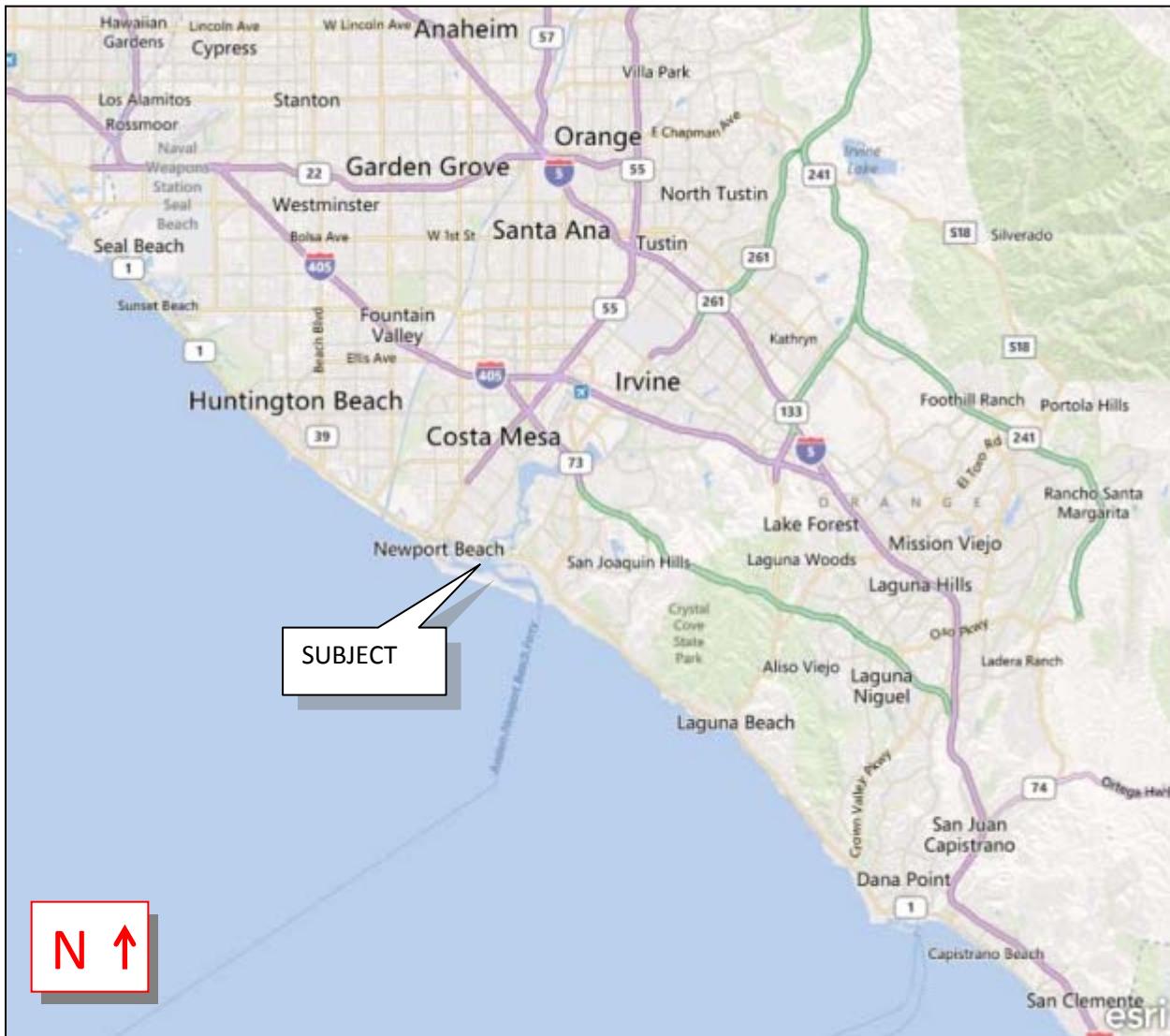
***Extraordinary Assumptions***

I have made an extraordinary assumption that an adjacent upland parcel will be available through joinder for future development of the subject parcels for residential pier use.

***Hypothetical Conditions***

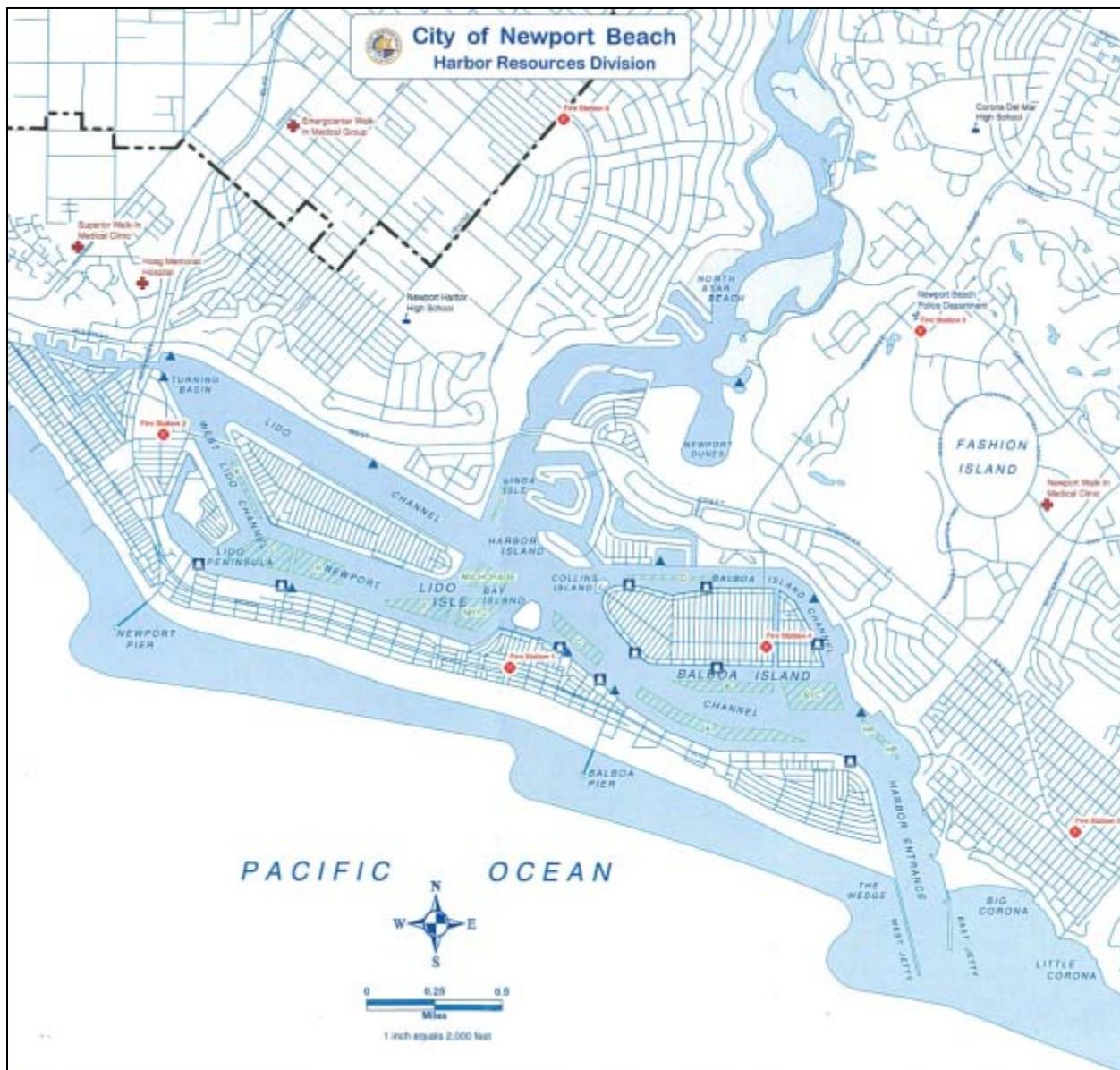
None

## PART II – AREA DATA



Regional Location Map

## Area Map



## Area description

The subject property is situated in the City of Newport Beach, one of 34 incorporated cities in Orange County in southern California.

Newport Beach is located about 85 miles north of San Diego and about 50 miles from downtown Los Angeles. Newport Beach surrounds Newport Bay where more than 9,900 boats of all types are berthed within the 21-square mile harbor area. The bay area and the city's eight miles of ocean beach offer opportunities for fishing, swimming, surfing and other aquatic activities. The City of Newport Beach was incorporated in 1906. The incorporated area is comprised of 26 square miles of land and approximately 25.5 square miles of bay, harbor and ocean waters.

In addition to the city's beaches and harbor activities, it also has several public and private golf courses. Commercial developments include the Balboa Peninsula, Balboa Island, Corona del Mar and the Upper Newport Bay. Newport Center is a mixed-use development that includes offices, hotels and Fashion Island, an open-air regional mall that contains 1.2 million rentable square feet.

Newport Harbor is formed by the Balboa Peninsula on the south and the mainland on the north and extends inland to Jamboree Road. The harbor is generally defined as the Upper Newport Bay and Lower Newport Bay with the Lower Newport Bay consisting of the water area south of the Coast Highway Bridge near the intersection of Coast Highway and Dover Drive. Traditionally, most of the boating activity within the harbor is concentrated in the Lower Bay as most of the Upper Newport Bay is an ecological preserve with limited boating facilities. The Balboa Peninsula is a three-mile stretch of land east of 45<sup>th</sup> Street extending to Peninsula Point and the jetty at the mouth of Newport Harbor. Access to the Peninsula is via Newport Boulevard, Superior Avenue/Balboa Boulevard or a ferry that provides service between Balboa Island and the Balboa Peninsula.

Numerous islands ring Newport Harbor. These include Newport Island, Lido Isle, Linda Isle, Harbor Island, Bay Island, and Balboa Island. Balboa Island is comprised of three smaller islands—Balboa Island, Little Balboa Island and Collins Island. Marine Avenue, the island's main street, is lined with shops, art galleries and restaurants. Balboa Island has residential and some small commercial areas. Mariner's Mile is a section of Coast Highway from Newport Boulevard to Dover Drive. It contains yacht brokerages, marine supply stores, luxury auto dealerships, a mix of retail and restaurants and the Balboa Bay Club & Resort.

Primary landmarks and attractions in Newport Beach include Newport and Balboa Piers, the Balboa Fun Zone and the Balboa Pavilion. The Balboa Fun Zone was purchased in 2005 by the Newport Harbor Nautical Museum. Most of the rides closed to make room for the museum, but the Ferris wheel and the arcade remain. Much of this area known as Balboa Village is slated for revitalization. Commercial development is concentrated along the Mariner's Mile section of Coast Highway, in Lido Village along the Rhine Channel, and the neighborhood surrounding the Balboa Island Ferry and Fun Zone. The balance of the upland and tidelands include residential properties, marinas, private docks and beaches.

Newport Harbor is one of the largest pleasure boat harbors in the world, with more than 2,200 slips, 1,200 offshore moorings and 1,200 private residential piers. There are about 14 marinas in Newport Harbor containing over 25 slips. The City of Newport Beach also administers 972 residential pier permits for piers and other structures used for noncommercial purposes in Newport Harbor.

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## PART III – VALUATION

### Introduction

Phase 1 of this analysis presented in a report dated August 8, 2012 to my client presented data, analysis and conclusions of benchmark market rent for commercial pier uses including large and small commercial marinas. Phase 2 presented benchmark market rent rates for tidelands used for other non-public marina uses including fuel docks, boat charter businesses, rental boat businesses, restaurant slip tie-ups, shipyards, yacht clubs and non-profit entities. Phase 3 presented in this report estimates the benchmark market rent rate for noncommercial piers and other structures within submerged tidelands under the jurisdiction of the City of Newport Beach within Newport Harbor.

There are about 972 residential pier permits issued by the City for this type of use. In addition, the County of Orange also administers residential pier permits in portions of Newport Harbor. The uses are located throughout Newport Harbor, located adjacent to uplands developed by private residential homeowners. Residential piers are located adjacent to residential lots along the perimeter of Balboa Island, Lido Isle, Harbor Island, Linda Isle and along the perimeter of the mainland adjacent to Newport Harbor. There appear to be some cases where multiple owners share a common residential pier. The permits are renewed annually and the current fee is \$100. The residential lots adjacent to the residential piers are around 50 feet in width and the piers typically extend from 50 feet to 125 feet bayward from the bulkhead line and fee ownership out to the pierhead line and Project Line in Newport Harbor.

### Market Rent Analysis

This analysis will estimate the benchmark fair market rent rate for tidelands used for noncommercial piers in Newport Harbor. Incorporated into this analysis are the data presented and analyzed in the Phase 1 and Phase 2 appraisals. Only new market data and related valuation analysis utilized for this section of the report will be presented. The proposed lease terms described in Phase 1 are assumed to apply in the leasing of these parcels.

I have not been provided with a roster or summary of lease areas for the residential pier permits. Based on available maps and aerial photos, I have estimated that an average residential pier for a single-family lot and residence will have an average lot width of 50 feet and an average length from the Bulkhead Line to the Pierhead Line of around 80 feet, indicating a total potential tideland lease area of about 4,000 square feet. This will be used as a benchmark parcel size for the purposes of this analysis. The location of the benchmark parcel is assumed to be in a central harbor location similar to those located on Balboa Island or Lido Isle.

The highest and best use of the subject tideland parcels is for marine-related development including piers, docks and slip space consistent with the adjacent land parcel residential use. This use will require an associated upland parcel to provide access to the tidelands and parking as required. I have made an extraordinary assumption that an adjacent upland parcel will be available through joinder for future development of the subject parcels for marine-related residential pier use. Without this associated upland parcel, the highest and best use will likely be different and the resulting fair market rent significantly reduced. The likely zoning for the upland parcel adjacent to this tideland lease area would have a residential zone.

I have surveyed the harbors, cities and Port Districts throughout Southern California for market data relevant to the appraisal of non-commercial tidelands used for noncommercial residential pier purposes. A discussion of this data and my analysis and conclusions follows.

#### *San Diego Bay*

The San Diego Unified Port District has five private residential pier leases in San Diego Bay. The current lease rate for these leases is not available, but it is my understanding that the rent rate has been based on applying the District's percentage rent rate for marina slip rental times an average slip rental rate for San Diego Bay marinas. The length of the existing pier is used as the basis for this slip rate calculation.

#### *Long Beach*

The City of Long Beach has oversight for tidewaters in Alamitos Bay. There are residential piers located around Naples Island within this bay. The city charges an annual seawall permit for every boat moored adjacent to a waterfront property in the Long Beach Marina area. The fee is based on \$9.95 per foot per year of the overall length of the vessel. For a 45-foot boat, this would equate to an annual fee of \$448. The pierhead line is about 80 feet from the bulkhead and property line and the lot width is 40 feet. Using a 3,200 square foot leased parcel area, this fee equates to about \$0.14 per square foot per year.

#### *County of Orange*

The County of Orange has jurisdiction over the Dana Point Harbor, portions of Newport Harbor, Huntington Harbor and Anaheim Bay in Seal Beach. It is my understanding that the County charges a \$291 per year permit fee for about 100 noncommercial, residential piers in Newport Harbor. However, they have indicated that this fee may be reviewed upon sale or transfer of the adjacent parcel ownership and/or repair or replacement of pier facilities requiring a building permit.

I have also been provided with lease information for the Channel Reef Homeowners Association. This entity leases 28,000 square feet of tidelands (water only) from the county for use as a marina, deck and patio area. This area is for exclusive use by the 48 residential condominium project owners. There are about eight 26-foot slips, 300 lineal feet of side-tie space and about 5,000 square feet of deck and patio area within the leased parcel. The project was developed in the early 1960's. The lease was extended for 20 years from January 1, 2010 through December 31, 2019 with new rent established at that time of \$24,000 per year. The rent adjusts according to the CPI and is currently at \$24,828 per year. This equates to \$0.89 per square foot per year for the leased tidelands.

#### *Newport Harbor - City of Newport Beach*

The City of Newport Beach has authority over the majority of water area within Newport Harbor except for the portions governed by the County of Orange. The city currently charges an annual noncommercial pier permit fee of \$100 for all residential piers in its jurisdiction.

#### *State of California*

The State of California, under the State Lands Commission, has jurisdiction over the state's tidelands and submerged lands along the California coast as well as inland waterways and lakes. The State Lands Commission has developed benchmark rent rates for General Lease – Recreational Use of these tidelands. The State controls the tidelands located in Huntington Harbour, just north of Newport Beach in the city of Huntington Beach, Orange County. Huntington Harbour is located east of Pacific Coast

Highway and north of Warner Avenue, approximately 11 miles north of Newport Beach. The State of California acquired fee ownership of the Huntington Harbour Main and Midway Channels in 1961. Projects including new development and maintenance of existing facilities that extend into these channels beyond the bulkhead line require a lease from the State Lands Commission. Prior to enactment of SB 152 in 2011, recreational pier leases were rent free. The bill revised the Public Resources Code Section 6503.5 to require payment of rent for this leased area. The code states that rent shall be based on local conditions and local annual fair rental value. Leases negotiated in 2012 have been based on these requirements and are 10 year leases with annual rent, with the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease. There are about a hundred individual recreational use, private pier leases in this harbor administered by the State.

The State Lands Commission has been using a Southern California benchmark rent rate to apply to the leases in Huntington Harbour. I have reviewed the Benchmark Update for Southern California dated December 5, 2011. The benchmark rate was set to \$0.331 per square foot per year of leased tideland area in Southern California for 2011 and was last updated in 2005 when the rate was \$0.224 per square foot per year. This rate applies to the tideland area leased for general recreational pier use and is applied to the tideland area extending out from the lot lines of the adjacent residential property from the bulkhead line to the pierhead line in Huntington Harbour.

The benchmark methodology used by the State considers that private docks, piers and mooring related facilities offer many of the same amenities as a commercial marina and that the fair rental value should reflect what an individual would pay for a comparable substitute site in a commercial marina. The State surveyed commercial marinas in Southern California and compiled an average slip size and rate. This data was then used to calculate the annual rent rate using a 5 percent annual rate of return times the average slip rental income. This rent was then converted to a rent per square foot using the estimated berthing size as determined by the published berthing design guidelines. A summary of the 2011 calculation for the Southern California Benchmark rate follows.

|                                    |                  |
|------------------------------------|------------------|
| Average Slip Rental Rate:          | \$18.09/LF/Month |
| Average Slip Size:                 | 36 lineal feet   |
| Annual Slip Rent:                  | \$7,814          |
| Rate of Return:                    | x <u>5%</u>      |
| Annual Rent:                       | \$390.74         |
| Average Submerged Area – 36' Slip: | 1,180 SF         |
| Benchmark Rent Rate:               | \$0.331/SF/Yr    |

This benchmark rate is being applied to the tideland area for the recreational pier that extends generally the width of the adjacent residential lot, usually 50 feet, from the bulkhead line to the pierhead line. The State calculates market rent for existing cantilevered decks based on a residential land value benchmark rate and the balance of the tideland area using the recreational benchmark rate. The State considers the overhanging deck area an extension of the fee-owned land area and charges a higher rate for this reason. The residential benchmark rate for the Huntington Harbour leases is currently based on the adjacent residential land value estimate at \$60 per square foot times the State's mandated rate of return of 9 percent. This equates to an annual rent rate of \$5.40 per square foot per year for this deck area. The sum of the rent for the cantilevered deck area plus the recreational tidelands portion is the total rent charged to the recreational pier lessee. I have reviewed public records for recent lease transactions in Huntington Harbour and a summary of this data follows. A sample summary and plat for one of the leases taken from public records is presented in Addendum "B".

| <b>Huntington Harbour Residential Pier Leases</b> |                   |                         |                  |                  |             |          |  |
|---|-------------------|-------------------------|------------------|------------------|-------------|----------|--|
| <u>Address</u>                                    | <u>Lease Date</u> | Total                   | Cantilevered     | Balance of       |             | Overall  |  |
|   |                   | <u>Leased Area (SF)</u> | <u>Deck (SF)</u> | <u>Tidelands</u> | <u>Rent</u> | \$/SF/Yr |  |
| 16591 Carousel Lane                               | 2/25/2013         | 3,000                   | 192.5            | 2,807.5          | \$1,969     | \$0.66   |  |
| 16791 Bolero Lane                                 | 8/14/2012         | 3,000                   | 200.0            | 2,800.0          | \$2,007     | \$0.67   |  |
| 3581 Courtside Circle                             | 8/14/2012         | 1,800                   | 216.0            | 1,584.0          | \$1,690     | \$0.94   |  |
| 17051 Bolero Lane                                 | 8/14/2012         | 3,000                   | 126.0            | 2,874.0          | \$1,632     | \$0.54   |  |
| 16552 Somerset                                    | 3/23/2012         | 3,600                   | 273.0            | 3,327.0          | \$2,575     | \$0.72   |  |
| 16841 Bolero Lane                                 | 8/14/2012         | 3,000                   | 180.0            | 2,820.0          | \$1,905     | \$0.64   |  |
| 16642 Carousel Lane                               | 1/1/2012          | 3,000                   | 187.0            | 2,813.0          | \$1,941     | \$0.65   |  |
| 16811 Bolero Lane                                 | 5/24/2012         | 3,360                   | 189.0            | 3,171.0          | \$2,070     | \$0.62   |  |
|   |                   |                         |                  |                  |             |          |  |
| <u>Annual Rent/SF:</u>                            |                   |                         |                  |                  |             |          |  |
| Basis for Rent                                    |                   |                         |                  | \$5.40           | \$0.331     |          |  |

The overall rent paid by the lessees to the State for recreational pier and cantilevered deck uses ranges from \$0.54 to \$0.94 per square foot with an average of this data sampling at \$0.68 per square foot per year for an average leased area of about 3,000 square feet. This same methodology is used for other residential piers in California including those located in Lake Tahoe. There have been ongoing public discussions with the State Lands Commission regarding a better method to use in applying market rent rates to these leased parcels. However, the current method developed by State Lands Commission staff continues to be used throughout the state.

### Market Rent Conclusion

There is limited market data of for direct comparison to the subject's tideland area used for private, recreational piers adjacent to residential lots and homes. Data that I found indicates that rent rates for recreational pier leases in Southern California vary from \$100 to \$500 per year for annual permit fees to around \$2,000 per year for 10 year leases by the State.

The State of California leases in Huntington Harbour are considered the most directly comparable long term lease data. My analysis is being made under the assumption that the subject parcels will be leased on a long term basis, for at least a 10 year term, similar to the State leases. The State has moved toward charging what they considered to be a fair market rent rate for recreational piers, as required by state law. The annual permit fees charged by the City of Newport Beach, Long Beach and the County of Orange do not appear to reflect market rent for the leased area when compared to the more recent lease rates charged by the State.

Using the State of California's lease rate in Huntington Harbour as the basis for comparison, I have considered any adjustments to these rates for location differences compared to Newport Harbor. The State uses a regional average slip rental rate as the basis for the tideland rent calculation. If this methodology were to be applied to Newport Harbor, it would be fair to consider average slip rental rates in this particular submarket rather than the overall Southern California average. I have surveyed marinas and individual slips offered for lease by homeowners in the Newport Harbor area. I have also considered surveys compiled recently by the State and other agencies of Newport Harbor marinas. The

State Lands Commission marina survey in late 2011 indicates an average slip rental rate of \$32.30 per foot per month based on an average slip size of 38 feet. This survey encompassed 10 marinas in Newport Harbor. My survey in mid-2012 of these same marinas indicated an average rate of about \$36 per foot.

My survey of listings for private pier rentals in Newport Harbor indicates that the average asking rate is lower than rates published for commercial marinas. For example, a sampling of eight individual listings for slips in the 40 to 45 foot length range was from \$20 to \$30 per foot with an average of \$25. This is compared to my survey of commercial marinas where the slip rate range for spaces from 40 to 49 feet was from \$32 to \$46 and an average of about \$38 per foot per month. It is likely that since individual residential slips lack the larger facility amenity benefits including parking, the rate is lower.

The second area taken into consideration in the State's method is the use of a 5 percent percentage rent rate. This rate was selected in the 1980's and staff at the Commission have indicated that it is likely out of date or might not be applicable to all markets, although there is no discussion of any changes to this rate. The slip rental percentage rent rate used by other public agencies in Southern California is from 20 percent to 25 percent. However, these rates are applied to provide rent for both land and water areas for commercial marinas. Generally, the land component requires a higher rent rate than the water area. I have analyzed these rates in Phase 1 of this appraisal and concluded that a fair market rent rate for commercial marina uses would be 17 percent of slip rental. The State's rate is considerably below all of the available market data, but is considered the norm in this market as it has been used and accepted for a number of years.

The Public Resources Code currently requires a rate of return of 9 percent for general leasing purposes, based on the appraised value of the lands. This is different from the percentage rent rate applied in marina leases. The State's rate of return is to be applied to the land value rather than the revenue derived from the use. The State's rate of return is in line with returns required by other public agencies and Port Districts.

Lastly, I have considered the two-tier rent rate system used by the State. They use a different rent rate basis for the cantilevered deck area than for the balance of the tideland, ramp and dock area. The State Staff considers the cantilevered deck to be an extension of the residential backyard and apply a much higher rent rate using an annual rate of return times the underlying land value for the residential lot. I will use only the submerged tideland rent rate at \$0.331 per square foot as the basis to compare rates with the Newport Harbor tidelands.

I have chosen to consider the State's methodology in estimating market rent for recreational piers, but adjusting their basis for calculations using numbers applicable to Newport Harbor. I have substituted an average slip rental rate of \$28 per lineal foot, giving consideration to commercial marina and private pier rates in Newport Harbor. The rate difference between the State's Southern California average (\$18.09) and my concluded Newport Harbor average (\$28) is about 55 percent. Increasing the State's benchmark rate of \$0.331 per square foot by 55 percent results in a location-adjusted lease rate of \$0.51 per square foot per month. This rent rate is based on using the existing percentage rent rate of 5 percent. Using a percentage rent rate of 17 percent, the indicated rent would be \$1.74 per square foot.

The adjusted data provides a range of indicators from \$0.51 to \$1.74 per square foot per year using the State method. The rate charged to the Channel Reef Homeowner's Association is currently \$0.89 per square foot per year. Existing annual flat fees charged by several agencies in Southern California equate to rates from \$0.03 to \$0.14 per square foot. I have given most weight to the location-adjusted rent rate used for tidelands by the State as the basis for my concluded market rent rate. My concluded

benchmark market rent rate for the City of Newport Beach's tidelands used for noncommercial piers in residential locations was \$0.50 per square foot per year as of the effective date of appraisal on June 28, 2012.

This value estimate is based on the general and specific limiting conditions and major assumptions summarized in this report. These value conclusions are based on an estimated market exposure time of approximately six months. This estimate is based on my analysis of the marketing times reported for the comparable market data and other market data research.

CONCLUDED ESTIMATE OF BENCHMARK MARKET RENT RATE:

**Noncommercial Piers:**

**Rent Per Square Foot of Tidelands:                           \$0.50/Square Foot/Year**

**Certification of Appraiser**

I certify that, to the best of my knowledge and belief:

- The statements of fact contained in this report are true and correct.
- The reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions, and are my personal, impartial, and unbiased professional analyses, opinions, and conclusions.
- I have no present or prospective interest in the property that is the subject of this report, and no personal interest with respect to the parties involved.
- I have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment.
- My engagement in this assignment was not contingent upon developing or reporting predetermined results.
- My compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.
- My analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the requirements *Uniform Standards of Professional Appraisal Practice*.
- The reported analyses, opinions and conclusions were developed, and this report has been prepared, in conformity with the Code of Professional Ethics and Standards of Professional Appraisal Practice of the Appraisal Institute.
- The use of this report is subject to the requirements of the Appraisal Institute relating to review by its duly authorized representatives.
- As of the date of this report, Gary L. Rasmussen, MAI SRA has completed the continuing education program of the Appraisal Institute.
- I have made a personal inspection of the property that is the subject of this report.
- No one provided significant professional assistance to the person signing this certification.
- I have performed no services, as an appraiser or in any other capacity, regarding the property that is the subject of this report within the three-year period immediately preceding acceptance of this assignment.



Gary L. Rasmussen, MAI SRA  
Certified General Real Estate Appraiser  
State of California  
OREA Appraiser I.D. No. 002571  
Expiration Date: 2/4/2014

Date: November 2, 2012

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## **PART IV - ADDENDA**

## **Addenda A - Appraiser Qualifications**

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## **Qualifications of Gary L. Rasmussen, MAI, SRA**

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### ***Expertise:***

Mr. Rasmussen has been actively appraising real estate since 1977 as an independent fee appraiser. Rasmussen Appraisal Services (formerly Rasmussen Appraisal Consultants, Inc.) was established in 1984 and has valued over 1,000 properties to date. Specialties include valuation for litigation purposes including eminent domain, easement and right-of-way appraisals, appraisal of motels, hotels, apartments, office buildings, industrial properties and all types of vacant land.

General appraisal experience includes valuation of residential subdivisions, industrial subdivisions, single-family residences, mobile home parks, estate valuations, partial interest valuation and retail commercial properties. Appraisal assignments have been performed primarily in San Diego County but have included communities within Southern California and Arizona.

### ***Business:***

President – Rasmussen Appraisal Services  
7830 Westside Drive, #303 San Diego CA 92108  
Phone: (858) 672-1796  
Email: gary@rasmussenappraisal.com  
Website: rasmussenappraisal.com

### ***Memberships:***

- Member – Appraisal Institute:
  - MAI Designation (No. 6926) Awarded in 1984
  - SRA Designation
  - Past National Director - 1994; San Diego Chapter President - 1984 (former Society of Real Estate Appraisers); Director - 1987-89; 1994-1997; Regional Representative 1991-1997; Treasurer - 1990; California Legislative Committee: 1992
- California General Real Estate Appraiser, State of California  
License No. AG002571
- Member - International Right of Way Association

### ***Education:***

Bachelor of Science, Business Administration; Economics Major  
University of North Dakota - 1977

Post-graduate Courses – Appraisal Institute Sponsored:

|  |                                       |
|--|---------------------------------------|
| Basic Appraisal Principles (1-A)           | Business Valuation - SREA             |
| The Appraisal of Partial Acquisitions      | Standards of Professional Practice    |
| Capitalization Theory and Techniques (1-B) | Case Studies in Real Estate Valuation |
| Valuation Analysis and Report Writing      | Litigation Valuation                  |

**Seminars (Partial List):**

|                                    |                                |
|------------------------------------|--------------------------------|
| Litigation Seminar                 | Analysis of Problem Properties |
| Apartment Seminar                  | Capitalization Update Seminar  |
| Appraisal Regulation Seminar       | Fair Housing Seminar           |
| Subdivision Analysis Seminar       | Hotel/Motel Valuation Seminar  |
| Special Purpose Properties Seminar | Advanced Cash Flow Modeling    |

**Qualifications:**

- Qualified Expert Witness, Federal Bankruptcy Court
- Qualified Expert Witness, California Superior Court
- Appointed Special Master to Superior Court
- Course Instructor – Appraisal Institute Course Capitalization Theory & Techniques 310 and Capitalization Theory & Techniques 510
- Received Distinguished Service Award - 1991 San Diego Chapter of the Appraisal Institute

**Clients (Partial List):**

*Banks:*

|                       |                         |
|-----------------------|-------------------------|
| Affinity Bank         | California Bank & Trust |
| Bank of America       | Comerica Bank           |
| Fidelity Federal Bank | Commercial Capital Bank |
| Wells Fargo Bank      | Washington Mutual       |

*Public Agencies:*

|                        |                                  |
|------------------------|----------------------------------|
| City of Oceanside      | City of San Diego                |
| County of San Diego    | State of California Caltrans     |
| Port of San Diego      | San Diego County Water Authority |
| San Diego City Schools | Office of Thrift Supervision     |

*Developers/Other:*

|                                    |                       |
|------------------------------------|-----------------------|
| California Transportation Ventures | The Conservation Fund |
| McMillin Communities               | Balestri, Pendleton   |
| McComic Consolidated               | SDSU Foundation       |
| Higgs, Fletcher & Mack             | Daley & Heft          |

**Employment History:**

|               |   |
|---------------|---|
| 1977-1984:    | Lee C. Johnson Company<br>Staff Appraiser               |
| 1984-1998:    | Rasmuson Appraisal Consultants, Inc.<br>President/Owner |
| 1998-1999:    | Lipman, Stevens, Marshall & Thene, Inc.<br>Appraiser    |
| 1999-Current: | Rasmuson Appraisal Services<br>President/Owner          |

## **Addenda B – Huntington Harbour Sample Lease Summary**

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**CALENDAR ITEM  
C71**

A 67

08/14/12

S 35

PRC 8237.1

S. Paschall

**RESCISSION AND ISSUANCE OF GENERAL LEASE –  
RECREATIONAL AND PROTECTIVE STRUCTURE USE**

**APPLICANTS:**

Nathan Chen and Jennie Chen, Trustees of the Nathan Chen Family Trust

**AREA, LAND TYPE, AND LOCATION:**

Sovereign land located in Huntington Harbour, adjacent to 16642 Carousel Lane, city of Huntington Beach, Orange County.

**AUTHORIZED USE:**

Use and maintenance of an existing boat dock, access ramp, cantilevered deck, and bulkhead protection.

**LEASE TERM:**

10 years, beginning January 1, 2012.

**CONSIDERATION:**

**Bulkhead Protection:** the public use and benefit, with the State reserving the right at any time to set a monetary rent if the Commission finds such action to be in the State's best interest;

**Boat Dock, Access Ramp, and Cantilevered Deck:** annual rent in the amount of \$1,941 with the State reserving the right to fix a different rent periodically during the lease term, as provided for in the lease.

**SPECIFIC LEASE PROVISIONS:**

**Insurance:**

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

**Other:**

No permanent roof or other enclosure will be constructed on the Lease Premises. Applicants agree that any proposed use of the Lease Premises that includes an extension of the actual living quarters constitutes residential use and is prohibited.

-1-

Revised August 13, 2012

**CALENDAR ITEM NO. C71 (CONT'D)**

**OTHER PERTINENT INFORMATION:**

1. Applicants own the upland adjoining the lease premises.
2. The State of California acquired fee ownership of the Huntington Harbour Main and Midway Channels in 1961 as a result of a land exchange entered into between the Commission and the Huntington Harbour Corporation, recorded as Sovereign Lands Location No. 34 dated December 22, 1960 and recorded on January 31, 1961 in Book 5611, Page 470, Official Records, Orange County, California. Projects, including new development or maintenance of existing facilities, extending into these Channels beyond the bulkhead line require a lease from the Commission pursuant to Public Resources Code section 6501.1. The Applicants' upland property is located along the Main Channel of Huntington Harbour.
3. On March 29, 2012, the Commission approved issuance of a General Lease – Recreational and Protective Structure Use to the Applicants, for a period of 10 years, for use and maintenance of an existing boat dock, access ramp, cantilevered deck, and bulkhead protection. Subsequent to this authorization, staff received notice from the Applicants that the dimensions of that portion of the deck which cantilevers waterward of the face of the bulkhead were incorrectly noted in the application. Staff is now recommending rescission and issuance of a new General Lease – Recreational and Protective Structure Use which reflects the correct dimensions.
4. The bulkhead protection mutually benefits the public and the Applicants. The bulkhead will be protected from undermining at no cost to the public.
5. **Rescind General Lease – Recreational and Protective Structure Use:** The staff recommends that the Commission find that the subject rescission of approval does not have a potential for resulting in either a direct or a reasonably foreseeable indirect physical change in the environment, and is, therefore, not a project in accordance with the California Environmental Quality Act (CEQA).  
  
Authority: Public Resources Code section 21065 and California Code of Regulations, Title 14, sections 15060, subdivision (c)(3), and 15378.
6. **Issuance of New General Lease – Recreational and Protective Structure Use:** Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (Cal. Code Regs., tit. 14, § 15061), the staff has determined that this activity is exempt from the requirements of CEQA

## CALENDAR ITEM NO. C71 (CONT'D)

as a categorically exempt project. The project is exempt under Class 1, Existing Facilities; California Code of Regulations, Title 2, section 2905, subdivision (a)(2).

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

7. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq., but such activity will not affect those significant lands. Based upon the staff's consultation with the persons nominating such lands and through the CEQA review process, it is the staff's opinion that the project, as proposed, is consistent with its use classification.

### **EXHIBITS:**

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

### **RECOMMENDED ACTION:**

It is recommended that the Commission:

#### **CEQA FINDING:**

**Rescind General Lease – Recreational and Protective Structure Use:** Find that the subject rescission is not subject to the requirements of CEQA pursuant to California Code of Regulations, Title 14, section 15060, subdivision (c)(3), because the subject activity is not a project as defined by Public Resources Code section 21065 and California Code of Regulations, Title 14, section 15378.

**Issuance of New General Lease – Recreational and Protective Structure Use:** Find that the activity is exempt from the requirements of CEQA pursuant to California Code of Regulations, Title 14, section 15061 as a categorically exempt project, Class 1, Existing Facilities; California Code of Regulations, Title 2, section 2905, subdivision (a)(2)

#### **SIGNIFICANT LANDS INVENTORY FINDING:**

Find that this activity is consistent with the use classification designated by the Commission for the land pursuant to Public Resources Code section 6370 et seq.

CALENDAR ITEM NO. C71 (CONT'D)

**AUTHORIZATION:**

Authorize rescission of the previously approved General Lease and issuance of a new General Lease – Recreational and Protective Structure Use to Nathan Chen and Jennie Chen, Trustees of the Nathan Chen Family Trust, beginning January 1, 2012, for a term of 10 years, for continued use and maintenance of an existing boat dock, access ramp, cantilevered deck, and bulkhead protection as described in Exhibit A and shown on Exhibit B (for reference purpose only) attached and by this reference made a part hereof; consideration for the boat dock, access ramp, and cantilevered deck to be \$1,941 per year; consideration for the bulkhead protections to be the public use and benefit, with the State reserving the right at any time to set a monetary rental if the Commission finds such action to be in the State's best interest; combined single-limit liability insurance coverage of no less than \$1,000,000.

**EXHIBIT A**  
**PRC 8237.1**  
**LAND DESCRIPTION**

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

BEGINNING at the most westerly corner of Lot 140, as said lot is shown and so designated on that certain map of Tract No. 5481 filed in Book 215, Pages 11 through 22, Official Records of said County, thence westerly along the westerly prolongation of the northerly line of said lot 60.00 feet to the pierhead line as said pierhead line is described in Resolution No. 5631, passed and adopted January 21, 1986 by the City Council of said City; thence southerly 50.00 feet along said pierhead line to the westerly prolongation of the southerly line of said lot; thence easterly 60.00 feet along said westerly prolongation to the most southerly corner of said lot; thence northerly along the westerly line of said lot to the POINT OF BEGINNING.

**END OF DESCRIPTION**

Prepared 1/17/2012 by the California State Lands Commission Boundary Unit.



