



CITY OF NEWPORT BEACH

City Manager's Office

February 4, 2013

Dear Neighbor:

First, thank you in advance for reading this letter and for your patience in our process to establish fair market value rent in the harbor. These have been challenging times for all of us as we attempt to do what we're obligated to do under State law.

To that end, enclosed with this letter is your 2013 residential pier permit for the tidelands associated with your pier. As you likely have seen and heard in the recent months, there has been much discussion about these permits and the new rental rates. Your rent has been calculated based on the tidelands square footage on your permit. Basically, the calculation is as shown in the below examples:

Example A Pier

Permit Area: 1,500 SF of tidelands
Fair Market Value by 2017 = \$0.525/SF (\$787.50/year)
2013 Amount (1st Year of fair market value phase-in) = \$237.50 for 2013
Divided in six bi-monthly installments = \$39.58 every two months

Example B Pier

Permit Area: 800 SF of tidelands
Fair Market Value by 2017 = \$0.525/SF (\$420/year)
2013 Amount (1st Year of fair market value phase-in) = \$164 for 2013
Divided in six bi-monthly installments = \$27.33 every two months

If you would like to see the rate adjustments for your particular pier over the next five years, please visit: www.newportbeachca.gov/HarborRenters Please know that in 2012 and in years previous, you were charged a flat administrative fee of \$100 per year, regardless of the size of the tidelands footprint – an amount that appeared on your municipal services statement as approximately \$16.66 per bi-monthly billing cycle. The new rental rate for 2013 replaces that administrative fee, and will also be billed on a bi-monthly basis. Between 2014 and 2017, the rental rate will annually phase in at equal increments until it reaches \$0.525/SF/year in 2017. After 2017, rent will adjust up or down by the change in the consumer price index (CPI) capped at a maximum of 2% per year. In the event you sell your home, the new owner's rate will be subject to change based on new harbor-wide appraisals to be conducted every five years.

I respectfully ask for your assistance in this process by doing the following:

1. Please review the enclosed permit and the diagram to see if the tidelands square footage shown makes sense to you – that includes reviewing property lines, pier footprint, appropriate 10' buffer, and the absence of the "backside" of the float from the permit's square footages. We developed this diagram using our fairly-precise aerial photographs and our Geographic Information System (GIS). We "truth tested" it using field measurements in some cases, and found that our GIS-developed maps slightly

underestimate actual square footage. We have proposed staying with that underestimation, as it benefits you. Where piers are over private waterways, County tidelands, or where a recorded easement allows the dock, no charge is proposed for that portion of the water footprint (and it should be excluded from the diagram).

2. If the diagram makes sense to you, there is nothing more you need to do. The charges will be billed as indicated above.
3. If something about the diagram does not make sense to you, please contact us. Either Chris Miller (cmiller@newportbeachca.gov or 949-644-3043) or Shannon Levin (shannon@newportbeachca.gov or 949-644-3041) of our Harbor Resources Division are available to assist you.
4. Consider attending one of our "Open House" meetings about this issue. City staff (Harbor Resources and GIS) will host and attend these meetings, which are scheduled for:

Thursday, February 14, 2013 from 4:00 to 5:30 p.m.
Tuesday, February 19, 2013, from 6:00 p.m. to 7:30 p.m.

Both Open House meetings will be held at the old City Council Chambers at 3300 Newport Boulevard. During these meetings, we will have examples of pier configurations and may be able to answer specific questions about your own pier's square footage, depending on the amount of people who attend. You do not have to RSVP - please just attend if you have questions and are able to make one of the meeting times.

5. After the Open House meeting and after a meeting with Chris or Shannon, if you still believe that the City's square footage for your pier area is incorrect, we have established an independent appeal process. The appeal process costs \$100. During that appeal, an independent hearing officer will review the information about the square footage and make a decision. If the hearing officer determines that the City's calculation is incorrect, the new pier area will be established and your \$100 appeal fee will be refunded to you.
6. If you decide you will be renting out your pier to a third party, it will be legal after March 1, 2013 to do so. It has not been legal previously. You will notice the default setting in section 3.D. on the permit that states your pier will not be rented. However, if you would like to rent your pier, you will need to notify Chris or Shannon of your intent, and the rental charge is higher – eventually estimated to be \$1.26/square foot per year (phased-in over seven periods). Please contact Chris or Shannon for the phase-in amount for 2013.
7. Review our website for more information. This has been a long process, and there is a lot of misinformation out there. You can find out about how the City came to the conclusions it did, along with the basics of the rental charge, on the City's website at www.newportbeachca.gov/HarborRenters

I will conclude here by again thanking you for your patience with this process and these changes. We know that increasing the rental charges has been frustrating and made people angry. We have been frustrated with it as well. But we believe that we are legally required to raise rents to fair market value. We have also pledged that all of the revenue from the rental increases will go towards specific infrastructure improvements to Newport Harbor, from dredging to sea wall repair and more, and will soon be bringing language to City Council to memorialize that.

Thank you again for taking the time to read this letter and review your new permit and diagram.

Sincerely,



DAVE KIFF
City Manager



CITY OF NEWPORT BEACH

HARBOR RESOURCES

829 Harbor Island Dr., Newport Beach, CA 92660

(949) 644-3034

HarborResources@newportbeachca.gov

RESIDENTIAL TIDELANDS PIER PERMIT

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PASADENA CA, 91125-0001

(1) Permittee: This Permit is issued on March 1, 2013 to the above listed permittee ("Permittee") to construct/maintain a residential pier located upon City of Newport Beach ("City") tidelands, as more particularly described and depicted in Attachment 1 ("Premises"), which is attached hereto and incorporated by reference. By acceptance of this Permit, the Permittee agrees to be bound by the terms contained in this Permit.

(2) Term: This Permit shall be valid for a period of twelve (12) calendar months beginning on March 1, 2013 and expiring on February 28, 2014, unless terminated earlier as provided herein.

(3) Rent: Rent shall be calculated pursuant to Resolution No. 2012-120, or any successor/amended resolution. Resolution No. 2012-120 and any successor/amended resolution are automatically incorporated by reference into this Permit, without any further action by the parties, when adopted by the Newport Beach City Council.

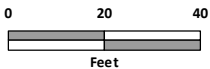
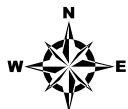
(A) Periodic Payment of Rent: One-sixth (1/6) of annual rent for a particular year shall be received by the City within nineteen (19) days after the mailing of the Municipal Services Statement to Permittee. Bi-monthly rent will be billed with the Permittee's Municipal Services Statement.

(B) Place for Payment of Rent: All payments of rent shall be made in lawful money of the United States of America and shall be paid to City on line at www.newportbeachca.gov, in person or by United States' mail, or overnight mail service, at the Cashier's Office located at 3300 Newport Boulevard, Newport Beach, CA 92658, or to such other address as City may from time to time designate in writing to the Permittee. The Permittee assumes all risk of loss and responsibility for late charges and delinquency rates if payments are not timely received by the City regardless of the method of transmittal.

(C) Late Charges: A ten percent (10%) late charge, or the maximum rate allowable under State law, shall be added to all payments due but not received by City by the due date.

- (D) Third-Party Use: This Permit allows / does not allow (check one) the Permittee to rent/lease the Premises to a third-party.
- (4) Utilities and Taxes: The Permittee is solely responsible for obtaining all utilities and paying all taxes, fees and assessments for the Premises or improvements located thereon.
- (5) Possessory Interest Tax Notice: The City hereby gives notice to the Permittee, pursuant to Revenue and Tax Code Section 107.6 that this Permit may create a possessory interest that is the subject of property taxes levied on such interest, the payment of which taxes shall be the sole obligation of the Permittee. The Permittee shall advise in writing any sublessee, licensee, concessionaire or third party using the Premises of the requirements of Section 107.6.
- (6) Compliance With Applicable Laws: The Permittee is required at its sole expense to comply with all applicable City, County, State and Federal laws, policies and regulations.
- (7) Maintenance: The Permittee assumes full responsibility for operation and maintenance and repair of the Premises and associated improvements throughout the term of this Permit at its sole cost, and without expense to the City.
- (8) Transfer/Assignment: This Permit may be transferred or assigned by the Permittee as provided in the Newport Beach Municipal Code.
- (9) Termination: This Permit may be terminated for cause (e.g., failure to abide by the terms of this Permit, etc.) by the City with no less than thirty (30) calendar days prior written notice to the Permittee. In the event of termination under this section, the City shall owe no compensation to the Permittee and the Permittee shall remove all improvements from the Premises within ninety (90) calendar days. The Permittee shall continue to pay rent to the City during the period in which the improvements are removed. Alternatively, the Permittee, with the City's prior written consent, may quitclaim all fixtures, equipment, and improvements on the Premises to the City. Notwithstanding any other provision of this Permit as permitted by California Public Resources Code Section 6312, or any successor statute, the parties agree that upon expiration or earlier termination of this Permit the City shall have no liability or obligation to pay compensation for any improvements made to the Premises.
- (10) Insurance: The Permittee shall maintain liability insurance for the Premises and the improvements located thereon. The City may in its sole and absolute discretion require a Permittee to produce written evidence of the insurance required under this section.

Attachment 1: Description & Depiction of Premises



Permit Area



Bulkhead &
Pierhead Lines

Residential_Pier_Atlas.mxd

1108 BAY AVE W

(Permit Area: 2,040 sq. ft.)



Harbor Resources
City of Newport Beach
January 31, 2013