Report on Market Capitalization Approach for Establishing Fees for Newport Harbor Moorings

This report looks at the Market Capitalization Approach for establishing the annual fees to be charged for Newport Harbor moorings. This report concludes that the Market Capitalization and any variation of this approach should not be used because it is counter to the responsibilities of the City to administer the tidelands in a fair and equitable manner and to promote access for the general public. The Market Capitalization approach, when applied to moorings, is also inherently inaccurate given the limited and often cloudy data available. Other approaches submitted to the city, including the comparable approach, looking at what other mooring holder pay in other harbors, the CPI approach, looking at what the City has historically charged, and the Tideland's appraisal report, are all for more accurate and reliable, and these other approaches are consistent with the trust duties of the City to set the fees in a fair and equitable manner with the view of enhancing, and not restricting, access to the Harbor and Tidelands, for the general boating public, not just boating for the use of an elite few.

The Market Capitalization Approach is sometimes used where there is large pool of accurate data, such as the stock market or the market for real estate acquisitions and sales. These data pools contain thousands if not millions of sales data which can be processed and studied. The Market Capitalization Approach uses averages from this large reliable data pool and looks that the income generated by a stock or a property and sets the value of the property based on the income generated. It can also be used in reverse. If the value of the property is established by a clear known and reliable market, then the income expected to be received can be ascertained. Basically, the more folks are willing to pay for an income producing property, the more one expects the income to be. An apartment complex that generates $1,000,000 per year is worth more than a similar apartment complex that generates half that income. In the case of Moorings fees, by using the Market Capitalization approach it is argued that if a handful of people are willing to pay a significant amount of money to acquire a mooring, the assumption is that the annual fees being charged for that mooring must be fair. As will be shown, this conclusion would be inaccurate and unfair. It also violates the City's responsibilities to administer the moorings and tidelands in a fair and equitable manner in a way to promote, not restrict access for the general boating public.

1. Using the Market Capitalization approach is runs counter to the City's responsibilities.

The Market Capitalization approach not designed to achieve a fair or equitable fees, but the maximum fee a business could charge without losing customers. Using this approach would only result in pushing the fees to the highest possible levels. This is not justified by the role the City has in administering the tidelands trust. The City does not own the tidelands, and its role as holding the tidelands is trust is not the same as the role of an owner of a business looking to maximizing income to the city for an assist it owns. This not the case where the City owns an office building it is not using and rents it out to the person willing to pay the maximum rent. The role of the City in administering the tidelands is quite different. May considerations are part of the City's responsibilities, the most important of which are providing access to the general boating public, not just an elite few. For this reason alone, the Market Capitalization approach should not be considered, let alone used.

2. The Market Capitalization approach is highly inaccurate and should not be considered.

In general the Market Capitalization approach highly inaccurate where (a) the data pool is small, or (b) when supply and demand is distorted because there are almost no sellers, or (c) where there are buyers that do not represent the normal buyer pool for which the pricing is being set (e.g. The general public which do not have dinghy docks or dock access and do not already own and maintain a tender vs a mooring buyer who may already have solved access problems because he or she owns or has access or a dock and second boat), or (d) the data is unclear where for example a mooring is sold together with a boat.

All four of the invalidating factors mentioned above exist with Newport moorings.

(a).. The data pools is very limited.

Of approximately 40 mooring transfers per year, it is unclear how many are transfers to trusts, to family members, or to friends. Of the remaking, it is unclear how many are transfers of a boat with a mooring and how to allocate the price paid for each. The number of "arms length" mooring only transfers to strangers is likely very small and cannot support any accurate result.

(b) Moorings do not freely trade on a open market.

Many moorings have been in families for generations, kept for sentimental reasons, there is vast confusion about how to sell a mooring or if allowed, and many boat owners are compelled to keep their mooring because without a mooring they would have to sell or dispose of their boat, which may not be seen as readily achieved. These factor play no role, or a very little role, in a normal market. The result is that the supply and demand for mooring is artificially distorted, and a buyer will pay a substantially higher price as a result. That distorted price should not be used to set public policy.

(c) Access plays a major role distorts the data.

While the cost of access can be calculated using the Comparative approach, it also plays a major role in what people are willing to pay for a mooring, but the role is almost impossible to measure when using the Market Capitalization approach. One of the main issues affecting the few mooring sales is the role of access to the mooring. Simply put, if you can't get out to the mooring, it has no value. The City does not provide long term docks, does not provide boats, and does not provide shuttle service to mooring holders or the maintenance worker who need to service boats on moorings.   In considering a mooring purchase, the general boating public will need to find their own access and pay for it. By contrast, there are a few mooring owners and potential mooring buyers who do not have access problems. They may be part of an elite few who own a home with a dock, or they may be someone how has a friend or family member with a dock, or they may already own a tender and own or rent dock space for the tender. For these special "buyers" acquiring a mooring can be cost effective because they do not have these significant additional access costs. The existence of such buyers likely distort any data about fair pricing to the general boating public who do not have easy access to a mooring. Therefore the little data that exists on mooring sales cannot be considered because it likely does not reflect what the general boating public, which do not have access arrangements, is willing to pay for a mooring.

(d) When a boat is sold with a mooring, it is almost impossible to obtain an accurate allocation of what is paid for the boat vs the mooring.

A study of moorings offered for sale indicate that of the few offerings, half are offered for sale with boat, most of which are older boats. Older boats are the ones typically sold with a mooring. Prices for older boats can vary depending mostly on maintenance and what equipment is aboard. The same year and model boat can vary by as much as 300%. One can sell for 3 times the other depending on how it has been maintained and its equipment. Therefore any data that contains boat and mooring transfers will be unreliable.

Conclusion

For each and all of the above reasons, to be fair, a market capitalization approach should not be used to establish mooring fees.

Respectfully Submitted,

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