

## **Executive Summary for the Comparative Approach for Establishing Fair Use Fees for Newport Harbor Moorings**

This report is submitted to assist in determining the annual fees to be charged for Newport Harbor moorings. This report does not address the transferability of moorings, which has been addressed in a separate report.

**The Comparison Approach.** The comparison approach is used in this report. The most comparable moorings are those located in San Diego Harbor. While Slip fees in San Diego are less expensive than in Newport Harbor, this difference is taken into account in the report's adjustments. It should be noted that in two separate reports, one using CPI adjustments and the other looking at the value of the tidelands occupied by moorings, each reach similar conclusions as this report, namely that the fair rate for Newport Harbor Moorings should be no more than approximately \$25 per foot per year.

**For a Proper Comparison, Adjustments Need To Be Made.** The monthly mooring fees in San Diego average \$141 per month for a 54 foot mooring. Slip fees in Newport Harbor are approximately 20% higher. Therefore, all things being equal, a 20% higher mooring rate for a Newport Harbor mooring could be justified. However, after allowing for the 20% *increase, certain deductions need to be made.* Among the deductions are *(a) the cost, or lack of cost, of maintaining a mooring in San Diego, and (b) the availability of access docks in San Diego Harbor, compared to the unavailability of access docks in Newport Harbor.*

**Adjustment for the Cost to Maintain the Mooring.** The San Diego Mooring Company maintains the mooring ball, chain, and weights. By contrast, the Newport Mooring permittee will spend at least \$400 per year, and likely more, to maintain the equipment. Therefore, for a proper comparison, the annual permit fee in Newport Harbor should be reduced by no less than \$400 per year.

**Adjustment for the Cost of Access.** San Diego has dinghy docks and storage for unlimited access without time restrictions, *at no additional charge.* Without access, a mooring has no value. In Newport Harbor the mooring permittee will need to spend \$50 to \$100 per month to store their dinghy, which is \$600 to \$1,200 per year. Therefore, in addition to the \$400 per year reduction for the cost of maintenance, the annual permit fee should be reduced by another \$600 per year, and clearly no less than \$300, for the cost of access.

### **Conclusion**

Using the comparison approach and equalizing for the negative impact of the cost of maintenance and lack of access, the annual mooring permit fee for a 40 foot mooring in Newport Harbor should be approximately \$22 per foot, and at most \$25 per foot per year.

## **Comparative Approach for Establishing Fair Use Fees for Newport Harbor Moorings**

This report is submitted by the author to provide assistance in determining the annual fees to be charged for the use of Newport Harbor moorings. This report does not address the transferability of moorings. Maintaining the ability to transfer a mooring permit is of vital importance to all mooring permittees, as it is for to all holders of government use permits, including permits for broadcasting over the airwaves, for grazing on government land, for oil and gas exploration, and other uses where the initial and subsequent permit holders have invested time and money in establishing and developing assets with the reasonable expectation that the permit rights can be transferred at a later time. The transferability issue has been addressed in a separate report.

This report is an effort to provide an “apples to apples” comparison as a guide in establishing proper fair rental value for Newport Harbor moorings. In this report, I have attempted to utilize my knowledge and 35 years of experience in evaluating rental and property values.<sup>1</sup> There are three traditional methods of appraising property: the comparison approach, the cost approach, and the income approach. The comparison approach is used in this report. The cost and income approaches were not used because there is inadequate data for these other approaches, and it is unclear how such data could be used even if the data could be obtained.

To establish appropriate fees for the moorings in Newport Harbor, it is my opinion that the most comparable moorings are those located in San Diego Harbor. While all harbors are unique, the desirability of a particular harbor is reflected in the slip fees boaters are willing to pay. So, for example, slip fees in Long Beach are half those in Newport Harbor, which would indicate that Newport Harbor is a more desirable location. This report is not suggesting that San Diego Harbor is as desirable as Newport Harbor. To the contrary, as will be seen, slip fees in San Diego Harbor are less expense than slips fees in Newport Harbor. This difference is taken into account in the adjustments set for the below.

The San Diego Mooring Company manages the moorings in San Diego Harbor and is the best source of accurate information about these moorings. The information contained in this report was obtained directly from the San Diego Mooring Company in the first week of February, 2015, and updated by viewing their website on August 6, 2015.<sup>2</sup>

The monthly mooring fees in San Diego are an average of \$141 per month for a mooring that will accommodate up to a 54 foot boat (*see footnote 5*). As is shown below, slip fees in Newport Harbor are approximately 20% higher than the slip fees in San Diego Harbor. Therefore, all things being equal, a 20% higher mooring rate for a Newport Harbor mooring that could accommodate up to a 54 foot boat could be justified. However, all things are not equal. After allowing for the 20% increase, certain deductions need to be made to what would otherwise be higher mooring fees for Newport Harbor mooring. Among the things that are not equal is (a) the cost, or lack of cost, of maintaining a mooring in San Diego, and (b) the availability of access docks in San Diego Harbor, compared to the unavailability of access docks in Newport Harbor.

For a proper comparison, it is very important to take into account the fact that the San Diego Mooring Company maintains the entire mooring ball, chain, and weights. There is no additional cost to the mooring permittee for maintaining this equipment.

In addition, all boat owners with boats on San Diego mooring have access to their boats, **at no additional charge**. He or She has unlimited access, seven days a week. He or She is able to leave their motorized dinghies indefinitely, for any length of time, at the public docks. San Diego boat owners with boats on moorings have no access problem, and no additional access cost. This benefit cannot be overstated. In addition to these public docks, the mooring company also maintains beach areas for those renting a mooring where small rowboats and dinghies can be stored and locked to a chain for an unlimited amount of time. This is a second source of full time, unlimited, access for transportation to and from San Diego moorings. By contrast, the City of Newport provides little or no access.

As shown above, the only way to achieve an equivalency, is to take into account (1) the cost to the permittee of having to maintain the mooring equipment, and (2) the cost to rent a place to keep a dinghy for access out to the moorings, in addition to (3) making an adjustment for the more desirability of Newport Harbor as reflected in slip rates.

### **The Total Cost of Maintaining a Mooring**

The total cost of maintain the mooring equipment is higher than the theoretical cost. Mooring companies estimate mooring equipment maintenance at \$600 to \$800 every other year, but this does not represent the total cost. The mooring buoys need to be completely replaced every 7 to 10 years; they need repainting every few years; weight needs to be added to the bottom weight every few years, and with wind and tide, and as other boats move closer to moorings, the bottom weights need to be realigned. Adding the extra costs to maintain the mooring equipment, the real total cost is approximately \$1,200 every other year for the inspection, replacements, weight additions, and painting, and the occasional realignment and breakage. \$1,200 every other year = \$600 per year = \$50 per month. In other words, since the San Diego is paying this expense, this amount should be deducted from the San Diego rental rate to achieve a comparison (or alternatively, this amount can be deducted from the Newport Rate, again, to achieve a proper comparison.)

### **The Cost of Access**

Moorings have **no value** unless there is a way to get out to the moorings. There are only two ways to access the moorings. One way is by rowing a small light rowing dinghy (the type that can be put on a rack or store on the beach). This allows one or perhaps two people to row out. The preferred way is by using a larger dinghy with a motor. This allows the permittee to go out with family, guests and supplies. Access means you can use the mooring. Simply put, if you can't use it, it has no value.

The few dinghy docks owned by the City of Newport Beach are far below the number needed to provide access for the all the dinghies needed to get out to the moorings. The maximum dinghy tie up time limit is 3 days, and that is only for a handful of spots at a few of the public docks. At best, this provides access for 10% of the moorings. Only a handful of people are able to move their dinghies every three days by playing the "dinghy scuffle game," but even

they have to worry when they go on vacation or get sick. This small group is only about 10% of the boat owners, the other 90% have no place to keep a dinghy without paying for the cost of a dinghy dock. Moreover, if the City were to increase the time limit beyond the 3 days, in all likelihood the current number of dinghy docks would still only accommodate about 10% of the boat owners. There is simply not enough space to accommodate the other 90% who visit their boats once every week or two. For the other 90%, they have to make other arrangements, including renting a private dock for their dinghy.

A private dock for a dinghy in Newport Harbor would cost \$100 to \$200 per month. Even a dry storage "rack" is at least \$25 to \$50 per month<sup>3</sup>, and often requires membership in a yacht club with the added cost of monthly dues.

In comparing Apples to Apples, it is essential to take into account the fact that the San Diego moorings have ample docks for the larger dinghies with motors, and also beach dinghy storage for smaller light rowing dinghies, which provides unlimited access to boats on San Diego moorings without charge to the boat owners.

To achieve a true equivalency, there would need to be a \$50 to \$100 per month deduction from the rate charged by the City of Newport Beach because of the lack of full time access. If the City would provide areas along the Harbor with dinghy racks or beach chain lock up for at least the very small rowing dinghies, this would help with the access problem, but such access would still be far inferior to what is provided in San Diego, with its public docks that can accommodate large motorized dinghies. With the addition of some type of dinghy racks or beach storage for at least small rowing dinghies, a smaller deduction of approximately \$25 per month (\$300 per year) would still be justified, since this provides only partial access. For the purpose of this report, I have used this smaller deduction with the assumption that the City will provide ample dingy racks within the next year. However, as of the date of this report, the City has not yet given a firm commitment to do so.

### **Establishing the Correct Comparable Rate after Adjustments.**

The average mooring fee in San Diego for the larger moorings is approximately \$141 per month. This is the fee charged for most moorings that can accommodate up to a 54 foot boat ( a few mooring in San Diego can accommodate a 65 foot boat and a few only a 35 foot boat, but the vast majority of moorings were designed to accommodate up to a 54 foot boat). It should be noted that it is common practice to calculate the rate on the largest vessel that can be placed on a mooring or slip. For example, a 50 foot boat on a 60 foot mooring is charged as if it were a 60 foot boat on the mooring. For a proper comparison, the per foot mooring fee in San Diego Harbor should be calculated on the maximum size boat that can be put on the mooring.<sup>4</sup>

Using 54 feet as the maximum boat size on a typical San Diego mooring, the \$141 per month average mooring fee is \$2.61 per foot per month, which is approximately \$1,674 per year for a 54 foot boat, which is \$31 per foot per year.<sup>5</sup> *However, the mooring fees in San Diego include the equipment maintenance cost and include the cost to keep a full time dinghy for unlimited access to the mooring, so deductions need to be made to the fee.* In other words the fee being paid in San Diego is for three things, not just one. The fee is for (a) the use of the

mooring, (b) the maintenance of the mooring, and (c) the use of a dinghy docks and beach tie ups for dinghies to access to the moorings. Newport Harbor only provides the first of these three.

To make a proper comparison, the value of the maintenance and value of dinghy storage needs to be deducted from the San Diego annual fee of \$1,674 to arrive at the true charge for the San Diego mooring alone. Deducting just \$400 per year for mooring maintenance, and just \$300 per year for dinghy storage, that is a \$700 deduction. Therefore, it is clear that real fee for just the San Diego mooring alone, without the mooring equipment maintenance and without dinghy storage, is only \$974 per year for a 54 foot mooring (\$1,674 less \$700 = \$974). Therefore, by isolating the fee for just the mooring alone, we see that the true fee for just the San Diego mooring, without maintenance and with dinghy storage, is only \$18.04 per foot per year. Even allowing a 20% increase because, arguably, a Newport Harbor mooring, like Newport Harbor slips, are more valuable than San Diego Harbor moorings, that would increase the San Diego annual adjusted rate of \$18.04 to only \$21.65 per foot per year. Again, this adjusted rate has been increased, and already takes into account any added value resulting from the special desirability of Newport Harbor.

### **Conclusion**

Using the comparison approach and equalizing for the negative impact of the cost maintenance and lack of access, and adding an upward adjustment for the special desirability of Newport Harbor, the annual mooring permit fee should be approximately \$21.65 per foot per year, and at most, \$25 per foot per year.

Respectfully Submitted,

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## Footnotes:

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<sup>1</sup> I have over 35 years working in real estate, as a real estate broker, being broker of record to corporations focused on both commercial property and business sales, as well as my 35 years as an attorney working in the area of real estate law. I am very familiar with all the methods of appraising real estate and in apprising personal and business property. I have also been a mooring permittee in Newport Harbor, and boat owner for over 12 years, and am very familiar with the slips and moorings in Newport Harbor.

<sup>2</sup> To view the San Diego Mooring Company, rental rates, the website: is <http://www.sandiegomooring.com/rates.htm>

<sup>3</sup> In the first months of 2015, the American Legion offered approximately 24 dry storage racks to its members at \$45 per month. Within one week all of these racks were taken. This would suggest that the cost of out of the water dinghy storage is at least \$45 dollars per month. While the City has recently offered a “lottery” for similar storage racks at \$25 per month, the market data based on the American Legion racks would indicate that \$25 per month is well below market. The American Legion racks were modeled on the City’s racks, so they are virtually identical.

<sup>4</sup> A prior comparison of San Diego mooring pricing to slip pricing was flawed in two important ways. First it assumed a 40 foot boat on a 54 foot mooring, which resulted in a higher per foot cost for the use of a mooring. This was inappropriate since it is customary to assume the maximum size boat on a mooring or slip for price comparisons. Second, the study did not account for the fact that the San Diego mooring permittee was saving \$40 or more per month by not maintaining the mooring and another \$50 per month by having a place for unlimited storage or docking for his or her dinghy. If the prior study were to be use, these adjustments would need to be made to the study.

<sup>5</sup> As set forth on their website, as of August 8, 2015, the San Diego Mooring Company rents and maintains 462 moorings located throughout San Diego Bay. The San Diego Mooring company is professionally managed by our affiliate company G.B. Capital Holdings, LLC. With over thirty-five years of marina experience. The moorings are designed to accommodate vessels up to 54', with six moorings able to moor 65' boat, and a handful of moorings only able to accommodate smaller vessels.

### Rates:

A1 - Shelter Island Roadstead \$128.17  
A2 - America's Cup Harbor \$147.57  
A2 - America's Cup Harbor \$157.07  
A3 - Laurel Street Roadstead \$138.02  
A3 - Laurel Street Mediterranean \$147.57  
A3 - Laurel Street Dual Point \$147.57  
A4 - Bay Bridge Roadstead (Coronado) \$128.17

The above represents an average fee of \$141 per month = \$31 per foot per year, but City maintains mooring and provides dinghy docks for full time access.