

Executive Summary for Establishing Fair Use Fees for 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. Transferability is 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 Newport Harbor, this difference is taken into account in the report's adjustments. It should be noted that in a separate report using CPI adjustments to the fees set by almost all prior City Councils since the 1970, the CPI adjusted amount, approximately \$26 per foot per year, is approximately the same as established by the comparison approach.

For a Proper Comparison, Adjustments Need To Be Made. The monthly mooring fees in San Diego average \$147 per month for a 55 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 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.

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 approximately \$500 per year to maintain the equipment. Therefore, for a proper comparison, the annual permit fee in Newport Harbor should be reduced by \$500 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. The annual permit fee should be reduced by this additional expense.

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 no more than \$801.60, which is \$20 per foot. Even if only \$35 per month were deducted instead of \$50 per month for the lack of access, this would still only justify a maximum annual mooring fee of \$972 per year for a 40 foot mooring. This is an annual fee of approximately \$25 per foot.

It is also the same fee established by almost all prior City Councils since the 1970s, when the prior fees are adjusted for inflation. This fact is shown in a separate report prepared by Patricia Newton. Both approaches, the comparison approach and the CPI approach, reach the same conclusion. The annual fee should not be more than \$25 per foot.

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 will be address in other letters or reports.

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.¹ 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, 2015.²

The monthly mooring fees in San Diego are an average of \$147 per month for a mooring that will accommodate a 40 to 55 foot boat. 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 55 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, any boat on a mooring in San Diego has access to their boats, *at no additional charge*. The mooring permittee in San Diego has unlimited access. He or She is able to leave their motorized dinghies indefinitely, for any length of time, at the public docks. They 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 where mooring permittees can store a small rowing dinghy and lock it for an unlimited amount of time to a secure chain on the beach. This is a second source of full time, unlimited, access for transportation out to the moorings.

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. This cost often is about \$1,200 every other year for the inspection, replacements, weight additions, and painting, and the occasional realignment and breakage. The total cost is \$50 per month (i.e. \$1,200 divided by 24 months).

The Cost of Access

Moorings have *no value* unless there is access available to get out to the moorings. There are only two ways to get out to the moorings. One way is by rowing a small light rowing dinghy (the type that can be put on a rack or stored 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 are not sufficient 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 few people are able to move their dinghies every few 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 dingy 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 \$40 to \$50 per month³, 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 both docks for the larger dinghies with motors, and also beach dinghy storage for smaller light rowing dinghies.

To achieve a true equivalency, there would need to be a \$50 to \$100 per month deduction 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 in water large motorized dinghies. With the addition of some type of dinghy racks or beach storage, a smaller deduction of approximately \$50 per month would be justified.

An Accurate Comparison – getting the formula right

The first step in any comparison is to look at the difference in price between renting a mooring in San Diego Harbor and the cost of renting the same size slip. This can establish a ratio of mooring vs slip fees. The next step is to apply the same ratio in Newport Harbor. The last step would be to subtract or deduct the added costs incurred by a user of a Newport Harbor mooring compared to the use of a San Diego Harbor mooring resulting from the extra costs to be mooring permittee in Newport Harbor.

An alternative analysis would be to take the higher percent charged for a Newport Harbor slips compared to a San Diego Harbor slips, and increase the San Diego mooring rental rates by the same percent, then make the same deductions, i.e. a deduction for the cost to maintain the mooring and a deduction for the lack of access. In the end, the two methods show the same result.

Step 1 - Establishing the Correct Ratio.

The average mooring fee in San Diego for the larger moorings is approximately \$147 per month. This is the fee charged for a mooring that can accommodate a 40 to 55 foot boat. The mooring fees are the same price regardless of the size of the boat. The same is true in Newport Harbor. A 35 foot boat on a 55 foot mooring is charged as if it were a 55 foot boat on the mooring. For 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.¹⁴

Using just 50 feet as the maximum boat size on the San Diego mooring, the \$147 per month mooring fee is \$2.94 per foot per month.⁵ The same 50 foot boat slip in a nearby San Diego marina would rent for approximate \$22 ft per month.⁶ Therefore, using the more appropriate 50 foot comparison (because the comparable moorings in San Diego Harbor can

accommodate up to a 55 foot boat), it is clear that the cost of renting a mooring in San Diego Harbor is about 14% (13.36%) of the cost of a renting a slip of the same size. *However, the mooring fees in San Diego includes the equipment maintenance cost and includes the cost to keep a full time dinghy for unlimited access to the mooring.* If the San Diego mooring permittee had to pay the cost of maintaining the mooring and the cost of finding a place to store his or her dinghy, then \$75 to \$100 per month would be deducted from the \$147/mo fee, which would result in a monthly fee of between \$47 to \$72 per month for a 50 foot boat, which would be between \$1.00 to \$1.44 per foot per month, or a maximum *net* ratio of 6.5% of the cost of renting a slip. The *net* ratio is approximately one-half of the *gross* ratio of 14%.

Step 2 - Using the Ratio.

Slips in Newport Harbor are located at private home docks and a few marinas. Some private home docks rent out their slips. Eliminating the “high-end” marinas, and looking at the average marinas and private home dock rental rates (not “asking prices”), it would appear that the average monthly cost for a 40 foot slip is about \$24 to \$28 per foot/mo.⁷ (This is about 20% higher than the rental rates for a 40 foot slip in San Diego Harbor.)

At \$28 per foot, a 40 foot slip would be \$1,120 /mo (\$13,440 per year). Applying the 14% gross ratio to the moorings in Newport Harbor, the fee for a mooring would be \$156.80 per month, but only if, like San Diego, the City of Newport Beach maintained the mooring equipment and also provided full time dinghy access. Applying the net ratio of 6.5%, the fee for a mooring in Newport Harbor should be no more than \$72.80 per month (or \$873.60 per year, which is approximately \$22 per year per foot).

Step 3 - Equalizing Comparables to Account for Maintenance and Access Issues.

If the net ratio of 6.5% is used, then there is no need to further equalize the comparative pricing, since this has already been taken into account with the reduction of the ratio from 14% to 6.5%. However, if the gross ratio of 14% is used, then as a final step, the added cost of maintenance and cost of access needs to be deducted from the fees a permittee should pay for use of a mooring. 14% of \$1,120, is \$156.80 per month. From the \$156.80 appropriate deductions should then be made because the City of Newport Beach does not provide the maintenance of the mooring equipment, and has not been able to provide dock space for full time access to the moorings. These costs are borne by the permittee, as follows: \$40 maintenance per month, and no less than \$50 per month for the cost of access. The net result after these deductions would be a fee of \$66.80 per month (which is \$801.60 per year, or approximately \$21 per year per foot).

An alternative formula would be to increasing the San Diego mooring rental rates by 20% because the Newport Harbor slips have a 20% higher rate, then make the deductions related to the cost of maintenance and lack of access. For this alternative formula, a 50 foot mooring is used instead of a 40 foot mooring because the comparable San Diego mooring can accommodate a 55 foot boat. Using this formula, the mooring fee would be \$176.40 per month (\$147 increased by 20%) for a mooring that would accommodate a 50 foot boat, less \$40 per month for maintenance of the mooring, less \$50 per month for the cost of access. This would result in a monthly fee of \$86.40, which is \$1,036 per year for a 50 foot mooring, or approximately \$21 per year per foot, the same amount as shown under the “Ratio” formula.

Conclusion

Using the comparison approach and equalizing for the negative impact of the cost maintenance and lack of access, the annual mooring permit fee for a 50 foot mooring in Newport Harbor should be no more than \$1,036, and the annual mooring permit fee for a 40 foot mooring in Newport Harbor should be no more than \$801.60. This is an annual fee of \$20 per foot, which is fully justifiable and defensible. Even if only \$35 per month were deducted instead of \$50 per month for the lack of access, this would still only justify a maximum annual mooring fee of \$1,166 for a 50 foot mooring and \$972 per year for a 40 foot mooring, which is an annual fee of approximately \$25 per foot.

Respectfully Submitted,

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Footnotes:

¹ 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 appraising 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.

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

³ In the first months of 2015, the American Legion offered approximately 24 dry storage racks it 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.

⁴ 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 40 to 55 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 used, these adjustments would need to be made to the study.

⁵ It is noteworthy that a 65 foot mooring in the popular America's Cup Harbor in San Diego rents for \$157.07 per month. That is \$2.45 per foot per month. A 65 foot slip in San Diego would cost about \$24 per foot per month. Therefore in San Diego Harbor, a 65 foot mooring rents for 10% of the same size marina slip, and the mooring rental includes the cost of maintaining the mooring and includes a full time dinghy dock.

⁶ Published rates for the Kona Kai marina on Shelter Island in San Diego Harbor show the rate for 50 foot slips at between \$23 and \$24 per foot per month.

⁷ There are higher asking prices for home dock slips and for marina slips in Newport Beach, but often there are incentives given in the marinas, and home slip rentals often settle on lower prices, and often are not increased over time, so that the actual amounts paid by a boat owner are below the asking prices for home slips and posted rates in the marinas.