

NETZER & ASSOCIATES

Real Estate Appraisal & Consulting

October 9, 2006
File No. 26-019

Ms. Evelyn Tseng
Revenue Division
City of Newport Beach
3300 Newport Boulevard
Newport Beach, CA 92663

Re: Appraisal Services
Commercial Tidelands – Newport Harbor
Newport Beach, California

Dear Ms. Tseng:

In accordance with your request and authorization, I have undertaken the investigations and analyses necessary to estimate the market value, fee simple interest, in the above referenced real property, which is the subject of this report. James B. Netzer conducted inspections of the subject properties in August and September 2006.

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.

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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 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.

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The 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

Fair market rent for a residential pier used for “commercial” purposes 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 land under the Dory Fishermen’s Fleet has a market value of \$150 per square foot.

This letter of transmittal must remain attached to the limited summary appraisal report, which contains 117 pages plus related exhibits, in order for the value opinions set forth to be considered valid.

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I invite your attention to the following summary narrative report which has been prepared in accordance with the Code of Professional Ethics of the Appraisal Institute and is in compliance with the USPAP standards, and sets forth the data and analysis which my opinions are, in part, predicated. Thank you for the opportunity of serving you in this matter.

Respectfully submitted,

James B. Netzer, MAI
California General Appraiser No. AG003143

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APPRAISAL REPORT

COMMERCIAL TIDELANDS
NEWPORT HARBOR
NEWPORT BEACH, CALIFORNIA

DATE OF VALUE
SEPTEMBER 30, 2006

PREPARED FOR

MS. EVELYN TSENG
REVENUE DIVISION
CITY OF NEWPORT BEACH
3300 NEWPORT BOULEVARD
NEWPORT BEACH, CALIFORNIA 92663

PREPARED BY

NETZER & ASSOCIATES
234 E. SEVENTEENTH STREET, SUITE 209
COSTA MESA, CALIFORNIA 92627
FILE NO. 26-019

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CERTIFICATION

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

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, unbiased professional analyses, opinions and conclusions.

I have no present or prospective interest in the property that is the subject of this report, and have no personal interest or bias 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 in the assignment.

My engagement in this assignment was not contingent upon developing or reporting predetermined results.

My compensation is not contingent upon the reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value estimate, the attainment of a stipulated result, or the occurrence of a subsequent event.

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, which include the *Uniform Standards of Professional Appraisal Practice*.

The use of this report is subject to the requirements of the Appraisal Institute relating to review by its duly authorized representatives.

I have made a personal inspection of the property that is the subject of this report.

In accordance with the USPAP Competency Provision, I certify that I have the knowledge and experience to complete this assignment and have appraised this property type before.

Disclosure of the contents of this appraisal review is governed by the Bylaws and Regulations of the Appraisal Institute. In furtherance of the aims of the Institute to develop higher standards of professional performance by its Members, the appraiser may be required to submit authorized committees of said Institute copies of this report and any subsequent changes or modifications thereof.

The Appraisal Institute conducts a voluntary program of continuing education for its designated members. MAI's who meet the minimum standards of this program are awarded periodic educational certification. As of the date of this report, James B. Netzer has completed the requirements under the continuing education program of the Appraisal Institute.

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I have personally conducted an inspection of the real property identified in Exhibit A to the Contract For Services, which is the subject of this report. Based upon my investigation and analysis, I have formed the opinion that the subject properties have the following values as of September 30, 2006:

SECTION A

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

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SECTION I

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Respectfully submitted,

James B. Netzer, MAI
California General Appraiser No. AG003143

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INTRODUCTION

Purpose of Report

The purpose of this report is to set forth the data, analyses, and conclusions relative to my opinion of the fair market rent for the various uses of the submerged tidelands located in Newport Harbor, in the City of Newport Beach California. As set forth in Exhibit “A” of the Professional Services Agreement between Netzer & Associates and the City of Newport Beach, market rent conclusions for the following tideland uses are presented:

- A. Commercial entities operating at fixed locations on tideland properties, i.e. gas dock operations, bait and tackle stores;
- B. Commercial operations emanating from tideland properties, i.e. the Balboa Island Ferry, Newport Bait Barge;
- C. Balboa Yacht Basin, which contains approximately:
 - 1. 200 boat slips,
 - 2. 3 apartments, and
 - 3. 31 garages;

Note: Balboa Yacht Basin is subject to the terms of Council Policy F-7.

- D. Commercial piers within the City of Newport Beach;
- E. Two categories of residential piers within the City of Newport Beach, including:
 - 1. Those which have been leased by the residential property owners to third-party boat owners on a monthly or quarterly basis;
 - 2. Those which are used solely for personal, non-commercial use;
- F. The licensing of City-owned docks, i.e. the 29th Street dock;
- G. On-shore and off-shore moorings within the City of Newport Beach;
- H. Oceanfront encroachments; and
- I. The Dory Fisherman Fleet Zone.

For the purpose of describing the properties and the presentation of market data and market rent conclusions the above property uses will be discussed separately in the report and will be segregated by section based on the above outline.

Function of Report

The function of this report is to estimate the fair market rent of the above uses for the City’s internal purposes and possible revisions to the City’s Harbor Permit Policy. For reference, the City’s Harbor Permit Policy is included in the report Addenda. The appraisal is completed in

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compliance with the City's Harbor Permit. The appraisal is made at the request of Evelyn Tseng, Income Contract Administrator with the City of Newport Beach – Revenue Division, who is the intended user of this report.

Date of Value

The date of value presented in this report is September 30, 2006. Given the number of properties involved in this report the inspections of the properties were completed during the months of August and September 2006.

Scope of Investigation

This report conveys the results of my investigations and analyses concerning the subject property. The report includes a summary of the information utilized and the methodology used in determining an estimate of value. The appraisal process is a systematic analysis wherein data utilized in estimating the value of the subject property is acquired, classified, analyzed and presented. The first step of the appraisal process involves defining the appraisal problem. The step includes the identification of the real estate, an explanation of limiting conditions, stating the effective date of the value estimate, identification of the property rights being appraised and determining the type of value being sought. The next step is to gather information on the subject property such as vesting of ownership, property history and tax assessment information. The third step is the collection of regional, city and neighborhood data that influences the value of the subject property through economic forces. Relevant factors affecting the value of the subject property such as zoning, site and improvement data are considered to determine the Highest and Best Use of the subject property. The valuation methodology process then discusses the meaningful applications and limitations of the three approaches to value which are the Cost, Sales Comparison, and Income Capitalization Approaches. The comparable market data is analyzed for comparison to the subject property as determined by a degree of similarities. The final step in the appraisal process is the reconciliation of the data gathered to determine the final value estimate. All sections of the appraisal report are structured to show the reasoning and justification utilized in the estimate of highest and best use and conclusion of value. The "Addenda" section of the report contains various information supportive of the appraisal.

Interests Appraised

The interests appraised include the Fee Simple Estate, the Leased Fee Estate and the Leasehold Estate under the assumption that the subject properties will eventually be leased on a long term basis.

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The term the “Fee Simple Estate”¹ is defined as follows:

Absolute ownership unencumbered by any other interest or estate; subject only to the limitations of eminent domain, escheat, police power, and taxation.

The term the “Leased Fee Estate”² is defined as follows:

An ownership interest held by a landlord with the rights of use and occupancy conveyed by lease to others. The rights of the Lessor (the leased fee owner) and the leased fee are specified by contract terms contained within the lease.

The term the “Leasehold Estate”³ is defined as follows:

The interest held by the lessee (the tenant or renter) through a lease conveying the rights of use and occupancy for a stated term under certain conditions.

Market Value Defined

The terms “market value”⁴, 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:

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

Market Rent Defined

The terms “market rent”⁵, as used in this report, is defined as follows:

¹ Appraisal Institute, The Dictionary of Real Estate Appraisal, Third Edition, (Chicago, 1993), p. 140.

² Appraisal Institute, The Dictionary of Real Estate Appraisal, Third Edition, (Chicago, 1993), p. 204.

³ Appraisal Institute, The Dictionary of Real Estate Appraisal, Third Edition, (Chicago, 1993), p. 221.

⁴ Uniform Standards of Professional Appraisal Practice

⁵ Uniform Standards of Professional Appraisal Practice

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The rental income that a property would most probably command in the open market; indicated by the current rents paid and asked for comparable space as of the date of the appraisal.

Bulkhead Line Defined

The term “Bulkhead Line”⁶, as established, shall define the limit of solid filling or solid structures along the bayfront.

Pierhead Line Defined

The terms “Pierhead Line”⁷, as established, typically shall define the limit for pier and float-type structures.

Project Line Defined

The terms “Project Line”⁸, shall define the channel lines of the improvements and by the Federal Government in 1935-36.

Probability of Change

The opinion of value is based upon my knowledge of conditions as of the date of this report. Constantly changing economic, social, political and physical conditions have varying effects upon real property values. Even after the passage of a relatively short period of time, property values may change substantially and require a review based on differing market conditions.

Legal Descriptions

I have not been provided with the legal description of each individual property; however, this does not impact the analysis or conclusions presented.

Owner of Record and Property History

It is assumed that title to all of the properties being appraised is vested in the City of Newport Beach. Unless specifically addressed in this report, none of the properties have transferred or encumbered with long term leases in the recent past.

Assumptions and Limiting Conditions

The analyses and opinions in this report are subject to the following assumptions and limiting conditions:

⁶ City of Newport Beach, Harbor Permit Policy

⁷ City of Newport Beach, Harbor Permit Policy

⁸ City of Newport Beach, Harbor Permit Policy

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General

No investigation of title to the property has been made, and the premises are assumed to be free and clear of all encumbrances, leases, use restrictions, easements, cases or actions pending, except as specifically discussed in this report. Title is assumed to be good and marketable, and that the property is under responsible ownership, competent management and available for its highest and best use.

No survey, legal, or engineering analysis of this property has been made by the appraiser. I assume no responsibility for any condition not readily observable from the customary inspection of the premises, and that there are no hidden or unapparent conditions of the property, subsoils or structures that render it more or less valuable, except as noted herein.

The distribution, if any, of the total valuation in this report between land and improvements applies only under the stated program of utilization. The separate allocation for land and buildings must not be used in conjunction with any other appraisal and are invalid if so used.

The maps, plats, photographs, and exhibits included herein are for illustration only, as an aid in visualizing matters discussed within the appraisal. They should not be considered as surveys nor relied upon for any other purpose, nor should they be removed from, reproduced, or used apart from this report.

I assume no responsibility for economic or physical factors, which may affect the opinions herein, stated which might occur at some date after the date of value. I reserve the right to make such adjustments to the analysis, opinions and conclusions set forth in this report as may be required by consideration of additional data or more reliable data that may become available.

Information contained in this appraisal has been gathered from sources, which are believed to be reliable, and where feasible, has been verified. No responsibility is assumed for the accuracy of information supplied by others.

No opinion is expressed as to the value of sub-surface oil, gas, or mineral rights, or whether the property is subject to surface entry for the exploration or removal of such materials except as expressly stated.

The property is appraised assuming to be in full compliance with all applicable federal, state, and local environmental regulations and laws, unless otherwise stated.

The property is appraised assuming that all applicable zoning and use regulations and restrictions have been complied with, unless otherwise stated.

The property is appraised assuming that all required licenses, certificates of occupancy, consents, or other legislative administrative authority from any local, state, or national government or private entity or organization have been or can be obtained or renewed for any use on which the value estimate contained in this report is based, unless otherwise stated.

The Americans with Disabilities Act ("ADA") became effective January 26, 1992. The appraiser has not made a specific compliance survey and analysis of this property to determine whether or not it is in conformity with the various detailed requirements of the ADA. It is possible that a compliance survey of the property, together with a detailed analysis of the requirements of the

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ADA, could reveal that the property is not in compliance with one or more of the requirements of the Act. If so, this fact could have a negative effect upon the value of the property. Since the appraiser has no direct evidence relating to this issue, possible noncompliance with the requirements of the ADA in estimating the value of the property has not been considered.

Unless otherwise stated in this report, the existence of hazardous material, which may or may not be present on the property, was not observed by the appraiser. The appraiser has no knowledge of the existence of such materials on the property. The appraiser, however, is not qualified to detect such substances. The presence of substances such as asbestos, urea formaldehyde foam insulation, or other potentially hazardous materials may affect the value of the property. The value estimate is predicated on the assumption that there is no material on or in the property that would cause a loss in value. No responsibility is assumed for any such condition, or for any expertise or engineering knowledge required to discover them. The client is urged to retain an expert in this field, if desired. If the client is aware or becomes aware of any conditions, the appraiser should be consulted immediately to assess the impact, if any, upon the market value.

The appraiser reserves the right to make such adjustments to the valuation herein reported, as may be required by consideration of additional data or more reliable data that may become available.

No opinion is intended to be expressed, or implied, for matters, which require legal expertise or specialized investigation or knowledge beyond that customarily employed by real estate appraisers.

I shall not be required, by reason of this appraisal, to give testimony or to be in attendance in court or any governmental or other hearing with reference to the property without prior arrangements having first been made with me relative to such additional employment.

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. I do not authorize out of context quoting, or partial reprinting of the report. In the event the report is placed in the hands of a third party, it is requested that such party be made cognizant of any and all limiting conditions resulting in the basis of my employment and the discussions thereto, as well as those set forth herein.

The submission of this report constitutes the completion of the service authorized. It is submitted upon the condition that the client will provide the appraiser customary compensation relative to any subsequent required deposition, conferences, additional preparation or testimony.

The appraiser respectfully requests that neither all nor part of the contents of this report shall be disseminated to the public through advertisement, public relations, news, sales, or other media, without written consent and approval of the author, particularly the valuation conclusions, the identity of the appraiser, or any reference to the Appraisal Institute or the MAI designation.

In the event the appraiser is subpoenaed for a deposition, judicial or administrative proceeding, and is ordered to produce his appraisal report and file, the appraiser will immediately notify the employer.

It shall be the responsibility of the employer to obtain a protective order.

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The liability of Netzer & Associates and the appraiser responsible for this report is limited to the client only and to the fee actually received by the appraiser. Further, there is no accountability, obligation or liability to any third party. If this report is placed in the hands of anyone other than the client, the client shall make such party aware of all limiting conditions and assumptions of the assignment and related discussions. The appraiser is in no way responsible for any costs incurred to discover or correct any deficiencies of any type present to the property -- physical, financial, and/or legal.

It is agreed that the appraiser is not a necessary party in any inquiry or judicial proceedings. If called upon to testify in any litigation or other proceeding arising out the duties in this matter, and is compelled to incur court costs, attorney's fees or other out-of-pocket expenses in connection with court proceedings, such costs or expenses, together with the appraisers' usual hourly per diem applicable for study, preparation, testimony or travel will be paid by the party (or parties) who acts to bring any suit requiring a judicial proceeding.

Any dispute or claim made with respect to this report shall be submitted to and resolved in accordance with the rules of the American Arbitration Association for arbitration, and the decision of the Association shall be binding. All appraisal services, pursuant to this report, shall be deemed to be contracted for and rendered in Orange County, California, and any arbitration or judicial proceedings shall take place in Orange County, California.

The signatory of this appraisal report is a member of the Appraisal Institute. The Bylaws and Regulations of the Institute require each member to control the use and distribution of each appraisal report signed by such member. Therefore, except as hereinafter provided, the party for whom this appraisal report was prepared may not distribute copies of this appraisal report, in its entirety, without the written consent of the signatory of this report. The report and parts thereof and any additional material submitted, may not be used in any prospectus or printed material used in conjunction with the sale of securities or participation interests in any Public Offering as defined under US Security laws. Further, neither all nor any part of this appraisal report shall be disseminated to the general public by the use of advertising media, public relations media, news media, sales media, or other media for public communication without the prior written consent of the signatory of this appraisal report.

AREA DESCRIPTION

Newport Harbor is the focal point of the incorporated city of Newport Beach, which is located in coastal Orange County approximately 10 miles southwest of the Santa Ana Civic Center. The coastal city was incorporated on September 1, 1906. The State Department of Finance reports an estimated population of 70,032 persons, as of the 2000 Census. According to the City Chamber of Commerce, the influx of the tourist population during the summer months increases the population to over 100,000 persons.

Newport Beach is located 85 miles north of San Diego, 14 miles south of Long Beach and 50 miles from downtown Los Angeles. The City's elevation ranges from sea level to 691 feet. With the annexation of Newport Coast, the City is comprised of approximately 25 square miles of land area, approximately 25.5 square miles bay, harbor and ocean waters for a total area of

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approximately 50.5 square miles. The city has 6.1 miles of ocean frontage and 25.4 miles of harbor frontage. Newport Harbor is one of the largest pleasure craft harbors on the West Coast and is home to approximately 9,900 boats, 1,230 piers, 2,330 commercial slips and side ties and 1,235 moorings.

In addition to the City's miles of beaches and pleasure craft harbor, the City is home to several public and private golf courses, Newport Center and its Fashion Island regional mall, the Balboa Peninsula, Balboa Island, Corona del Mar, and the Upper Newport Bay. Newport Center, developed by the county's largest landowner, The Irvine Company, is a master planned, mixed-use development, and includes offices, lodging and meeting facilities, and the Fashion Island regional mall. Newport Center is perceived as a premier business address in Southern California and the Class-A office buildings command some of the highest rents in the county. Fashion Island, an open-air regional mall containing approximately 1,200,000 rentable square feet, is home to many local, regional, national and international retailers, restaurants, and movie theaters. It caters to the business community, the local population, and attracts a large tourist market. Coupled with its mild climate, these community amenities will continue to draw the transient population from around the region and the nation, and the city should continue to be a destination resort into the foreseeable future.

Newport Harbor is formed by the Balboa Peninsula on south and the mainland on the north and extends inland to Jamboree Road and the north end of the Upper Newport Bay (Back Bay). The primary focus of this assignment is the Lower Newport Bay, which is generally defined as 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 Back Bay is an ecological preserve with limited boating facilities (Newport Dunes, Newport Aquatic Center, U.C.I. Rowing base, Bayside Village and Dover Shores). The Balboa Peninsula consists of all the contiguous land east of 45th Street extending to Peninsula Point and the jetty at the mouth of Newport Harbor. The south side of the Peninsula consists of sandy beaches on the Pacific Ocean while the north side of the Peninsula forms the southern perimeter of Newport Harbor.

Access to the Peninsula is via Newport Boulevard, Superior Avenue/Balboa Boulevard, or the famous ferry that runs between Balboa Island and the Balboa Peninsula. Newport Boulevard merges with Balboa Boulevard at 21st Street near McFadden Square and the Newport Pier and Balboa Boulevard continues eastward to the end of the Peninsula and eventually turns into Channel Road. Access the inland side of the Harbor is via Coast Highway, Bayside Drive and Harbor Island Drive. Additional access is afforded to the residents of the eight islands that ring

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the harbor, which include Newport Island, Lido Isle, Linda Isle, Harbor Island, Bay Island (the only island with no vehicular traffic), Balboa Island, Little Balboa Island and Collins Isle.

Primary landmarks and attractions include the Newport and Balboa Piers, the Balboa Fun Zone (being converted to the Newport Harbor Nautical Museum), the Balboa Pavilion and the Wedge, a well-known body surfing beach at the tip of the Peninsula. The commercial activities are 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. The Location Map on the facing page shows the subject location relative to the surrounding community and transportation network.

HIGHEST AND BEST USE

"Highest and Best Use" is an appraisal concept which is defined in The Dictionary of Real Estate Appraisal, Third Edition, as follows:

The reasonably probable and legal use of vacant land or an improved property, which is physically possible, appropriately supported, financially feasible, and that results in the highest value. The four criteria that must be met are legal permissibility, physical possibility, financial feasibility, and maximum profitability.

Inherent in this definition are several conditions, which must be satisfied by the existing or proposed use in order to develop the maximum value. The use must be physically possible for the site. Soil condition, topography, size and shape must be compatible with the proposed use. The use must be legally permissible in that it must conform to current or projected zoning. Similarly, the use must not be precluded by deed restrictions or other encumbrances, which may limit potential uses. Also, the use must be economically feasible. The market should indicate sufficient economic demand so as to support a proposed use of the site. Among the various uses that meet the above criteria, the use which creates the greatest rate of return and maximum productivity is considered to be the highest and best use of the site.

Highest and Best Use Criteria - As If Vacant/As-Improved

A complete Highest and Best Use study of each of the uses of the tidelands and associated uplands parcels is beyond the scope of this assignment; therefore, it is assumed that the Highest and Best Use of the tidelands properties "as if vacant" and "as improved" are the current uses.

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APPRAISAL PROCEDURES

The appraisal of real property generally involves one, two or three of the conventional approaches to value, and is based upon consideration of market-derived data, the experience of the appraiser, and opinions of other informed market participants.

Valuation Approaches

Three basic approaches to value are available to the appraiser: the Cost Approach, the Income Approach, and the Direct, or Sales Comparison Approach.

Cost Approach

This approach entails the preparation of a replacement or reproduction cost estimate of the subject property improvements new (maintaining comparable quality and utility) and then deducting for losses in value sustained through age, wear and tear, functionally obsolescent features, and economic factors affecting the property. The land value is then added to the depreciated cost along with an allowance for entrepreneurial profit to arrive at a value estimate.

Income Approach

This approach is based upon the theory that the value of property tends to be set by the net income that is to be realized by the owner. It is, in effect, the capitalization of expected future income into a present worth estimate. This approach requires an estimate of potential gross income, an analysis of all expense items, the selection of a capitalization rate, and finally, the processing of the net income stream into a value estimate.

Sales Comparison Approach

This approach is based upon the principle that the value of a property tends to be set by the price at which comparable properties have recently been sold or for which they were acquired. This approach requires a detailed comparison of sales of comparable properties with the subject property.

Approaches Used in the Valuation of the Subject

The Sales Comparison Approach is a process of comparing prices paid for similar properties, prices asked by owners, and offers made by prospective purchasers. The approach presents good evidence of value because it represents the actions of buyers and sellers, or in the case of leased properties Lessee's and Lessor's. The Sales Comparison Approach is based on the principle of substitution, which implies "the value of a property tends to be set by the price that would be paid to acquire a substitute property of similar utility and desirability within a reasonable amount of time."⁹ Given the preceding discussion, and the interactions of market participants, the Sales

⁹Appraisal Institute, The Appraisal of Real Estate, Eleventh Edition, (Chicago, 196), p.398.

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Comparison Approach is the most relevant approach in estimating Fair Market Rent and is the only approach used in the analysis.

RECENT CITY OF NEWPORT BEACH LEASE AGREEMENTS

Within the recent past, the City of Newport Beach has entered into at least two agreements for Tideland properties in Newport Harbor. In December 2002 they entered into a Lease with the American Legion for the property at 15th Street and West Bay Avenue and in 2000 the Balboa Bay Club exercised its option for the redevelopment of their property at 1221 W. Coast Highway. The basic terms of the leases are summarized in the following table:

LEASE SUMMARY – CITY OF NEWPORT BEACH					
DATA NO. LOCATION	LEASE DATE	LEASE TERM	BASE RENT	ADJUSTMENT	PERCENTAGE RENT (% of Gross Revenue)
1/ American Legion 215 E. 15 th Street Newport Beach	12/2002	25 yrs.	\$96,000	Every 5 years Greater of 10% or 75% of CPI	Hall Rental: 20% Marina: 40% Storage: 50% Parking Lot: 100%
2/ Balboa Bay Club 1221 W. Coast Highway Newport Beach	10/2000	50 yrs.	\$1,125,000	After 97 th Month Every 5 years based on 75% of previous 5 years average rent	Dues: 6.0% Apartment: 16.5% Marina: 31% Storage: 20% Charter Commission: 20% Charter: 6% Room: 5% Beverage: 5% Food: 3% Retail: 5% Miscellaneous: 10%

Both of these lease agreements are for properties in Newport Harbor and both Lessee's had prior operations at the respective locations. They both control both the upland and tidelands parcels and are included as background information and for comparison to other properties located in Newport Harbor that have similar use components.

The American Legion had been occupying their property at the corner of Bay Avenue and 15th Street since 1975 and they constructed a legion hall, marina, parking area, dry boat storage facilities and lockers. The membership is restricted to those who have served in any branch of the United States armed forces. The Lease has a 25 year term with an option to extend the lease for an additional 25 year term. The Base Rent is \$8,000 per month, or \$96,000 per annum. It was reported that they paid \$23,632.59 in percentage rent in 2005.

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The Bay Club lease reflects the exercise of an Option Agreement that was originally negotiated in June 1996 that had a five year term and one extension and they paid non-refundable option money (approx. \$355,000) during the option period. The operator of the Balboa Bay chose to exercise their option in October 2000. As part of the lease, the Bay Club was required to make a substantial investment in upgrading/replacing their existing improvements and had three years from the commencement date to complete the improvements. The base rent paid by the Bay Club is \$1,125,000 per year plus any amount that the percentage rent exceeds the base rent. The percentages are set forth in the previous table. The base rent was reduced by approximately one-half during the first 30-months of the lease to permit the construction/renovation of the improvements. The base rent is adjusted in the 97th month and then every 61st month thereafter, to 75% of the average annual rent for the previous five year period. There is a “Fair Market Rent” adjustment at the commencement of the 26th year based on a formula set forth in the lease. The lease does include a legal description of both the upland and tideland parcels; however, there are no area calculations.

JURISDICTIONAL LEASING POLICIES

During the course of completing this assignment interviews were conducted with representative of most of the jurisdictions that administer/lease tidelands along coastal Southern California. The representatives were interviewed with regard to the general leasing practices along the coastal strip and the following discussion is a summary of some of the interviews conducted.

County of Orange

At Dana Point Harbor, which is under the jurisdiction of Orange County, two marinas – the East Basin Marina and the Dana West Marina, had been leased on a “typical” percentage rent based on the various permitted uses. In 2001 the County changed its policy regarding the “lease” of marina properties.

In 2001 the County and the operator of the East Basin Marina (1,500 slips w/ eight service buildings) entered into a management agreement to operate the East Basin Marina at the expiration of the 30-year lease. Under the management agreement the County retains the operational expertise and historical knowledge of the original lessee (as the property manager) and the revenue to the County is significantly higher than the amounts received from percentage rents under the original lease.

The lease for the Dana West Marina expired in October 2005. The original leases commenced in 1975 and the Marina is comprised of approximately 990 slips, six service buildings to provide boats facilities (showers, restroom, laundry facilities, etc...) on the lower floor with the upper

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floors leased to various marine related business activities including a yacht club, boat broker, marine insurance and the operators administrative offices. The County entered into a similar five-year management agreement with the former Lessee and they have increased the County revenue significantly and retained ownership of all the improvements including personal property (docks, etc...). Under the Management Agreement the County pays the manager five-percent (5.0%) of the gross receipts collected on behalf of the County from slip rents, building tenants and other business activities at the marina. The manager contracts with the vendors and pays all operating expenses on behalf of the county (subject to county approved budgets and reimbursement by the County) and is responsible for the proper handling and reporting of all financial information. The County retains ownership of all the improvements.

There is a third area within the harbor (Dana Wharf Sportfishing) that is leased to the operator of the Marina in a more traditional Lessor/Lessee basis under a 10 year ground lease with a 10 year option. This lease was entered into in 2002 and includes an annual "Base" rent and percentage rent based on the gross receipts of the Lessee. They also pay 1.0-percent of their gross receipts for Common Area Maintenance. There are different percentages established for each of the permitted uses and the Base rent is adjusted every five years based on the greater of the CPI or 75% of the Lessee's average rent for the prior three years.

Based on the interviews completed during the course of completing this assignment, Dana Point Harbor is the first, and only, jurisdiction to enter into property management agreements for the operation of their tidelands.

Unified Port of San Diego

The Unified Port of San Diego has jurisdiction over the tidelands in most of San Diego Harbor. In the recent past they have negotiated a lease and an option to lease agreement for the development of two separate marinas along with the associated support facilities. The leases are based on fixed minimum rent that is adjusted periodically based on the changes in the Consumer Price Index (CPI) and percentage rent based on benchmarks that they established in 1994 that are identified as "Benchmark Fair Market Rent Percentage Rental Rate Study Conducted for the San Diego Unified Port District and the San Diego Port Tenants Association". This document is included in the Report Addenda for reference. Interviews with a Senior Asset Manager in the Port Real Estate Department indicates that this study was completed based on comparison with lease data for other harbors along the Southern California coast and that the Port District has no latitude in negotiating percentage rent with prospective tenants.

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City of Avalon

The primary uses of Avalon Harbor are associated with the mooring rentals, shore boat and charter tours. The City of Avalon charges all business engaged in the operation of boats using harbor facilities for landing, discharging loading or embarking passengers 7.0 percent of the gross receipts. They charge cruise ships \$2.00 per passenger. Businesses engaged in the operation of “shore boats” are charged 7.0-percent of the gross receipts.

City of Los Angeles (San Pedro)

The City of Los Angeles has historically charged fees to marina operators, bait barges and other users of tideland properties a fixed rent that was based on a price per square foot of tidelands property and, when applicable, the upland rent is based on a price per square foot of land area both multiplied by a contractually established rate of return. The fixed rent was adjusted periodically based on a change in the Consumer Price Index (CPI). It was reported that several of their leaseholds have recently expired or are expiring in the next few years and they are currently drafting Requests For Proposals (RFP's) that will base the new rents on a percent of the gross income. It was noted that this method of calculating rents allows both the City and the Lessee to benefit from increases in business and does not unduly penalize the lessee in times when business declines.

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SECTION A - Commercial Entities @ Fixed Locations (Gas Docks, etc...)

Introduction

This category of properties includes those that operate at “fixed” location with the city and are located in the tidelands. Exhibit “A” of the agreement specifically identifies the gas docks and bait and tackle stores in the harbor. There are three gas docks in the city; however, no specific “bait and tackle” stores were identified. Other properties in this category that are not specifically identified but are considered in this analysis include restaurants and the Pavilion.

Location

There are three gas docks operating within Newport Harbor that have been specifically identified for this assignment. While there may be other commercial entities operating from fixed locations in the harbor they were either not identified or are addressed in another section of this report. The location and description of the fuel docks, based on a combination of information provided by the City and my research of the city files, are summarized in the following table.

Name Location	Improvements
Hills Boat Service Inc. 813 E. Bay Avenue Newport Beach	Pier, floats, office, storage, gas pumps, refrigerated box
Island Marine Fuel 406 S. Bayfront Balboa Island	Pier, floats, office, storage, gas pumps, refrigerated box
Newport Landing 504 E. Edgewater Newport Beach	Pier, floats, office, storage, gas pumps, refrigerated box

Description – 813 E. Bay Avenue

The fuel dock at 813 E. Bay Avenue is located on the south side of the bay, just east of the Balboa Pavilion. Based on a review of the City records the fuel dock occupies tidelands that are approximately 80-feet from the Bulkhead line to the Pierhead line and extend an additional 20-feet to the Project line, with approximately 90 feet of bay frontage. The improvements included a fuel dock with pumps, a pier with a storage area and an office/store. The fuel tanks are reported to be under a concrete slab below the wooden deck/pier. The Balboa Angling Club also appears to occupy a portion of the tidelands. A drawing of the improvements, taken from the City files, is included in the Addenda at the end of this section for reference.

Description – 406 S. Bayfront

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The fuel dock at 406 S. Bayfront is located on the north side of the harbor, just west of the Balboa Island Ferry, on Balboa Island. Based on a review of the City records the fuel dock occupies tidelands that extend approximately 77-feet from the Bulkhead line to the Pierhead line and extend an additional 20-feet to the Project line, with approximately 110 feet of bay frontage. The improvements included a fuel dock with pumps, a pier with a store/office and a refrigerated box. A drawing of the improvements, taken from the City files, is included at the end of this section for reference.

Description – 406 S. Bayfront

The fuel dock at 406 S. Bayfront is located on the north side of the harbor, just west of the Balboa Island Ferry, on Balboa Island. Based on a review of the City records the fuel dock occupies tidelands that extend approximately 77-feet from the Bulkhead line to the Pierhead line and extend an additional 20-feet to the Project line, with approximately 110 feet of bay frontage. The improvements included a fuel dock with pumps, a pier with a store/office and a refrigerated box. A drawing of the improvements, taken from the City files, is included at the end of this section for reference.

Gas Dock Rental Survey

The table on the following page is a summary of the fuel docks that were surveyed to establish the current market rent for the three fuel docks specifically identified. It should be noted that in some cases the comparable fuel docks are part of a larger (POL) marina development; therefore, the following table only summarizes the rent paid for the services directly associated with the fuel dock operation. A summary of the data follows and my conclusions relative to the gas docks follows the table.

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Data No. Location	Lease Date	Use	Lease Type	Percent or \$/gallon
1/ High Seas Fuel Dock San Diego	1995	Fuel Dock & Sales	Fixed	D: \$0.0075/Gal. G: \$0.04/Gal.
2/ Pearson Marine Fuel San Diego	1994	Fuel Dock	Fixed	D: \$0.0075/Gal. G: \$0.04/Gal.
3/ Harbor Island Fuel Dock San Diego	1981 Rev. 2003	Fuel Dock (POL)	Fixed	D: \$0.0075/Gal. G: \$0.04/Gal.
4/ Cortez Fuel Dock San Diego	1997	Fuel Dock (POL)	Fixed	D: \$0.0075/Gal. G: \$0.04/Gal.
5/ Islandia Marine Fuel San Diego	1988	Fuel Dock (POL)	Percent	D: 1.5% G: 3.0%
6/ Dana Landing San Diego	1995	Fuel Dock (POL)	Percent	D: 1.5% G: 3.0%
7/ Sea World Marina San Diego	1998 Rev. 2004	Fuel Dock (POL)	Percent	D: 1.5% G: 3.0%
8/ Oceanside Harbor Fuel Dock Oceanside	1989 2005	Fuel Dock	Percent	D: 3.0% G: 3.0%
9/ Dana Point Fuel Dock Dana Point	1995 Adj. 2005	Fuel Dock	Percent	D: 10.0% G: 10.0%
10/ Alamitos Bay Marine Long Beach	2003	Fuel Dock & Marina	Fixed	D: \$0.015/Gal. G: \$0.03/Gal.
11/ Shoreline Marine Fuels Long Beach	2003	Fuel Dock & Marina	Fixed	D: \$0.015/Gal. G: \$0.03/Gal.
12/ Mike's Marine San Pedro	1986 Rev. 2001	Fuel Dock	Fixed	D: \$0.015/Gal. G: \$0.025/Gal.
13/ Rocky Point Marine Fuels Redondo Beach	2005	Fuel Dock (POL)	Percent	D: 5.5% G: 5.5%
14/ Marina Fuel Service Marina Del Rey	Rev. 1996	Fuel Dock	Percent	D: 6.0% G: 6.0%
15/ Dave's Marine Fuel Ventura	Rev. 1993	Fuel Dock & Anchorage	Fixed	D: \$0.015/Gal. G: \$0.018/Gal.
16/ Ventura Harbor Marine Fuel Ventura	2002 Annual Rev.	Fuel Dock & Anchorage	Fixed	D: \$0.015 G: N.Avail.
17/ McCormix Santa Barbara	2003	Fuel Dock	Fixed	D: \$0.04/Gal. G: \$0.04/Gal.

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Conclusion – Gas Dock Market Rent

Based on the market data uncovered and the interviews completed, the gas docks pay rent based on a fixed minimum annual rent with excess rent paid based on either on a fixed price per gallon or based on a percentage of their gross sales. It should be noted that when the rent is based on a percentage of the gross sales, the sales figures are calculated exclusive of any sales or excise taxes. Ten of the 17 fuel docks are leased on a “fixed” basis that ranges from \$0.0075 to \$0.04 per gallon of diesel fuel and \$0.018 to \$0.04 per gallon of gasoline. The remaining seven leases are based on a percentage of Sales that range from 1.5- to 10.0-percent of gross sales. The following table is a summary of these figures, including the averages based on the total sampling.

Fuel Type	Fixed Rent /Gallon	Average Rent /Gallon	Percentage Rent	Average % Rent
Diesel	\$0.0075 - \$0.04	\$0.0145	1.5% - 10.0%	4.786%
Gasoline	\$0.015 - \$0.04	\$0.0337	3.0% - 10.0%	5.428%

The indications are that the more recent leases are based on a percentage of gross sales; therefore I have concluded that the current market rent for the gas docks should be based on a percentage of gross sales. Based on the lease data uncovered, I have concluded that the percentage that should be applied to the gross sales of both diesel and gasoline is 5.0 percent; therefore, **the Current Fair Market Rent for the Fuel Docks is 5.0-Percent of Gross Sales.**

Conclusion – Other Commercial Entities @ Fixed Locations

As previously discussed, Exhibit A to the contract for services did not specifically identify other commercial entities that operate from a fixed location; however, many of these exist in the Harbor and Tidelands, including the Pavilion and the restaurants located on the Balboa Pier and the Newport Pier. The following table is a summary of the market data uncovered that applies to different commercial entities at fixed locations that were not specifically described in Exhibit A.

Jurisdiction	Restaurants		Chandlery /Retail	Service /Repair	Grocery	Off-site Bev.	Coin Op	Other
	Food	Bev.						
S.D. Port Auth.	3.0%	5.0%	4.0%	5.0%	3.0%	3.0%	5.0%	
City of S.D.	3.0%	5.0%	6.0%	4.0%			25-50%	10.0%
Oceanside			6.0%	6.0%	6.0%	6.0%	20.0%	6.0%
Dana Point*	9.0%	9.0%	8.0%			9.0%	20.0%	9.0%
Newport (BBC)	3.0%	5.0%	5.0%					10.0%
Long Beach					5.0%			5.0%
Port of L.A. (San Pedro)	3.0%	5.0%	3.5%		3.0%			
L.A. County	3.0%	5.0%	3.5%		3.0%	5.0%		
Ventura County (Channel Isl.)	3.0%	5.0%			3.5%	3.5%		
Santa Barbara			6.0%	6.0%	6.0%	6.0%	6.0%	10%

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* Dana Point charges an additional 1.0% for Common area maintenance & 1/4% for parking management

As illustrated in the above table, there are some variations within the data and complete data was not available from each of the jurisdictions interviewed; however, there does appear to be a central tendency among the data presented. It should be noted that in most cases these jurisdictions are leasing both the upland and tidelands parcels. As noted above, in many parts of Newport Harbor the City only has jurisdictions over the tidelands; therefore, in my opinion the market lease rates for the various uses would tend toward the lower end of the indicated ranges.

Based on the market data presented I have concluded that restaurants in the harbor have a market rental rate of 3.0-percent of the food sales and 5.0-percent of the beverage sales. Operations that include ship chandlery and retail sales have a fair market rent of 5.0 percent of gross sales. Operations that provided boat services and repairs have a current fair market rent of 6.0-percent of gross sales. Operations that include grocery sales and the sale of beverages for off-site consumption have a fair market rent of 5.0-percent of gross sales. If any single location has multiple uses the rent should be allocated between the different uses as set forth above.

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Addenda – Section A

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Subject Photographs

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A view of the gas dock at 813 E. Bay Avenue, Balboa.

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A view of the gas dock at 406 S. Bayfront, Balboa Island.

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A view of the gas dock at 504 E. Edgewater, Balboa.

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Dock Drawings

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SECTION B - Commercial Operations (Balboa Island Ferry, Newport Bait Barge)

Introduction

Within Section B of the contract, two specific commercial operations “emanating from tideland properties” have been identified – the Balboa Island Ferry and the Newport Bait Barge. There are other commercial operations located in the harbor that fit into this category but were not specifically identified in Exhibit A, which include, but are not limited to: sport fishing, boat rentals, harbor tours and parasail operations.

Description – Balboa Island Ferry

The Balboa Island Ferry moves both pedestrians and automobiles between Balboa Island and the Balboa Peninsula. The ferry travels between Agate Avenue on Balboa Island's south bayfront and Palm Avenue on the Balboa Peninsula. The tidelands parcel on Balboa Island is identified by the Orange County Assessor as Assessor Parcel 050-052-30 and title is vested in the City of Newport Beach. The parcel is 50-foot deep (perpendicular to the bulkhead) with 147.07 feet of bay frontage, and a gross area of 7,354 square feet (rounded). The tidelands parcel on the Balboa Peninsula is also vested in City of Newport Beach and is identifies as Assessor Parcel 048-112-13. It has a uniform depth of approximately 145 feet (perpendicular to the bulkhead) with 50 feet of bay frontage and a gross area of approximately 7,250 square feet. A portion of this parcel is located behind the bulkhead and is dry land that is used for the access ramp to the ferry. The Assessor Plat Map for each property is included in the Addenda at the end of this section. It should be noted that the operator of the Ferry reported that due to regulatory restriction he is no longer permitted to use the section of the Balboa Island tidelands to do maintenance on the ferry boats, which he indicates should have a downward impact on his overall rent.

Ferry Rental Survey

The ferry is subject to a “Lease” with the City of Newport Beach and City Ordinance No. 88-33. The Lease with the city is dated October 25, 1988 and it expires on September 30, 2013. The Lessee pays 3.0-percent of its gross sales in rent (payable quarterly) with no fixed minimum rent and is responsible for all operating expenses including, but not limited to, utilities, insurance, maintenance and repairs and taxes. The ferry also operates under City Ordinance No. 88-33, which is a franchise that commenced November 1, 1988 and expires September 30, 2013. The Grantee (ferry operator) pays 3.0-percent of their gross receipts as “Consideration” for the franchise to operate the ferry and is responsible for all operating expenses. Overall, when the Lease and the Franchise are combined, the Lessee pays a total of 6.0-percent of their gross receipts as rent.

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The ferry is unique to Newport Harbor, as most other “ferries” in Southern California only offer transport to passengers and do not provide services to transport vehicles. Given the unique characteristics, I have researched the “rent” being paid at other ferries that transport just passengers. The following table is a summary of my findings.

FERRY RENT SURVEY SUMMARY SEPTEMBER 2006				
Data No. Location	Type of Operation	Lease Type	Percentage Rent (% of Gross)	Destination
Subject Balboa Island Ferry Newport Harbor	Auto & Pedestrian Ferry	Percentage	6.0% (combined)	Balboa Island to Balboa Peninsula
1/ Two Harbors Catalina Island	Shore Boat	Percentage	31% (combined)	Offshore Moorings to shore (dock)
2/ Avalon Catalina Island	Shore Boat	Percentage	7.0%	Offshore Moorings to shore (dock)
3/ Santa Barbara Water Taxi Santa Barbara	Pedestrian Water Taxi	Base + Percentage	\$50/Month + 1.0%	Harbor to Stearns Wharf
4/ San Diego Bay Ferry San Diego Harbor	Pedestrian Ferry	Percentage	6.0%	Downtown San Diego to Coronado Island
5/ Pier 32 Marina (Proposed) San Diego (National City)	Water Taxi	Percentage	6.0%	Proposed

Conclusion – Balboa Island Ferry

The first rental data summarizes the information for the shore boat at Two Harbors on the west end of Catalina Island. The 20-year lease was signed in 2002 and the operator (Two Harbors Enterprises) pays the State of California 25.0-percent of their gross with an additional 6.0-percent paid to the Catalina Island Conservancy. They have a base minimum rent of \$270,000 and it was reported that they typically pay above the minimum rent. The shore boats operate year round.

The second rental data is the for the shore boat in Avalon Harbor, on Catalina Island. The lease is with the City of Avalon and it was reported that it is renewed annually.

The third data item is for the Santa Barbara Water Taxi, which ferry’s passengers from Santa Barbara Harbor too Stearn’s Wharf. The representative of the City reported that it is an annual license agreement with a monthly minimum rent of \$50 with percentage rent of 1.0-percent of the gross sales. It was further reported that the water taxi pays a low rent as an accommodation

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to the merchants of Stearn's Wharf (City tenants) as that it helps the tenants by getting people (customers) from the Harbor to the Wharf and that the City enjoys the benefit of the added sales tax revenue that is generated at the Wharf businesses.

The fourth data item is the San Diego Bay Ferry, which is a passenger ferry that runs between the Broadway Pier in downtown San Diego to Coronado Landing on Coronado Island. The ferry takes passengers and there is a \$0.50 fee (each way) for a bicycle. This ferry runs on an hourly schedule with departures from downtown on the hour and departures from Coronado on the half-hour. There rent was reported to be 6.0-percent of their gross sales and no base or minimum rent was reported.

The fifth data item is apart of a recently completed lease transaction between the Unified Port of San Diego and the developer/operator of a proposed marina at Pier 32 in the National City section of San Diego Harbor. The water taxi service has not been established and the exact route that it will service is not known; however, the lease permits a water taxi service with rent based on 6.0 percent of the gross income.

Based on the market data uncovered and the interviews completed, I have concluded the current combined rent reflects the current market rent for similar operations. I have concluded that **the Balboa Island Ferry has a market rent of 6.0-percent of gross sales**

Description – Newport Bait Barge

The Newport Bait Barge is anchored near the Harbor entrance at the foot of the Corona del Mar Jetty. The bait barge is a floating pier that is anchored to the bottom and provides live bait to the fishing fleet (commercial and recreational) in the Harbor. I have not reviewed a copy of any lease agreement for the operation of the bait barge. It should be noted that the bait barge is often referred to as a "bait receiver" as they have holding tanks that are filled by a commercial trawler and the bait is resold to individual fishing boats. Bait barges can be either "floating" as in the case of the subject, or are "docked" and associated with another commercial entity.

Bait Barge Rental Survey

Most of the harbors in Southern California have at least one bait barge, depending on the size of the fishing fleet. The bait barges are either leased directly from the entity that administers manages the tidelands, or in the case of Dana Point, Redondo Beach (King Harbor) and Marina Del Rey they are leased from the operators of the larger marina projects and are a sub-lessee of the entity that administers the tidelands. The following table is a summary of my findings.

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BAIT BARGE RENT SURVEY SUMMARY SEPTEMBER 2006				
Data No. Location	Type	Lease Basis	Monthly Rent	Cost /Scoop
1/ Everingham Bros. Bait Mission Bay (City of San Diego)	Floating	Fixed with Percentage	Between 3.0% & 5.0%	½ Scoop \$20 Full Scoop \$30
2/ Bill's Bait/L.A. Harbor Bait City of L.A. (San Pedro)	Floating	Fixed	10% return on \$5.00/Sq.Ft. Land	Full Scoop \$20 Squid Scoop \$50
3/ Everingham Bros. Bait San Diego Harbor (U.S. Navy)	Floating	Fixed	\$110,000 base w/ 4.0% annual adjustment	¼ Scoop \$10 ½ Scoop \$20 Full Scoop \$30
4/ Captain Hook's Channel Islands (Ventura County)	Floating	Percentage	15.0%*	Not Available
5/ Oceanside Bait Company Oceanside	Floating	Fixed	\$1,152.19 Quarterly	½ Scoop \$20 Full Scoop \$30
6/ Oceanside Fuel & Mini Mart Oceanside	Fixed	Percentage	6.0%	Not Available

* County owns all improvements

Conclusion – Newport Bait Barge

Rental Data One is a lease between the City of San Diego and Everingham Bros. for their bait barge in Mission Bay. The operator has an expired lease and has been operating on a fixed basis for several years as a new lease is negotiated. The prior lease was a flat rate that is adjusted annually based on the CPI; however, the flat rate was established in 1987. The City would not disclose the exact percentage rate that the new lease is based on as it is still being negotiated, but noted that it is above 3.0-percent and below-5.0 percent for the first five years of the lease. The lease adjusts upwards by ½-percent for years six through ten and another ½-percent for years 11 through 15.

Rental Data Two is the for two bait barges in San Pedro that have older lease that expired on September 11, 2006. One of the leases commenced in 1991 and based on a 10-percent return on the market value of the underlying tidelands, which was \$5.00 per square foot and the site area (barge footprint) was approximately 2,400 square feet; therefore, the base rent was \$100 per month (2,400 Sq.Ft. x \$5.00/Sq.Ft. x 10% :- 12 mos.). The second lease was commenced in 1995 and the lease was set up the same way; however, the underlying tidelands were value at

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\$6.00 per square foot. It was noted that a new RFP is being drafted and the Port of Los Angeles (City) is going to negotiate the new leases based on a percentage of the gross income.

Comparable Rental Three is a lease that was negotiated by the U.S. Navy in 2004 and applies to the Everingham Bait barge near the entrance to San Diego Harbor near the west end of Coronado Island. The lease has a fixed annual minimum rent of \$110,000 in the first year with 4.0-percent annual increases. It was reported by the Navy that the base rent was established by taking the average of the prior three years sales volume and applying a 3.5-percent rate to the commercial bait sales and a 5.5 percent rate to the non-commercial (recreational) bait sales. It was noted that the base rent is approximately 4.0-percent of the total gross sales. The contact with the Navy reported that he had been told the City of Ventura charged 5.25-percent for their bait barge and that Marina Del Rey based their bait barge lease on 3.0-percent of the commercial sales and 5.0-percent of the recreational sales; however, I could not confirm this with either entity.

Comparable Rental Four is for the County of Ventura's bait barge at Channel Islands Harbor. The County reported that they own all of the improvements (bait barge) and that an operator pays them 15-percent of the gross sales as rent. It was noted that the operator of the charter fishing company supplies the bait and operates the bait barge.

Comparable Rental Five is the floating bait barge (Oceanside Bait Company) in Oceanside Harbor. The City reported that they renewed their lease in 2005 (a 5 year lease) and that they pay a quarterly rent of \$1,100 with annual increases that are the greater of the change in CPI or 4.0-percent. The representative for the city reported that almost everyone that leases in the harbor pays rent based on a percentage of their total revenue and that the bait barge is an exception.

Comparable Rental Six is the 2005 lease (10 years) for the Oceanside Fuel Dock that also provides live bait and various other services. The rent for the entire property is based on a fixed minimum versus a percentage of sales, with the percentage rent for the sale of bait calculated based on 6.0-percent of the gross sales. It was noted that the fixed minimum rent is lower in the off season (October thru March) and higher during the high season (April thru September).

The market data uncovered indicates that the more recent leases are based on a percentage of the gross income from the sale of bait and the rates may be different depending on the buyer – commercial fleet v. recreational fishermen. Most of the percentage figures reported are between 3.0- and 5.0-percent of the gross sales.

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Based on the market data uncovered and the interviews completed, I have concluded that **the market rent for the Newport Bait Barge is 4.5-percent of total gross sales of live bait.**

Conclusion – Other Commercial Operations

As previously discussed, Exhibit A to the professional services agreement did not specifically identify other commercial operations emanating from tidelands properties; however, these operations do exist and include things like parasailing, boat rentals, charter boats and harbor cruises. The following table is a summary of the market data uncovered that applies to different commercial operations that emanate from tidelands properties that were not specifically described in Exhibit A.

	Boat Charters	Recreation Uses	Fishing Equip.	Boat Rental	Sport Fishing	Misc. /Other
S.D. Port Authority	6.0% 6%/5%/3%*	10.0%	6.0%	10.0%	6.0%	10.0%
City of S.D.			7.5%		7.0%	5.0% - 10.0%
Oceanside			7.5%			7.5%
Dana Point**	6.0% - 9.0%	9.0% - 20.0%	8.0%		9.0%	9.0%
Newport (BBC)	6.0%					10.0%
Avalon	7.0%	7.0%	7.0%	7.0%	7.0%	7.0%
Long Beach						
L.A. County	6.0%***	6.0%	6.0%	6.0%	6.0%	1.0% - 7.0%
Santa Barbara	15.0%					

* When Charter (6.0%) is combined with beverages (5.0%) and food (3.0%) the sliding scale applies.

** Dana Point charges an additional 1.0% for Common Area Maintenance

*** L.A. County charges 20.0% if Charter is "Commissioned" by Lessee for benefit of sub-lessee.

As illustrated in the above table, there are variations within the data and complete data was not available from each of the jurisdictions interviewed or does not apply to their specific jurisdiction. It was reported that these uses are generally in conjunction with other larger projects (marinas and upland improvements) that offer a variety of services and these categories generally are a small component of the overall income derived from the larger project.

It was noted that in Dana Point the Parasailing operation pays 20.0-percent of his gross income and is essentially provided a side tie. The location of the parasail operation is very close to the harbor entrance and it is approximately 5 minutes to the harbor mouth.

The City of Long Beach has a limited number of harbor cruises, including dinner cruises, and offshore tours. Some of the boats are berthed in Long Beach and are charges slip fees of approximately \$12.00 per lineal foot, plus 5.0-percent of all revenue from tours and cruises, including 5.0-percent of food and beverage service. This information was reported by two different third parties; however, I was unable to verify it with a representative of the City of Long Beach.

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Addenda – Section B

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Subject Photographs

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--
A view of the Balboa Island Ferry landing on Balboa Island.

--
A view of the Balboa Island Ferry landing on Balboa.

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--
A view of the bait barge.
--

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Assessor Plat Maps – Balboa Island Ferry

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SECTION C - Balboa Yacht Basin

Introduction

The Balboa Yacht Basin is located on the north side of the lower Newport Bay at the end of Harbor Island Drive, in the Beacon Bay/Promontory Bay neighborhood. The location corresponds to the street address of 829 Harbor Island Drive, Newport Beach, California.

Description

The portion of the Balboa Yacht Basin that is being appraised consists of 161 boat slips and 10 side ties, three apartment units and 31 garages. Based on the information provided by the City, the slips range in size from 31-lineal feet to 75-lineal feet, with a minimum beam (width) of 10-feet, 11-inches and a maximum beam of 21-feet. The length of the side ties is as follows: one at 20-feet, one at 25-feet, four at 32-feet, one at 34-feet, one at 37-feet and one at 50-feet. The monthly rent includes the use of a dock box, electrical connection (service paid by tenant) and access to restrooms and showers. A reduction of the marina plan is included at the end of this Section.

I was not provided access to the interior of the apartment units; however, I did measure the exterior of the units. Two of the units contain approximately 1,100 square feet with a 200 square foot patio and the patio of the third unit has been enclosed and this unit has approximately 1,300 square feet of living space with no patio. It was reported by the marina manager (Lorrie Arcese) that all three units include two bedrooms and one bathroom. The units have a marina and channel view looking south toward Balboa Island. The occupants of the apartments must have a slip in the marina.

The marina also includes a total of 31 garage storage units. There are 29 units that are 10-feet wide and 20-feet deep with a total of 200 square feet and two units that are 8-feet wide and 20-feet deep, with a total of 160 square feet. The units include a light and the electrical service is included in the monthly rent. The Marina Manager reported that 30 of the 31 storage garages rent for \$200 per month, with one unit rented for \$100 per month.

Comments

The improvements are well maintained and are in a desirable location that provides ample parking. The marina is monitored by security cameras. It should be noted that all of the marina operators reported their rents based on the slip size, but noted that the rent is based on the greater of the length of the slip or the boat as most marinas allow some overhang beyond the end of the slip.

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Marina Slip Rental Survey

The following table is a summary of the marina's that were surveyed to establish the current market rent for the subject's slips. A discussion of each data items is presented on the pages following the summary table.

MARINA SURVEY SUMMARY SEPTEMBER 2006				
Data No. Name Location	Total Slips	% Occupied	Slip Sizes (range) Lineal Feet	Rental Range Monthly Rent /Lineal Foot
Subject Balboa Yacht Basin 829 Harbor Island Drive	171	100%	31' – 75'	\$18.00 - \$23.00
1/ Balboa Marina 201 E. Pacific Coast Highway	132	100%	20' – 55' Side ties	\$20.00 - \$31.50 \$19.00 - \$23.00
2/ Bayshore Marina 2572 Bayshore Drive	134	100%	15' – 83'	\$21.50 - \$45.50
3/ Bayside Marina 1137 & 1353 Bayside Drive	102	100%	20' – 78' Side ties	\$28.50 - \$44.50 \$18.00 - \$21.50
4/ Bayside Village (De Anza) 300 East Coast Highway	226	100%	12' – 50'	\$16.00 - \$34.75 Plus Facility Fee
5/ Bellport Lido Yacht Anchorage 151 Shipyard Way	239	100%	6' – 135'	\$15.25 - \$28.50
6/ Cannery Village Marina 700 Lido Park Drive, Suite 8	22	100%	35' – 55'	\$29.10 - \$47.71
7/ Harbor Tower Marina 3335 W. Coast Highway	51	100%	20' – 69'	\$18.50 - \$39.00
8/ Lido Marina Village 3400 Via Oporto, Suite 104	65	100%	36' – 56' Side ties to 110'	\$25.00 - \$40.00
9/ Newport Dunes Marina 101 N. Bayside Drive	450	100%	22' – 46'	\$20.50 - \$34.00
10/ Swales Anchorage 2888 Bayside Drive	55	100%	30' – 45' Side ties End ties	\$17.00 - \$45.00 \$24.00 \$14.00
11/ Villa Cove Marina 1099 Bayside Drive	40	100%	22' – 45'	\$21.50 - \$32.25

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MARINA RENTAL – SUBJECT

NAME: Balboa Yacht Basin
LOCATION: 829 Harbor Island Drive
Newport Beach, California

CONTACT: Lorrie Arcese, 949-644-3034
NO. OF SLIPS: 173
OCCUPANCY: 100%
WAIT LIST: Yes, 2 to 10 years
LIVE ABOARD: No
TIME TO HARBOR MOUTH: 25 minutes (35 if not under Balboa Island bridge)
BEHIND BRIDGE: Yes - Balboa Island Bridge to east
UTILITIES: Electrical hookups, Metered usage
AMENITIES: Dock box, showers, restrooms

SLIP LENGTH (Lineal Feet):	MONTHLY RENT/L.F.
31 to 39 Feet	\$18.00
40 to 49 Feet	\$19.00
50 Feet and over	\$23.00

COMMENTS:

This is the subject marina. Its location and amenities are considered good. It is only one of two marinas that have any garage-size storage units. The Balboa Island Bridge is just east of the marina between the marina and the harbor mouth; therefore, tall boats must go west around Balboa Island to reach the main channel before heading to the harbor mouth.

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MARINA RENTAL ONE

NAME: Balboa Marina
LOCATION: 201 E. Pacific Coast Highway
Newport Beach, California

CONTACT: Mary Kuhn, 949-721-0111
NO. OF SLIPS: 132
OCCUPANCY: 100%
WAIT LIST: Yes
LIVE ABOARD: No
TIME TO HARBOR MOUTH: 35 minutes
BEHIND BRIDGE: No
UTILITIES: Water, Trash, Hookups, Metered Electric
AMENITIES: Dock box, showers, restrooms, telephone and cable hookups, free parking

SLIP LENGTH (Lineal Feet):	MONTHLY RENT/L.F.
20 Feet (side tie)	\$19.50
24 Feet (side tie)	\$19.50
25 Feet	\$20.00
26 Feet	\$20.00
27 Feet	\$20.50
30 Feet (side tie)	\$23.00
34 Feet	\$23.50
35 Ft.	\$23.50

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SLIP LENGTH (Lineal Feet):	MONTHLY RENT/L.F.
38 Ft.	\$24.75
40 Ft.	\$28.00
45 Ft.	\$28.75
50 Ft.	\$31.00
55 Ft.	\$31.50

COMMENTS:

This marina is located south of the Coast Highway Bridge at the Bayside Drive adjoining a parking lot. Driving access is convenient from Coast Highway. Amenities are similar to the subject. Access to the Harbor mouth is considered slightly inferior compared to the subject location.

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MARINA RENTAL TWO

NAME: Bayshore Marina
LOCATION: 2572 Bayshore Drive
Newport Beach, California

CONTACT: Mary Kuhn 949-721-0111
NO. OF SLIPS: 134
OCCUPANCY: 100%
WAIT LIST: Yes
LIVE ABOARD: No
TIME TO HARBOR MOUTH: 30 minutes
BEHIND BRIDGE: No
UTILITIES: Water, trash and electrical hookups included.
Metered electric.
AMENITIES: Dock box, showers, restrooms, telephone and cable
hookups, free parking

SLIP LENGTH (Lineal Feet):	MONTHLY RENT/L.F.
15 Feet	\$21.50
17 Feet	\$21.50
20 Feet	\$21.50
23 Feet	\$21.50
26 Feet	\$22.50
32 Feet	\$26.50

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SLIP LENGTH (Lineal Feet):	MONTHLY RENT/L.F.
38 Feet	\$28.00
39 Feet	\$28.00
60 Feet	\$41.25
68 Feet	\$41.25
83 Feet	\$45.50

COMMENTS:

This marina is located south of Coast Highway on the south shore of the Bayshore gated community just east of the Balboa Bay Club. The marina lies on the Lido Channel which merges with the Main Channel providing an unobstructed course to the harbor mouth. Driving entry to the marina is via the guarded community entry providing an added measure of security to the slip tenants. The quality and condition of the amenities are considered superior and this comparable is generally considered superior on an overall basis.

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MARINA RENTAL THREE

NAME: Bayside Marina
LOCATION: 1137 & 1353 Bayside Drive
Newport Beach, California

CONTACT: Mary Kuhn 949-721-0111
NO. OF SLIPS: 102
OCCUPANCY: 100%
WAIT LIST: Yes
LIVE ABOARD: No
TIME TO HARBOR MOUTH: 15 minutes
BEHIND BRIDGE: No
UTILITIES: Water, trash and electrical hookups included.
Metered electric.
AMENITIES: Dock box, showers, restrooms, telephone and cable
hookups, free parking

SLIP LENGTH (Lineal Feet):	MONTHLY RENT/L.F.
20 Feet (inside side tie)	\$18.00
15 Feet (outside side tie)	\$21.50
20 Feet (outside side tie)	\$21.50
22 Feet (side tie)	\$21.50
30 Feet	\$28.25
35 Feet	\$28.50
42 Ft.	\$34.25

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SLIP LENGTH (Lineal Feet):	MONTHLY RENT/L.F.
45 Ft.	\$35.75
60 Ft.	\$41.00
65 Ft.	\$42.50
74 Ft.	\$44.50

COMMENTS:

This marina is located east of Jamboree Road and the Balboa Island Bridge with two non-contiguous slip sites along Bayside Drive. Of the comparable marinas, this marina is closest to the harbor mouth. The quality, condition and amenities are slightly superior. The location is considered superior due to its proximity to the harbor mouth and is superior to the subject on an overall basis.

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MARINA RENTAL FOUR

NAME: --
LOCATION: Bayside Village Marina
300 East Coast Highway
Newport Beach, California

CONTACT: Nicole Conner 949-673-1331
NO. OF SLIPS: 220
OCCUPANCY: 100%
WAIT LIST: Yes
LIVE ABOARD: No
TIME TO HARBOR MOUTH: 40 minutes
BEHIND BRIDGE: Yes, Coast Highway Bridge @ Lower Newport Bay
UTILITIES: Facility Fee (\$10.00) charged for utilities
AMENITIES: Bathrooms, showers, dock box, parking

SLIP LENGTH (Lineal Feet):	MONTHLY RENT/L.F.
12 to 19 Feet	\$16.00
20 to 29 Feet	\$17.75
30 to 35 Feet	\$21.75
36 to 39 Feet	\$22.00
40 to 45 Feet	\$27.50
46 to 50 Feet	\$28.00
Super Slips	\$27.75
Double Loaders	\$34.75

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COMMENTS:

This marina is located on the north side of the Coast Highway Bridge at the south end of Upper Newport Bay. The bridge clearance limits marina users to those whose vessels can clear the fixed bridge structure depending on the tide. The marina adds a monthly facility fee depending on boat length for utilities and amenities. Electric boats are charged an additional fee ranging from \$10.00 to \$40.00 per month based on boat length. This comparable is considered similar in quality and condition and inferior overall primarily due to location.

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MARINA RENTAL FIVE

PHOTO NOT AVAILABLE

NAME: --
LOCATION: Bellport Lido Yacht Anchorage
151 Shipyard Way
Newport Beach, California

CONTACT: Jamie Beuthin 949-673-9330
NO. OF SLIPS: 239
OCCUPANCY: 100%
WAIT LIST: 10 Years
LIVE ABOARD: No
TIME TO HARBOR MOUTH: 45 minutes
BEHIND BRIDGE: No
UTILITIES: Electrical, telephone and cable hookups
AMENITIES: Restrooms, showers, storage, laundry facility

SLIP LENGTH (Lineal Feet):	MONTHLY RENT/L.F.
6 to 15 Feet	\$15.25
16 to 20 Feet	\$15.75
21 to 31 Feet	\$16.25
20 to 32 Feet	\$18.00
32 Feet	\$20.00
34 to 44 Feet	\$21.00
37 Feet	\$21.00
40 to 44 Feet	\$23.25
50 Feet	\$24.25
60 to 63 Feet	\$25.25

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SLIP LENGTH (Lineal Feet):	MONTHLY RENT/L.F.
73 to 77 Feet	\$26.50
110 to 135 Feet	\$28.50

COMMENTS:

This marina is one of the larger marinas in the harbor and includes slips that can accommodate boats up to 135-feet in length. The slips are located around the southern perimeter of the Lido Peninsula separated by channels between the Balboa Peninsula to the south and Lido Isle to the north. The path to the harbor mouth is via the Newport Channel to the Main Channel. This comparable offers a variety of storage facilities and is the only other marina besides the subject to have garage size storage spaces. The Lido Peninsula has adjoining facilities for boat haulage, repair and dry storage. The quality and condition considered superior to the subject; however, the location is inferior.

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MARINA RENTAL SIX

NAME: Cannery Village Marina
LOCATION: 700 Lido Park Drive
Newport Beach, California

CONTACT: Bud Martin 949-723-8485
NO. OF SLIPS: 22
OCCUPANCY: 100%
WAIT LIST: Yes
LIVE ABOARD: Yes
TIME TO HARBOR MOUTH: 45 minutes
BEHIND BRIDGE: No
UTILITIES: Electrical included
AMENITIES: Dock box, showers, restrooms

SLIP LENGTH (Lineal Feet):	MONTHLY RENT/L.F.
35 Foot	\$45.71

COMMENTS:

This marina is located at the upper end of the Rhine Channel on the Lido Peninsula. It has the smallest number of slips among the comparable marinas. All slips are 35-feet in length allowing a maximum of 55-foot boat length and rent for \$1,600 per month (\$29.09 to \$45.71/LF). The quality and condition is considered similar to the subject. Overall this marina is considered inferior to the subject primarily due to the narrow, busy channel it adjoins and the distance to the harbor mouth.

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MARINA RENTAL SEVEN

NAME: Harbor Tower Marina
LOCATION: 3335 W. Coast Highway
Newport Beach, California

CONTACT: Joe Bergman 949-642-4644
NO. OF SLIPS: 51
OCCUPANCY: 100%
WAIT LIST: Yes
LIVE ABOARD: Yes
TIME TO HARBOR MOUTH: 45 minutes
BEHIND BRIDGE: No
UTILITIES: Electric
AMENITIES: Restrooms

SLIP LENGTH (Lineal Feet):	MONTHLY RENT/L.F.
20 to 29 Feet	\$18.50
30 to 39 Feet	\$22.00
40 to 49 Feet (inside slip)	\$27.00
40 to 49 Feet (outside slip)	\$29.00
50 to 59 Feet	\$35.00
60 to 69 Feet	\$39.00

COMMENTS:

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This marina is located on W. Coast Highway on the east side of the Newport Boulevard (Arches) Bridge adjoining the turning basin at the upper end of the Main Channel. The marina is slightly inferior in terms of overall location due to its greater distance to the Harbor mouth. The quality and condition of the amenities and its rating overall is judged slightly inferior compared to the subject.

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MARINA RENTAL EIGHT

NAME: Lido Marina Village
LOCATION: 3400 Via Oporto, Suite 104
Newport Beach, California

CONTACT: Donna Larson 949-675-8662
NO. OF SLIPS: 65
OCCUPANCY: 100%
WAIT LIST: Yes
LIVE ABOARD: No
TIME TO HARBOR MOUTH: 45 minutes
BEHIND BRIDGE: No
UTILITIES: Electric hookups
AMENITIES: Restrooms

SLIP LENGTH (Lineal Feet):	MONTHLY RENT/L.F.
Under 36 Feet (inside slips)	\$25.00 to \$30.00
36 to 56 Feet	\$40.00

COMMENTS:

This marina is located east of the Newport Boulevard (Arches) Bridge on the south side of the turning basin. According to the manager, this marina is primarily occupied by commercial tenants with charter and yacht broker boats. It can accommodate a maximum of 110-foot length vessel on a side tie. The amenities are limited to restrooms. There are no storage, shower or free parking facilities for slip tenants. On an overall basis this comparable is considered inferior to the subject.

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MARINA RENTAL NINE

NAME: Newport Dunes Marina
LOCATION: 101 North Bayside Drive
Newport Beach, California

CONTACT: Wade Kerley 949-729-1100
NO. OF SLIPS: 450
OCCUPANCY: 100%
WAIT LIST: Yes
LIVE ABOARD: Yes
TIME TO HARBOR MOUTH: 40 minutes
BEHIND BRIDGE: Yes, Coast Highway Bridge
UTILITIES: Metered electrical, telephone. Water & satellite TV hookups included in slip fee
AMENITIES: Restrooms, showers, pool, spa, lounge, kitchen, fitness center, laundry, vending machines, storage, free parking, on-site restaurant and grocery store.

SLIP LENGTH (Lineal Feet):	MONTHLY RENT/L.F.
26 to 28 Feet @ "T" Dock	\$19.50
31 Foot LOA @ "K" & "L" Docks	\$20.50
29 Feet or less	\$20.50
30 to 33 Feet	\$25.00

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SLIP LENGTH (Lineal Feet):	MONTHLY RENT/L.F.
34 to 39 Feet	\$26.00
40 to 45 Feet	\$32.00
46 Feet & over	\$34.00

COMMENTS:

This marina is located in Upper Newport Bay at the Newport Dunes Resort. The quality, condition and amenities are superior compared to the subject. Driving access to the marina is off Coast Highway via a controlled access gate. However, among the comparable marinas, this location is probably the most remote from the harbor mouth and boats are limited by the Coast Highway Bridge clearance. On an overall basis, this comparable is considered slightly inferior to the subject.

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MARINA RENTAL TEN

NAME: Swales Anchorage
LOCATION: 2888 Bayshore Drive
Newport Beach, California

CONTACT: Steven Farwell 949-548-1501
NO. OF SLIPS: 55
OCCUPANCY: 100%
WAIT LIST: Yes
LIVE ABOARD: Yes.
TIME TO HARBOR MOUTH: 40 minutes
BEHIND BRIDGE: No
UTILITIES: Electrical, water included in slip fee
AMENITIES: Restrooms & showers, lockers, dinghy racks, free parking

SLIP LENGTH (Lineal Feet):	MONTHLY RENT/L.F.
End ties	\$14.00
Side ties up to 24 Ft.	\$24.00
30 Feet	\$17.00
40 Feet	\$18.00
45 Feet	\$20.00

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COMMENTS:

This marina is located south of W. Coast Highway at Dover Drive on the west side of the Coast Highway Bridge. The marina adjoins the Bayshores residential community. The location is considered similar to the subject in terms of driving access to the marina. The quality and condition of the amenities are judged inferior. Overall this comparable is considered inferior to the subject.

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MARINA RENTAL ELEVEN

NAME: Villa Cove Marina
LOCATION: 1099 Bayside Drive
Newport Beach, California

CONTACT: Mary Kuhn 949-721-0111
NO. OF SLIPS: 40
OCCUPANCY: 100%
WAIT LIST: Yes
LIVE ABOARD: No
TIME TO HARBOR MOUTH: 25 minutes (35 if not under bridge)
BEHIND BRIDGE: Yes, Balboa Island
UTILITIES: Metered electrical. Water, trash and hookups included in slip fee.
AMENITIES: Restrooms, showers, dock boxes, free parking

SLIP/BOAT LENGTH (Lineal Feet):	MONTHLY RENT/L.F.
22 Feet	\$21.50
30 Feet	\$24.75
45 Feet	\$32.25

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COMMENTS:

This marina is located on Bayside Drive adjoining the west side of the Newport Beach Yacht Club (formerly the Shark Island Yacht Club). The Balboa Island Bridge adjoins the marina on the east. The quality and condition of the amenities are considered similar. On an overall basis considering amenities, driving access, parking and location, this comparable is considered similar to the subject.

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Marina Slip Rent Conclusion

Based on the market data presented above and the interviews conducted during the course of completing this assignment I have concluded that the subject slips have the following market rent (broken down by slip size and the number of slips).

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	

Apartment Rental Survey

The table on the following page is a summary of comparable apartments in the subject's general market area. A brief discussion of each data items is presented on the pages following the summary table.

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APARTMENT SURVEY SUMMARY SEPTEMBER 2006					
Data No. Name Location	Unit Size (Sq.Ft.)	View	Room Count (Bed-Ba)	Total Monthly Rent	Monthly Rent /Sq.Ft.
Subject					
Balboa Yacht Basin	1,100	Bay	2-1	\$1,700	\$1.55
829 Harbor Island Drive	1,300		2-1	\$2,000	\$1.54
Newport Beach					
1/ Anchorage Apartments	800	Bay	1-1	\$1,500	\$1.88
2888 Bayshore Drive	1,500	None	2-2	\$1,450	\$0.96
Newport Beach	1,500	Bay	2-2	\$1,900	\$1.27
	1,700	Bay	2-2.5	\$2,600	\$1.53
	2,200	None	3-2.5	\$3,400	\$1.43
	2,200	Bay	3-2.5	\$4,000	\$1.82
2/ Newport Marina Apartments	1,800	Bay	2+Den-2	\$4,100	\$2.27
919 Bayside Drive	(upper)				
Newport Beach					
3/ 1031 Bayside Cove	2,114	Bay	2-2.5	\$4,795	\$2.27
Bayside Cove	(townhouse)				
4/ 1508 S. Bayfront	N.Avail.	Bay	2-2	\$3,200	N.Av.
Balboa Island	(lower)				
5/ 14 ½ Beacon Bay	N.Avail.	Bay	2-1.5	\$2,750	N.Av.
Beacon Bay					
6/ 1033 Bayside Cove	2,114	Bay	2-2.5	\$4,550	\$2.15
Bayside Cove	(townhouse)				

Apartment Rent Conclusion

Comparable Rental One is an older apartment building located at Coast Highway and Bayshores and is slightly inferior compared to the subject in terms of overall condition.

Comparable Rental Two is located just east of the subject along Bayside Drive. It is superior compared to the subject in terms of overall quality, condition and the amenities that it provides.

Comparable Rentals Three and Six are individual condominium units in the Bayside Cove residential development that is east of the subject on Bayside Drive. The complex is gated and superior to the subject in terms of quality, condition and amenities.

Comparable Rental Four is the ground floor unit in a duplex located on Balboa Island's south bay front. The overall location, quality, condition and view are superior compared to the subject.

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Comparable Rental Five is located just west of the subject in Beacon Bay. It is an apartment over a garage that has a bay view similar to the subject units. The overall location is generally similar compared to the subject; however, the specific location within the larger Beacon Bay community is slightly superior.

Based on the market data presented above and the interviews conducted during the course of completing this assignment I have concluded that the subject apartment units have the following market rent.

Unit Type	Size (Sq.Ft.)	Total Units	Market Rent	Total Monthly Rent
2-Bed, One-Bath	1,100	2	\$2,200	\$4,400
2-Bed, One-Bath	1,300	1	\$2,500	\$2,500
Total		3	\$2,300 avg.	\$6,900

Storage Garage Rental Survey

The table on the following page is a summary of comparable storage units in the subject's general market area. A brief discussion of each data items is presented on the pages following the summary table.

STORAGE UNIT RENTAL SURVEY SEPTEMBER 2006				
Data No. Location	Unit Type	Size (Sq.Ft.)	Monthly Rent	Monthly Rent /Sq.Ft.
Subject Balboa Yacht Basin 829 Harbor Island Drive Newport Beach	Garage	200	\$200	\$1.00
1/ Bellport Lido Yacht Anchorage 151 Shipyard Way Newport Beach	Garage Locker	"Car size" N.Av.	\$150 - \$400 \$30 - \$150	N.Av. N.Av.
2/ Newport Dunes Marina 101 N. Bayside Drive Newport Beach	Locker Locker	16 (4' high) 16 (8' high)	\$25 \$45	\$1.56 \$2.81
3/ Stor It Self Storage 961 W. 17th Street Costa Mesa	Garage	190	\$289	\$1.52

Storage Garage Rent Conclusion

Comparable Rental One is the storage facilities provided at Bellport Lido Yacht Anchorage (Marina Rental Five). The square footage was not available; however, the larger units were reported to be "car size" or roughly the size of the subject units and lease for \$400 per month.

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They also have various size lockers that lease for \$30 to \$150 per month. Overall this comparable is judged to be the best indicator of market rent for the subject storage garages.

Comparable Rental Two reflects the storage lockers at the Newport Dunes (Marina Rental Nine). They offer two units, both are 16 square feet (4' x 4'); however, one unit has a four foot ceiling and the other has an eight foot ceiling.

Comparable Rental Three reflects the monthly rent for a 190 square foot (10' x 19') garage at a mini-storage facility on the west side of Costa Mesa. The unit has an exterior entry door; however, it is a "man door" and not a full size garage door like the subject. The project has gated access and the security is good; however, the overall location is significantly inferior for a marine user.

Based on the market data presented above and the interviews conducted during the course of completing this assignment I have concluded that the subject storage garages have the following market rent.

Size (Sq.Ft.)	Total Units	Market Rent	Total Monthly Rent
200	29	\$350	\$10,150
160	2	\$320	\$640
Total	31	\$348 avg.	\$19,790

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Addenda - Section C

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Subject Photographs

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-- --
A view of the Bayside Marina apartments, with storage garage on ground level.

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A view of the parking area at Bayside Marina. The apartments and garages are on the left with the slips and docks on the right.

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A view of the marina from the water.
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Bayside Marina Slip Map

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SECTION D - Commercial Piers

Introduction

This section is identified as “Commercial Piers” which are defined in Chapter 17.33 of the City Municipal Code as:

... a pier with multiple slips or floats which are rented or leased to boat owners, including any pier used in connection with apartments, marinas and yacht clubs. For purposes of this chapter, multiple piers which are adjacent to a lot or parcel of land occupied by a multi-family dwelling or dwelling units, and structures over the waters of Newport Harbor that are business or income generating in nature shall be deemed commercial.

For clarification purposes only, Chapter 17.33 of the Municipal Code defines a “noncommercial pier” as:

...a pier used for private recreational purposes by the owner or occupant(s) of the abutting upland property without payment of a separate rental or lease fee.

Newport Harbor is unique in that the City of Newport Beach controls and administers the tidelands properties; however, they do not control and administer the upland property as the upland properties throughout most of the harbor are privately owned. In most harbors in Southern California the entity that has jurisdiction and control of the tidelands also controls the uplands parcels and they are generally developed in conjunction with each other. The marinas generally require that parking and facilities for the boat owners (showers, restrooms, etc...) be provided to maximize the rent that they can command and to meet zoning codes.

There is very limited data with respect to the rent the rental rates that are paid for just the tideland properties for the development of commercial piers and/or commercial marinas. There are two marinas within Newport Harbor that are administered by the County of Orange as the Lessor and they do not include the uplands parcel. The first is Swales Marina and the second is the Bayshore Marina, both of which are located in the Bayshores neighborhood of Newport Beach and were included in the rent survey in the previous section. According to the agent for the county both of these tidelands properties are leased for 20-percent of the gross revenue, while a county controlled property (Newport Dunes) that includes both tideland and upland parcels is leased for 25-percent of the gross revenue. It was reported that all three of the leases are somewhat dated; however, their commencement dates and overall terms are relatively similar and reflective of the overall difference associated with not controlling the uplands parcel.

The operator of Swales Anchorage confirmed that they are paying 20-percent of the gross income to the County and that the County asked for 25-percent of the gross. The operator of

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Swales responded that since they did not control the uplands they should pay a reduced percentage as they have to lease the uplands parcel also.

Description

There are several commercial piers within the harbor with 12 approved boarding locations located throughout the harbor and the list of the Commercial pier permits and the approved boarding locations are included in the Addenda to this section. In general, the commercial piers located in the city are those that are not associated with a residence on the upland parcel.

Commercial Pier Rental Survey

The following table is a summary of the marina's that were surveyed to establish the current market rent for the commercial piers located in Newport Harbor. A discussion of each data items is presented on the pages following the summary table.

COMMERCIAL PIER/MARINA RENTAL SUMMARY SEPTEMBER 2006		
Data No. Jurisdiction Location	Rental Range As Percent of Gross Revenue	Comments
1/ Unified Port of San Diego San Diego (Pier 32)	Base Rent or 22.0%	2005 lease, base rent adjusted by CPI every 5 years, percentage rent reviewed every 5-years
2/ City of Los Angeles San Pedro (East Basin)	Base Rent or 22.5%	Base rent calculated on 2001 leases at \$1.40/Sq.Ft. of upland and \$0.325/Sq.Ft. of tidelands.
3/ City of Redondo Beach Portofino Marina	27.0%	New 55 year lease commenced 2005, tenant required to set aside 1.0% for capital improvements and 1.0% for renovation.
4/ City of San Diego Mission Bay	20.0% - 25.0%	Rate based on older leases in Mission Bay. Also renegotiating all adjustments to the higher rate.
5/ Ventura County Peninsula Yacht Anchorage Peninsula Yacht Anchorage East Bahia Cabrillo Marina Channel Islands Harbor	25.0%	Two marinas were re-negotiated with no exercise of option or lease extension. One was newly bid out via an RFP. All previous marina leases were at 20% of gross
6/ Point Loma Marina San Diego Harbor (Marina Green)	Base Rent or 22.0%	Option agreement for the development of a new 50 slip marina in San Diego Harbor.

Conclusion – Commercial Piers

Rental Data One is a recently negotiated lease (signed between the Unified Port of San Diego and a developer/operator) for approximately 175,975 square feet of land area and approximately

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724,412 square feet of water located in the Port District's jurisdiction in National City. The developer intends to develop a 250 slip marina with four buildings totaling approximately 8,650 square feet and 220 parking spaces. The lease is effective as of February 2006.

Rental Data Two applies to ten marinas and anchorages (Permit Nos. 800 thru 808 & 825) located in the East Basin/Cerritos Channel area of Los Angeles Harbor (San Pedro). The ten marinas occupy a combined 15.29 acres of land and 48.42 acres of water and represent a total of 1,451 boat slips. The permits became effective in November 1995 and each permit requires that the compensation be reset every five years. The data in the table applies to the readjustment that became effective November 2005. Each marina permit requires that the permittee prepare and implement a plan to repair, refurbish or replace older improvements and the work was to be completed by July 2006; however, due to the potential for the reconfiguration of the East Basin and Cerritos Channel, the operators of the marinas were notified to cease work on their improvements pending the decision regarding the reconfiguration. The current base rent for each leasehold is based on an annual rent of \$1.40 per square foot of land and \$0.325 per square foot of water discounted by 25% for the Districts participation in gross receipts. For 2005 through 2010 the District receives 22.5% of the gross receipts from vessel berthing and anchorage. This rate compares with 20% from the prior five year period (2000-2005).

Rental Data Three is a new lease agreement between the City of Redondo Beach and the operator of the Portofino Marina. The lease encumber both tidelands and uplands parcels that are developed with a marina, hotel and several retail outlets. The Lessee had previously operated the marina and it was reported by the City that they negotiated a new 55 year lease that commenced in 2005 and there was no renewal or options involved in the new lease.

Rental Data Four is the rate reported by the real estate representative for the City of San Diego for older leases (over 10 years old) that are between 20-percent and 25-percent of the gross slip rentals. He also reported that they have started negotiations with all marina operators with older leases and that they are pegging the new lease rate at 25-percent of the gross slip rents. No further specifics were disclosed.

Rental Data Five is the renegotiation of two marina/anchorage leases and one new marina/anchorage in Channel Island Harbor. The Lessor is the County of Ventura and they reported that the two renegotiations did not involve any options or lease extensions and that the new lease was negotiated after an RFP had been sent out to interested parties. The properties involved are the Peninsula Yacht Anchorage (PYA), the Peninsula Yacht Anchorage East and the Bahia Cabrillo Marina. The PYA East lease also incorporates the Villa Sirena I, Villa Sirena II and Anchorage parcels. The Lessees will have the option to extend the leases for up to 40-

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years and they are required to replace (in phases) all the existing docks on each leasehold and failure to complete the improvements will be a default of the lease. It was reported that the County anticipates that the Lessee's will spend approximately \$10-million. The County is also negotiating with the lessee of the Channel Islands Landing and Channel Islands Boatyard to consolidate two leases into a single lease. The percentage rent on new slips is to be 25% and under the current lease they are 11.0-percent and 20.0-percent. As this transaction is still being negotiated no more specific terms were disclosed.

Rental Data Sic is a recently negotiated (March 2005 & Amended February 2006) Option to Lease between the Unified Port of San Diego and a developer/operator for tidelands/upland parcel that is proposed to be developed with a 50-space marina and associated commercial and restaurant space (26,000 Sq.Ft.), marine related offices (15,100 Sq.Ft.), marina support facilities (2,200 Sq.Ft.), a public park with amphitheater, pedestrian pier, promenade and parking lot. The upland parcel contains approximately 75,650 square feet with approximately 163,285 square feet of water.

In addition to the market data presented above, two leases in Newport Harbor that were previously identified are considered relevant to the determination of market rent for commercial piers in Newport Harbor. The Balboa Bay Club pays 31-percent of its gross slip rent for its marina (commercial pier), while the American Legion pays 40-percent of its gross slip rent for its marina (commercial pier). Both leases include the upland and tideland parcels.

As was previously discussed, Newport Harbor is unique in that most tidelands suitable for commercial piers in Newport Harbor are not leased in conjunction with the adjoining upland parcel. The parties interviewed during the course of completing this assignment did not have a consensus as to whether the percentage rent should be discounted because the tidelands/uplands are not leased together. The representative for the County of Orange (Mike Hentzen) that leases County properties in Newport Harbor reports that the County discounts the two parcels they have that are not joined to their uplands parcel – Swales Anchorage and Bayshore Marina lease at 20-percent of the gross without the uplands, while the Newport Dunes is leased for 25-percent of the gross and includes the upland parcel.

One party interviewed suggested that there would be no discount because the slip rental rates that could be commanded would be impacted by the inability to provide upland amenities and in absolute dollars, the rent to the jurisdiction would be lower. A second suggested that the percentage rent for the tideland parcel without the upland should be that same as a tideland/upland parcel, but that an offset should be made based on the rent required to provide

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the upland amenities including parking facilities. If the amenities could not be provided the rent to the slip users would be lower, but it should not impact the percentage paid.

The market data uncovered indicate that current market rent for commercial piers range from 22.0-percent to 27.0-percent of the gross slip income, with two leases in Newport Harbor at 31.0-percent and 40.0-percent including both upland and tideland parcels.

Based on the market data uncovered and the interviews conducted during the course of completing this assignment I have concluded that **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.**

I have further concluded that **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.**

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Addenda – Section D

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Subject Photographs

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-- --
A view of a typical commercial pier along Mariner's Mile.

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A view of another typical commercial pier along Mariner's Mile.

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A typical commercial pier in the Rhine Channel at 28th Street.

-- --
A typical commercial pier in the Balboa neighborhood.

Commercial Pier Permits & Approved Boarding Locations

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SECTION E – Residential Docks

Introduction

Newport Harbor is one of the largest pleasure craft harbors in California, and many of the residential properties surrounding the harbor include the ownership rights to a residential dock. The assignment is to determine the market rent for 1) residential piers that are being used for “commercial” uses, i.e. the residential property owner is leasing the dock to a third party on a monthly or quarterly basis, and 2) residential piers that are being used solely for non-commercial use.

Residential Dock Rental Survey

The following table is a summary of residential docks that are rented to third parties for “commercial” use (non-resident). Due to the sensitive nature of the information, in most cases the parties interviewed would not disclose exact location of the property or requested that it not be disclosed.

RESIDENTIAL DOCK SPACE SUMMARY SEPTEMBER 2006			
DATA NO. LOCATION	LENGTH (Lineal Feet)	MONTHLY RENT	MONTHLY RENT /L.F.
1/ Bayside Drive Carnation Cove	85'	\$3,000	\$35.29
2/ Bayside Drive Near Bahia Corinthian Y.C.	55'	\$2,200	\$40.00
3/ Evening Star Dover Shores	36' to 56' Under 35'	\$3,000 \$2,500	\$83.33 to \$53.57 \$71.42+
4/ Behind Newport Boulevard Bridge Balboa Coves	37'	\$700	\$18.91
5/ Lido Isle East end of island	65'	\$3,000 + Electric	\$46.15

Conclusion – Residential Pier for Commercial Use

Rental Data One is an 85-foot dock that is being offered for lease at a rate of \$3,000 per month, or \$35.29 per lineal foot. The owner requires an annual, pre-paid lease, and will only consider a single boat and a single lessee, regardless of the boat length. This dock is close too the harbor entrance, but is subject to wind and tides and is beyond all the commercial services in the harbor.

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Comparable Rental Two is a 55-foot U-shaped dock that is located near the Bahia Corinthian Yacht Club on Bayside Drive. The owner includes the electric and water service. The owner reported that he is looking for a “low-impact” user and is not willing to allow two small boats and would like a minimum of a 35-foot vessel.

Comparable Rental Three is located in the Dover Shores neighborhood and is a “parallel” dock that will accommodate up to a 56-foot vessel. The asking rent is \$2,500 per month for a vessel 35-feet and under and \$3,000 per month for a vessel between 36- and 56-feet. The rent includes the utilities.

Comparable Rental Four is a 37-foot dock that is 11-feet wide and is located in Balboa Coves. The location behind the Newport Boulevard Bridge limits the boats that it can accommodate. The monthly rent includes the water and electrical service.

Comparable Rental Five is a dock that accommodates a 65-foot power boat. The monthly rent is \$3,000 per month (\$46.15/LF), plus electric service (separately metered). The Lessee reported that he looked at all of the marina’s in the harbor and there was a wait list for a slip that would accommodate his boat and was essentially at the Lessor’s mercy and believes he is paying a lease rate that is in excess of what he would be charged in a commercial marina.

The rental data suggests that the rent that a third party is willing to pay is somewhat dependent on the size of the boat and the availability of the similar size space in the commercial marinas in the harbor. In general, the rental rates reflected in the above survey are for larger (over 35-foot) piers. Based on the market data uncovered it appears that the “market rent” for private piers used for commercial purposes are generally similar to those outlined in Section C.

In terms of the upland property owner’s interest and the “rent” that they should be paying for the “commercial” use of the tidelands associated with a single-family residence and the upland parcel, the survey data presented in Section D pertaining to commercial piers is in the range of 20- to 27-percent of the gross income. Based on the market data uncovered and the interviews conducted I have concluded that **a residential property owner that leases a residential pier for “commercial” uses would pay 20-percent of the gross rental income as market rent.**

For example only, the following is the calculation of the annual rent for a 40-foot residential pier that is leased for “commercial’ use to a third party for \$25.00 per lineal foot:

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Monthly Pier Rent - \$25/LF x 40 Feet:	\$1,000
Annualized:	<u>x 12 months</u>
Total Annual "Commercial" Rent:	\$12,000
Annual Rate For Commercial Pier	<u>x 0.20</u>
Indicated Annual Rent:	\$ 2,400

In the above example the property owner would pay an annual rent of \$2,400 for the "commercial" use of the tidelands associated with the upland residential property. The total annual rent would vary depending on the size of the pier and on the monthly rent being paid to the upland property owner and the rent for the "commercial" use of the pier would only apply while it is being rented to a third party.

Conclusion – Residential Pier Non-Commercial Use

A residential pier that is being used for "non-commercial" use is essentially the use of the pier by the uplands residential property owner. The market rent for this type of use is essentially equivalent to what is a reasonable fee to charge the upland property owner for the use of tidelands for the construction of a pier for the property owner's exclusive use.

As a property owner within Newport Harbor, many of the upland properties have rights to the tidelands for the construction of a residential pier and the pier length and configuration varies depending on the location in the harbor. Most upland property owner's with these rights exercise their rights and construct piers in the adjoining tidelands. These piers are available for their exclusive use and they can choose to place a vessel on the pier or leave it empty. Upland property owner's that do not enjoy the rights to the tidelands and wish to maintain a boat in Newport Harbor are required to lease from one of the marina's within the harbor. The upland property owner with the right to the tidelands has the alternative to not construct a pier and go lease dock space within one of the other marinas in the harbor – and pay rent to a marina owner. As set forth in Section C of this report my monthly market rent conclusion for dock space in the harbor ranges from \$20 to \$30 per lineal foot, depending on the slip length. The simple average is \$25.00 per lineal foot, which I have concluded is the fair market rent to apply to all residential dock space in the harbor. The upland property owner is analogous to the marina operator rather than a marina tenant (boat owner) and the rent that the upland property owner is paying is for the use of the tidelands similar to what a marina operator would pay – a percentage of the potential gross slip rents.

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The appropriate return that an upland property owner would pay is less than what a commercial operator would pay as there is no “commercial” benefit to the upland property owner. A more appropriate rate of return would be what a property owner pays for a leasehold interest in a single upland residential lot or residential tideland property. Within Newport Harbor, most of the homeowners on Harbor Island lease the “filled” tidelands from either the City or the County. The rent for these tidelands is based on a formula for the revaluation that is set forth as follows:

Value of the Upland Parcel x 0.375 (thirty-seven and one-half percent) x 0.09 (nine percent)

This formula recognizes that the tidelands have less utility than the uplands parcel and the upland land value is multiplied by 37.5-percent and the resulting tidelands value is multiplied by a rate of return to derive the annual rent. In the case of the Harbor Island filled tidelands, the rate of return on the tidelands is 9.0-percent. This rate was established at the time of the lease; however, the rate of return varies depending on market conditions and overall return requirements. Historically these return requirements have ranged from 6.0-percent to 10.0-percent. In the current market, long-term return requirements are near historical lows; therefore, I have concluded that a return of 6.0-percent is appropriate to apply to residential piers being used by the upland property owner for non-commercial piers.

Using the same 40-foot pier as in the previous example the annual rent for the non-commercial use of the pier is calculated as follows:

Monthly Pier Rent - \$25/LF x 40 Feet:	\$1,000
Annualized:	<u>x 12 months</u>
Total Annual “Commercial” Rent:	\$12,000
Annual Rate For Commercial Pier	<u>x 0.06</u>
Indicated Annual Rent:	\$720

The indicated annual rent for a non-commercial pier is \$720 per year, or \$18.00 per lineal foot. Based on the market data an analysis presented **I have concluded that the market rent for a residential pier for non-commercial use is \$18.00 per lineal foot per year.**

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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.

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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.

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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.**

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Addenda – Section F

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Subject Photographs

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

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29th Street Dock Drawing

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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.

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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 losing 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

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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

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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.

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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.**

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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.

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Addenda – Section G

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Subject Photographs

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--
A view of an off-shore mooring field.

--
A view of on-shore moorings.

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Mooring Maps

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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.

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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

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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

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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

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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

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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.

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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.

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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.

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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.

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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.**

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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

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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.

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ADDENDA

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Unified Port of San Diego – Benchmarks

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Harbor Permit Policy

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Qualifications

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November 3, 2006

File No. 26-019

Ms. Evelyn Tseng
Revenue Division
City of Newport Beach
3300 Newport Boulevard
Newport Beach, CA 92663

Re: Appraisal Services
Commercial Tidelands – Newport Harbor
Newport Beach, California

Dear Ms. Tseng:

In accordance with your request and based on a review of the information provided on October 16, 2006 entitled “Contracts And Agreements” I have completed further analysis regarding the business uses set forth in the information provided. This letter contains eight pages and is to be considered a supplement to, and read in conjunction with, my October 9, 2006 appraisal, which is identified as File No. 26-019. All of the information included in my prior appraisal, including the Certification, Assumptions and Limiting Conditions, definitions, descriptions and analysis apply to this letter. This letter applies specifically to SECTION A – Commercial Entities @ Fixed Locations and the additional businesses not previously addressed.

This analysis is completed based on your representation of the “Contracts and Agreements” that apply to those businesses operating in the tidelands and were not specifically addressed in Exhibit A of the Professional Services Agreement. The list of “Contracts and Agreements” is attached to this letter for reference. Based on the list provided and our discussions, the primary uses that are not addressed specifically in my report are the yacht clubs and three restaurants – The Galley, Ruby’s Diner and Newport Beach Fish Company.

Based on the list of “Contracts and Agreements” provided the following outlines the basic terms of the lease or agreement with the individual restaurants. It should be noted that I have not reviewed the specific leases and/or agreements that apply to the individual properties and the summary is based on the summary provided.

The Galley Cafe

Location:	Balboa Yacht Basin
Lease Date:	January 1, 1988, options exercised 1/1/1999 & 12/31/2003
Lease Expiration:	December 31, 2008
Base Rent:	\$17,500
Percentage Rent:	6.0% of all gross sales
2004/05 Rent Paid:	\$38,263
Maintenance:	Lessee

Ruby’s Diner

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DANA POINT RESTAURANT SALES JULY 2005 to JUNE 2006							
Name	Suite Size (Sq.Ft.)	Base Rent /Sq.Ft.	Total Gross Sales	Gross Sales /Sq.Ft.	% Rent Paid	Monthly % Rent /Sq.Ft.	Total Rent /Sq.Ft.
Beach Cities Pizza	1,511	\$1.99	\$474,312	\$313.91	\$6,823	\$0.38	\$2.37
The Brig	4,589	\$1.63	\$1,397,120	\$304.45	\$35,741	\$0.65	\$2.28
El Torito	7,142	\$2.10	\$3,400,238	\$476.09	\$126,021	\$1.47	\$3.57
Gemmell's	2,313	\$1.30	\$386,509	\$167.10	\$1,438	\$0.05	\$1.35
Harbor Deli	1,512	\$1.79	\$790,100	\$522.55	\$38,709	\$2.13	\$3.92
Harbor Grill	3,999	\$3.75	\$3,341,269	\$835.53	\$120,714	\$2.52	\$6.27
Harpoon Henry	11,036	\$1.36	\$2,877,031	\$260.70	\$78,933	\$0.60	\$1.96
Hava Java	514	\$1.95	\$109,525	\$213.08	\$1,080	\$0.18	\$2.13
Jolly Roger	6,187	\$1.21	\$1,647,765	\$266.33	\$58,299	\$0.79	\$2.00
Proud Mary's	2,193	\$1.14	\$748,172	\$341.16	\$37,335	\$1.42	\$2.56
Turk's	1,911	\$1.83	\$1,127,206	\$590.00	\$59,449	\$2.59	\$4.42
Wind N' Sea	11,688	\$1.28	\$3,609,207	\$308.80	\$144,829	\$1.03	\$2.31

The above table indicates that the base rents for all types of restaurants ranges from \$1.14 to \$3.75. All of the restaurants pay 9.0-percent of their gross sales in percentage rent with an additional 1.0 percent for CAM and 0.25-percent for parking maintenance. After paying their percentage rent the total monthly rent ranges from \$1.35 to \$4.42 per square foot. All of the leases were re-negotiated in 2002 and have similar basic lease terms. The presentation of this data is included to show that estimating "base" or "minimum" rent by comparison to other restaurant properties is difficult due to the differing physical and locational characteristics of the comparable rental data and supports the conclusion that the most equitable method of restaurant leasing is based on a percentage of the gross sales subject to some negotiated base or minimum rent.

Establishing Base Rent

All of the data presented reflects the total rent being charged but does not address the issue of "Base Rent", or the minimum fixed rent that these businesses pay in conjunction with their leases. In terms of establishing a fixed "Base" or "Minimum" rent for the above business operations, the interviews completed and the lease agreements reviewed indicate that due to the varying physical and locational characteristics (both along the coast and within the individual harbors) of the operations, trying to compare one operators "Base" rent to another is impractical and is not generally an "apples-to-apples" comparison. The most common method of establishing a base rent, or fixed minimum rent, is to take 75-percent of the prior three years gross sales and apply the concluded percentage to this figure. As an example only, the following methodology is used to establish the base rent for a hypothetical business operating in the tidelands:

Gross Sales 2003:	\$90,000
Gross Sales 2004:	\$100,000
Gross Sales 2005:	<u>\$110,000</u>

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Gross Sales – 3 year average:	\$100,000
x 75-percent:	<u>x 0.75</u>
3 year Avg. to apply Percentage:	\$ 75,000
Percentage Rent Factor – 7.0%:	<u>x 0.007</u>
Annual “Base” or “Minimum” Rent:	\$ 5,250

In this example the fixed annual “Base” rent is \$5,250, or \$437.50 per month. The tenant pays the “base” rent either monthly or quarterly, with any “overage” rent paid based on a percent of sales at year end. The overage rent is offset by the fixed annual rent. Using the above figures as an example, and assuming the sales continued the upward trend the total rent in 2006, based on annual sales of \$120,000, would be calculated as follows:

Gross Sales 2006:	\$120,000
x Percentage Rent Factor - 7.0%:	<u>x 0.07</u>
Total Percentage Rent:	\$ 8,400
Less – Fixed Base Rent @ \$5,250:	<u>-5,250</u>
Total Overage Rent Due:	\$ 3,150

In this example, the business operator would pay “overage” rent of \$3,150 based on the percentage clause in the lease.

Yacht Clubs

As previously noted, the list of “Contract and Agreements” includes the Bahia Corinthian Yacht Club (BCYC) and the Balboa Yacht Club (BYC). The following is a summary of the information provided that pertains to their agreements:

Bahia Corinthian Yacht Club

Location:	1601 Bayside Drive
Use:	Marina, lease encumbers tidelands
Lease Date:	May 7, 1998
Lease Expiration:	May 6, 2033
Base Rent:	\$48,977
Adjustment:	5/7 of each years % rent adjusts to weighted average in the rate /lineal foot of slips in comparable marinas
Percentage Rent:	Not set forth
Maintenance:	Lessee maintains premise

Balboa Yacht Club

Location:	1801 Bayside Drive
Use:	Yacht Club, lese encumbers upland parcel
Lease Date:	August 29, 1999
Lease Expiration:	August 31, 2029
Base Rent:	\$5,549
Adjustment:	Adjusts in 2008, 2011, 2014, 2017, 2020, 2023 and 2026, basis of

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	adjustment is not set forth
Percentage Rent:	Not set forth
Maintenance:	Lessee maintains premise

The above summaries indicate that the two yacht clubs have agreements for different property types. The Bahia Corinthian Yacht Club has an agreement for the use of tidelands that is to be used for marina purposes. The rental rates for marinas are discussed in Section D of my report. My conclusion of market rent set forth in Section D is that submerged tidelands that are used for marina purposes and are not leased in conjunction with the upland parcel have a market rent of 22.0-percent of the gross slip income. This figure applies to the marina at the Bahia Corinthian Yacht Club.

In contrast, the Balboa Yacht Club has an agreement for the upland parcel and the information provided does not indicate if the City or the Club own the improvements. Based on the very limited data uncovered regarding yacht club leases, the Port of San Diego structures their yacht club leases on a fixed minimum with a percentage clause based on the permitted uses (food & beverage, charters, marina, etc...), most of which have been previously discussed either in this supplement or in other sections of my appraisal. In terms of percentage of club dues the Port of San Diego receives 10.0-percent of all dues income. The lease with the Balboa Bay Club provides the City of Newport Beach with 6.0-percent of the dues income. The Ventura Port District is currently negotiating with the Ventura Harbor Yacht Club and was not at liberty to discuss the lease negotiations until the lease is finalized. The Dana West Yacht Club, in Dana Point Harbor, is subject to the new Management Agreement with Orange County paying a management fee to the harbor operator based on a percent of the gross income and the percentage being charge to the yacht club by the operator was not disclosed.

Based on the limited information available regarding yacht club leases I have concluded that **the fair market rent for a yacht club, excluding any other uses discussed in other sections of this report, is between six- and 10.0-percent of the total dues income.**

Certification

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

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, unbiased professional analyses, opinions and conclusions.

I have no present or prospective interest in the property that is the subject of this report, and I have no personal interest or bias 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 in the assignment.

My engagement in this assignment was not contingent upon developing or reporting predetermined results.

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My compensation is not contingent upon the reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value estimate, the attainment of a stipulated result, or the occurrence of a subsequent event.

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, which include the *Uniform Standards of Professional Appraisal Practice*.

The use of this report is subject to the requirements of the Appraisal Institute relating to review by its duly authorized representatives.

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 report.

In accordance with the USPAP Competency Provision, I certify that I have the knowledge and experience to complete this assignment and have appraised this property type before.

Disclosure of the contents of this appraisal review is governed by the Bylaws and Regulations of the Appraisal Institute. In furtherance of the aims of the Institute to develop higher standards of professional performance by its Members, the appraiser may be required to submit authorized committees of said Institute copies of this report and any subsequent changes or modifications thereof.

The Appraisal Institute conducts a voluntary program of continuing education for its designated members. MAI's who meet the minimum standards of this program are awarded periodic educational certification. As of the date of this report, James B. Netzer has completed the requirements under the continuing education program of the Appraisal Institute.

I have personally conducted an inspection of the real property identified in Exhibit A to the Contract For Services, which is the subject of this report. Based upon my investigation and analysis, I have formed the opinion that the subject properties have the following values as of September 30, 2006:

The market rent for restaurants that operate in the tidelands is 3.0 percent of the food sales and 5.0 percent of the beverage sales.

The market rent for a yacht club, excluding any other uses discussed in other sections of this report, is between six- and 10.0-percent of the total dues income.

Respectfully submitted,

James B. Netzer, MAI
California General Appraiser No. AG003143

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Attachment A – Contracts and Agreements

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October 31, 2006

File No. 26-019

Ms. Evelyn Tseng
Revenue Division
City of Newport Beach
3300 Newport Boulevard
Newport Beach, CA 92663

Re: Appraisal Services
Commercial Tidelands – Newport Harbor
Newport Beach, California

Dear Ms. Tseng:

In accordance with your request and based on a review of the information provided on October 16, 2006 entitled “Tidelands Businesses” I have completed further analysis regarding the business uses set forth in the information provided. This letter contains seven pages and is to be considered a supplement to, and read in conjunction with, my October 9, 2006 appraisal, which is identified as File No. 26-019. All of the information included in my prior appraisal, including the Certification, Assumptions and Limiting Conditions, definitions, descriptions and analysis apply to this letter. This letter applies specifically to SECTION B – Commercial Operations (Balboa Island Ferry, Newport Bait Barge) and the additional businesses not previously addressed.

This analysis is completed based on your representation of the “Tidelands Businesses” that are operating in the Harbor and were not specifically addressed in Exhibit A of the Professional Services Agreement. The list of “Tidelands Businesses” is attached to this letter for reference. Based on the list provided, the business’s that are not addressed specifically in my report can be broken down into three main categories: Charters, Boat Rentals and Sport Fishing. It should be noted that based on my review of both the listed businesses and the market data not all of the businesses on the list should be subject to a tidelands lease agreement.

Charters

The following is a summary of the charter businesses that operate in the Harbor, followed by a summary of the relevant market data that applies to the operation of a charter business.

American Yacht Charters
Catalina Passenger Service
Charter Memories
Charter Yachts of Newport Beach
Fun Zone Boat Company
Gondola Romance
Hornblower Cruises and Events

Legend Yacht Charters
Orca Yacht Charters
Pacific Avalon Yacht Charters
Paradiso Yacht Charters
Riverboat Angela Louise
Spirit of Newport
White Light (M.V.)

The “charter” businesses that operate in the harbor provide short-term (less than 24 hour) tours of the harbor and surrounding environs. Some of the charters include catered events including weddings and receptions. In general, they stay within the harbor but some do leave the harbor

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and provide transportation to and from Catalina Island (Catalina Passenger Service). The following table is a summary of the fees charged by other jurisdictions for charter boat companies that operate in the tidelands.

CHARTER OPERATOR PERCENTAGE RENT RATES SEPTEMBER 2006						
Jurisdiction	San Diego Port	City of Avalon	Santa Barbara	L.A. County	Dana Point	Newport Beach
Charter only	6.0%	7.0%	15%	6.0%	6.0% to 9.0%	6.0%
Food	3.0%					3.0%
Beverage	5.0%					5.0%

Based on the market data uncovered, **I have concluded that market rent for a charter boat operator is 6.0-percent of the gross income from charter boat operations.** If the charter sells or provides food and beverages, including any catered meals as in the case of a wedding reception, **the market rent is 6.0 percent of the charter sales, 3.0 percent of the food sales and 5.0 percent of the beverage sales.** It should be noted that the survey data includes operators that pay these fees to the jurisdiction, with an additional fee for dock space or berthing rights paid to the party that operate the dock/pier and controls the upland/tidelands properties; therefore, and the division of the upland and tideland properties, as is typical in Newport Harbor, is not a factor in this lease arrangement.

Boat Rentals

The following is a summary of the Boat Rental businesses that operate in the Harbor, followed by a summary of the relevant market data that applies to boat rentals.

Balboa Boat Rentals
Duffy Boats
Marina Sports

Newport Harbor Boat Rentals
Newport Jet Sports
Newport Sailing Club

The market data uncovered is somewhat limited, but the following table summarizes the percentage rents charged in other jurisdictions for the operation of a boat rental business.

BOAT RENTAL PERCENTAGE RENTS SEPTEMBER 2006			
Jurisdiction	San Diego Port	City of Avalon	Los Angeles County
Boat Rentals	10.0%	7.0%	6.0%

Based on the market data uncovered, **I have concluded that the market rent for boat rentals is 7.0-percent of the gross boat rental income.** As with the charter boats the boat rental operations uncovered do not lease directly from the jurisdiction, they rent their dock space from the marina operator; therefore, the division of ownership between the uplands/tidelands does not impact the rental rates.

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Sport Fishing

The following is a summary of the Sport Fishing business's that operate in the Harbor followed by the relevant market data that applies to sport fishing operations.

Davey's Locker

Newport Landing

The market data uncovered that pertains to the percentage rents charged for sport fishing operations along the coast is summarized in the following table:

SPORT FISHING PERCENTAGE RENTS					
Jurisdiction	San Diego Port	City of Avalon	City of San Diego	Los Angeles County	Dana Point
Sport Fishing	6.0%	7.0%	7.0%	6.0%	9.0%

Based on the market data uncovered, I have concluded that **the market rent for sport fishing operations is 6.0-percent of the gross income from sport fishing operations.** These operations typically are for either a half-day or for a full day and do not include food and beverages in the ticket price; however, it was reported that many of the sport fishing companies permit the fishermen to bring their own food and drink and that food and drink does not account for a significant source of revenue. They also report that most fishermen have their own tackle and they only sell tackle on the boats as an accommodation and it is not a significant source of revenue either (many have a tackle shop on the upland parcel that accounts for most tackle sales). Based on the market data uncovered the percentage rent (6.0%) applies to all of the revenue associated with the sport fishing operation.

Establishing Base Rent

All of the data presented reflects the total rent being charged but does not address the issue of "Base Rent", or the minimum fixed rent that these businesses pay in conjunction with their leases. In terms of establishing a fixed "Base" or "Minimum" rent for the above business operations, the interviews completed and the lease agreements reviewed indicate that due to the varying physical and locational characteristics (both along the coast and within the individual harbors) of the operations, trying to compare one operators "Base" rent to another is impractical and is not generally an "apples-to-apples" comparison. The most common method of establishing a base rent, or fixed minimum rent, is to take 75-percent of the prior three years gross sales and apply the concluded percentage to this figure. As an example only, the following methodology is used to establish the base rent for a hypothetical business operating in the tidelands:

Gross Sales 2003:	\$90,000
Gross Sales 2004:	\$100,000
Gross Sales 2005:	<u>\$110,000</u>
Gross Sales – 3 year average:	\$100,000

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x 75-percent:	<u>x 0.75</u>
3 year Avg. to apply Percentage:	\$ 75,000
Percentage Rent Factor – 7.0%:	<u>x 0.007</u>
Annual “Base” or “Minimum” Rent:	\$ 5,250

In this example the fixed annual “Base” rent is \$5,250, or \$437.50 per month. The tenant pays the “base” rent either monthly or quarterly, with any “overage” rent paid based on a percent of sales at year end. The overage rent is offset by the fixed annual rent. Using the above figures as an example, and assuming the sales continued the upward trend the total rent in 2006, based on annual sales of \$120,000, would be calculated as follows:

Gross Sales 2006:	\$120,000
x Percentage Rent Factor - 7.0%:	<u>x 0.07</u>
Total Percentage Rent:	\$ 8,400
Less – Fixed Base Rent @ \$5,250:	<u>-5,250</u>
Total Overage Rent Due:	\$ 3,150

In this example, the business operator would pay “overage” rent of \$3,150 based on the percentage clause in the lease.

Other Tideland Operations

As previously noted, the list of “Tidelands Businesses” includes some uses that should not be subject to the market rent conclusions presented in this report and supplement. These are primarily service oriented business operations that are required for the continued use and maintenance of the harbor and, while they may complete most of their business within the tidelands and the harbor, they do not necessarily occupy a fixed location in the harbor. Without these service type businesses that harbor would not be as attractive and the businesses that rely on their services could theoretically loose business and the percentage rent that they pay would be reduced. The following business operations (including the indicated business type) fall into this category and the rent conclusions set forth in this section do not apply. They should be required to have a City Business License and required harbor permits and their fees should be based on city schedules for similar service type operations.

American Marine Oil Systems	Boat Maintenance & Environmental
Anchor Mooring Company	Mooring Service
Barnacle Bills	Bottom Cleaning
Barrett Construction	Pier Construction
Intracoastal Dredging Service	Dredging
Larson’s Shipyard	Shipyard
Mobile Harbor Services	Boat Maintenance
Newport Harbor Shipyard	Shipyard
Newport Slip Rentals	Rental of Private Slips
Royal Flush Pumping Service	Boat Maintenance
Shellmaker, Inc.	Mooring Service & Construction
South Mooring Company	Mooring Service
Swift Slip	Pier Construction

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Water Works

Bottom Cleaning

Most of these businesses require at least one slip within the harbor to access their clients and would likely pay one of the marina operators for the space.

It should be noted that the above list does not include the yacht sales operations (Bayport Yachts, Johnson Yacht Sales & Olympic Boat Centers) that operate in the harbor. The only market data that I uncovered pertaining to the fees that yacht brokers pay are for the San Diego Port and the City of San Diego. The Port reports that yacht sales in two newly negotiated leases are the greater of \$100 per month or \$5.22 per square foot of land/water per year. The City reports that they charge between 2.0 percent and 4.0 percent of the total commission income from the sales of boats/yachts. In both cases the sale of boats/yachts require the use of both the upland/tideland property and they are generally associated with the operation of a larger marina operation. Given the limited information pertaining to yacht sales it is not possible to draw a conclusion regarding the market rent for a yacht sales operation.

Certification

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

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, unbiased professional analyses, opinions and conclusions.

I have no present or prospective interest in the property that is the subject of this report, and I have no personal interest or bias 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 in the assignment.

My engagement in this assignment was not contingent upon developing or reporting predetermined results.

My compensation is not contingent upon the reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value estimate, the attainment of a stipulated result, or the occurrence of a subsequent event.

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, which include the *Uniform Standards of Professional Appraisal Practice*.

The use of this report is subject to the requirements of the Appraisal Institute relating to review by its duly authorized representatives.

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 report.

NETZER & ASSOCIATES

In accordance with the USPAP Competency Provision, I certify that I have the knowledge and experience to complete this assignment and have appraised this property type before.

Disclosure of the contents of this appraisal review is governed by the Bylaws and Regulations of the Appraisal Institute. In furtherance of the aims of the Institute to develop higher standards of professional performance by its Members, the appraiser may be required to submit authorized committees of said Institute copies of this report and any subsequent changes or modifications thereof.

The Appraisal Institute conducts a voluntary program of continuing education for its designated members. MAI's who meet the minimum standards of this program are awarded periodic educational certification. As of the date of this report, James B. Netzer has completed the requirements under the continuing education program of the Appraisal Institute.

I have personally conducted an inspection of the real property identified in Exhibit A to the Contract For Services, which is the subject of this report. Based upon my investigation and analysis, I have formed the opinion that the subject properties have the following values as of September 30, 2006:

The market rent for a charter boat operator that does not provide food and beverage service is 6.0-percent of the gross income from charter sales.

The market rent for charters that provide food and beverage service is 6.0 percent of the charter sales, 3.0 percent of the food sales and 5.0 percent of the beverage sales.

The market rent for boat rentals is 7.0-percent of the gross boat rental income.

The market rent for sport fishing operations is 6.0-percent of the gross income.

Respectfully submitted,

James B. Netzer, MAI

California General Appraiser No. AG003143

NETZER & ASSOCIATES
Attachment A – Tideland Businesses