

NEWPORT MOORING ASSOCIATION
California Non-Profit Corporation

Dear SLC Executive Officer Lucchesi (Jennifer.Lucchesi@slc.ca.gov)

We are writing to you on behalf of the Newport Mooring Association, a California non-profit corporation representing the interests of boaters in Newport Harbor who, for almost 100 years, have been holders of mooring permits which allow for the only affordable boating access in all of Southern California. The NMA is dedicated to protecting existing low-cost moorings.

In overseeing the tidelands in Newport Harbor, two guiding principles are of utmost importance.

First and foremost, the City may not discriminate in rates charged for use of the tidelands.

Second and equally important, the City Local Coastal Program policy provides that shore and offshore moorings will continue to be at low-cost to the public. (LCP Policy 3.3.2-3. Continue to provide shore moorings and offshore moorings as an important source of low-cost public access to the water and harbor- Exhibit 1).

It is our understanding that a representative from SLC will be presenting the views of SLC at the City of Newport Beach Harbor Commission meeting on March 9th. We believe one or more people at the City has been in contact with SLC and has presented a point of view that may be in contradiction to the guiding principles set forth above. They are attempting to gain support from SLC to enable the City to charge people who can least afford access to the tidelands a rate that is two, four, or even ten times higher than rates the City is charging other groups who are more well to do and more politically influential. For example, the City has published rates for charges for almost every other use of the tidelands based on the square foot of tidelands used. This was a result of a major appraisal report prepared for and approved by the City in 2017. That approved report adjusted for inflation, is generally \$.88 (88 cents) per sq ft per year of tidelands used for berthing of boats, including the boat and the dock space (Exhibit 2). Yet at least some people at the City have expressed the view that when it comes to the use of the tidelands for berthing boats for the least affordable group (people whose boats are on moorings) the City can charge them two, four, or even ten times the rate they charge marinas, restaurant docks, guest docks, and homeowners with docks, for use of the same amount of tidelands. Some at the City have suggested that it is proper to discriminate against the least affordable group, because all the other uses for berthing boats are “Commercial” uses. If anything, the State of California has always recognized that, when comparing commercial vs recreational boating use, it is recreational use that may be entitled to a lower rate. Those holding the view that it is acceptable to discriminate against the least able to pay, also ignore the fact that mooring permits cover both commercial and recreational moorings, and for the last 100 years, there have been no differences in rates charged for these two uses of moorings.

We would encourage SLC to remind the City it should not discriminate in its rates, and, in particular, point out that in 2017 the City approved its extensive appraisal for market rent to be charged for almost every use of the tidelands for the berthing of boats in the Newport Harbor,

and the City may not discriminate against those least able to afford boating by charging those boaters rates far in excess, on a square foot basis, than the City is charging for almost every other use of the tideland for the berthing of boats. This appraisal uses the identical methodology that the State Lands Commission used for Tomales Bay and the San Francisco Bay Area tidelands. Here is a link to the appraisal this very important approved appraisal from the firm of George Hamilton Jones: [636354683478370000 \(newportbeachca.gov\)](https://www.newportbeachca.gov/636354683478370000)

By way of background, there is currently a contested shore mooring fee increase recommendation that was made by the city on January 12th, 2022 (see Exhibit 3). This recommended fee increased the current rates charged for shore moorings from \$1.58 Lineal Foot (“LF”) per month to \$20 a LF per month, which was a proposed increase of over 1,000% (ten times increase). The City’s study shows the square feet occupied by a boat on a shore mooring including the areas in front of, and behind the boat, covers 288 square feet of tidelands. The current rate of \$1.58 LF = \$341.28 per year = \$1.19 per square feet of tidelands used per year for shore moorings. That is the *highest rate* currently being charged by the City for all other uses of the tidelands for berthing boats. Any proposal to increase the rate would mean that persons with shore moorings would be charged far, far more than the City is charging to all other users of the same tidelands for berthing boats.

This fee increase proposal has been held over to March 21st for a public “study session” due to significant public outcry. We are concerned that at the public meeting this Wednesday, on March 9, the City will be asking the representative from the SLC one-sided questions to solicit certain responses that will be used as sound bites on the pending shore mooring fee analysis. We respectfully ask that the SLC representative be mindful and sensitive to the guiding principles set forth above regarding not discriminating in rates and the City’s commitment to the Coastal Commission to provide affordable mooring for boats, as well as the various legalities that involved in the shore mooring fee analysis.

To summarize we would like the SLC, and its representatives, to be aware of the following:

1. Low-cost recreational harbor amenities are protected by the Coastal Act and allowed for in the City municipal code and otherwise.
2. The City is currently proposing to discriminate in how it charges for berthing boats in Newport Harbor, and in that discrimination, the certain people at the City want to put the highest rates on those least able to afford the rates, by increasing their rates to rates that that are 2, 4, or 10 times higher than rates charged for the same square feet of tidelands used. When the City charges for tidelands associated with influential homeowner and marina operators, it uses methodology similar to SLC commission (based on the square foot of tidelands occupied related to berthing a vessel on the tidelands). However, when the City determines rates for less influential mooring permittees it uses a totally different methodology that results in a rate 2, 4, or even 10 times higher than the rate charged for the same tidelands for berthing boat to others.
3. In the past the City has mistakenly stated that the Beacon Bay Bill has specific language requiring fair market rents be charged for any and all uses of the tidelands. At the Harbor

Commission meeting held on January 12th, the NMA presented evidence that this was inaccurate, and that the specific fair market value language of the Beacon Bay Bill (“BBB”) applied only to the residential lots within re Beacon Bay area that were removed from the tidelands. The assistant City attorney agreed that the language regarding fair market value in the BBB only applied to a limited number of residential lots (Exhibit 4). The idea that the City is compelled to charge higher rates is also contradicted in the City’s Resolution 2017-49 when they provided a discounted rate for certain uses, such as fuel docks and yacht club guest docks (Exhibit 4.5). We agree with these discounted rates, but mentioned these discounted rates only to show that the City knows it has a certain amount of downward flexibility, such as a 50% discount, to the extent the discount is for a benefit that supports boating in the Harbor.

4. The City is currently charging waterfront residential pier permittees \$0.55 per square foot annually for the use of tidelands while proposing an increase in fees to shore moorings occupying the tidelands for the same use, five to ten times that amount. We believe the rates being charged to homeowners with docks is fair, but it is unfair to suggest a new rate for shore moorings that is vastly higher on a square foot basis. We are also concerned that there will be an inevitable “ripple effect” on rates for all the other uses in the Harbor, both commercial and recreational, including rates on private piers, in order to make the radical proposed rate increases on moorings appear less discriminatory, and we are concerned that such radical rate increases will be seen, in effect, as a tax on boating in Newport Harbor, a tax that only the wealthiest of boaters can afford to pay (Exhibit 5).
5. The NMA has prepared the attached So Cal Shore Mooring fee comparison, that proves the existing “small boat” shore mooring rate charged by the City (\$341 per year) is reasonable and actually higher than the average rate charged by other Southern California cities (see exhibit 6).

In closing, we ask State Lands Commission staff to consider these matters when preparing the March 9th presentation, and when fielding questions from the Harbor Commission, please remind everyone of the all the guiding principles, especially the responsibility to not discriminate in rates and in encouraging affordable boating in Newport Harbor.

The Board of Directors
Newport Mooring Association
949-771-8600
mail@yournma.org