

CITY OF SANTA BARBARA WATERFRONT DEPARTMENT

MEMORANDUM

Date: February 19, 2015
To: Harbor Commission
From: Scott Riedman, Waterfront Director
Subject: **Appeal of Termination of Slip Permit 4A021, Mr. Richard Smith**

RECOMMENDATION:

That Harbor Commission consider Mr. Richard Smith's appeal of a slip permit termination for berth 4A021 in Santa Barbara Harbor; and take action to either:

- A. Uphold the termination; or
- B. Uphold Mr. Smith's appeal

Appeal:

This matter stems from a determination by the Waterfront Director to terminate Slip Permit 4A021. Notice of Termination was provided to the Slip Permittee, Mr. Richard Smith, on December 2, 2014 (Attachment 1). On December 12, 2014, the Slip Permittee, through his legal representative, submitted a written request for a waiver of the termination by the Waterfront Director (Attachment 2). On January 12, 2015, the Waterfront Director denied the waiver request (Attachment 3). On January 21, 2015, the Slip Permittee appealed that determination (Attachment 4). The appeal was subsequently placed on the Harbor Commission agenda for February 19, 2015.

Slip Permits:

The Waterfront Department assigns slip permits to boaters wishing to berth their vessels in Santa Barbara Harbor (Attachment 5). Berthing a vessel in Santa Barbara Harbor is a privilege, not a right. Slips are assigned for the purpose of recreational boating and commercial fishing, and may not be used for conducting business or living aboard without permits issued by the Department (Attachments 6, 7). A vessel owner wishing to berth a vessel in Santa Barbara Harbor must first be issued a slip permit by the Waterfront Director (SBMC 17.20.005). Slip permits are licenses that extend from one month to the next unless terminated by the Waterfront Director or the licensee (Attachments 8, 9). Specific rules and regulations attached to each slip permit govern the permits and are signed by prospective slip permittees prior to issuance (Attachment 10). Failure to comply with the Municipal Code or any Rules and Regulations that govern slip permits are causes for slip permit termination (Attachment 11).

The following specific laws and rules are applicable to this matter:

1. Failure of Slip Permittee to Comply with Waterfront Department Rules and Regulations. A slip permittee or slip permittee's guest, visitor, or invitee's failure to comply with all applicable local, state and federal laws and all Waterfront Department Rules and Regulations may result in termination of the Slip Permit (SBMC 17.20 I.5).
2. Slip permits may not be loaned or subleased (Marina Rules and Regulations Number 17).
3. Boat owners may stay aboard their vessels a maximum of three (3) nights during any seven (7) day period. A live aboard permit is required for time aboard greater than this (Rules and Regulations, Number 5).
4. It is unlawful for any person to live aboard in Santa Barbara Harbor without having been issued a valid live-aboard permit by the Waterfront Director (SBMC 17.18.010).
5. No person shall engage in any business or commercial activity of any kind whatsoever in the Harbor District without first having applied for and obtained the appropriate license, lease or permit (SBMC 17.28.010).
6. At the discretion of the Waterfront Director, boats may be moved or reassigned as necessary (Rules and Regulations, Number 7).
7. Marina Berth. The City retains the right to reassign the Permittee to other marina berths and to utilize the Permittee's berth for other vessels when it is temporarily vacant (Slip Permit, Number 4).
8. Rules and Regulations. Slip Permittee agrees to abide by Municipal Ordinances relating to Harbor use, posted rules and attached regulations, and any new regulations, policies or ordinances that may be adopted (Slip Permit, Number 7).

Slip Permits are Licenses:

Slip permits in the City of Santa Barbara are issued as "limited licenses" for the purpose of mooring the permittee's vessel in the Harbor subject to the terms set forth in the license document (see Attachment 5).

Mr. Smith argues that the Slip Permit, while issued as a "limited license" that he expressly acknowledged on the Slip Permit, is actually a "lease" that vests in him a "significant property interest" that can only be terminated through an unlawful detainer action filed in the Superior Court. Mr. Smith is incorrect. A Slip permit in the Santa Barbara Harbor gives a slip permittee the right to berth a vessel in a slip pursuant to the express permission of the Waterfront Director. That is all. A slip permittee *does not* hold any interest or estate in the City's (or the public's) property.

To determine whether a particular contract should be deemed a "license" or a "lease," a court will look to the type of possession granted by the parties to the transaction. "[w]hether an agreement for the use of property constitutes a license or a lease

generally is determined by the nature of the possession granted. If the contract gives exclusive possession of the premises against all the world, including the owner, it is a lease; if it merely confers a privilege to occupy the premises under the owner, it is a license.”” (Qualls v. Lake Berryessa Enterprises, Inc (1999) 76 Cal.App.4th 1277, 1283 (1999) quoting 6 Miller & Starr, Cal. Real Estate (2d ed. 1989 Section 18:5, p.14). “This is a question of law arising out of construction of the instrument and the expressed intent of the parties under an objective standard.” (6 Miller & Starr, Cal. Real Estate (2d ed. 1989 Section 18:5, p.14)

In the case of slip permits in Santa Barbara Harbor, according to the express provisions of the slip permits, slip permittees are not given exclusive possession of a berth in the Harbor. The Waterfront Director retains the right to reassign the permittee to other marina berths and to utilize a permittee’s berth for other vessels when it is temporarily vacant (See Attachment 5—Slip Permit Number 4).

Further, according to Rule 7 of The City’s Slip Permit, signed by each prospective permittee, at the discretion of the Waterfront Director, boats may be moved or reassigned as necessary (Attachment 12).

Mr. Smith relies on the case of Smith v. Municipal Court (1988) 202 Cal.App. Cal.App.3d 685 for the proposition that the City must use the process of unlawful detainer to evict him for the Harbor. That case, however, has no application to Santa Barbara Harbor. In Smith v. Municipal Court, the court found that a 20-year license to construct wharves and operate a marina could be construed as a lease and, as such, the licensee (marina operator) could evict persons who contracted to berth boats in the marina. The court held merely that unlawful detainer was *one* of the remedies available to the landlord to evict a defaulting boat owner from the marina.

Background—“Boatels” Activity in Santa Barbara Harbor

In 2012, staff became aware that some slip permittees were renting slips and their associated vessels for short-term vacation rentals (“boatels”) and ocean charters. Advertising for these “boatels” typically appear on internet sites like AirBnB.com. These activities constitute violations of Slip Permit Rules and Regulations that prohibit renting slips to individuals not listed on the slip permit, and the Santa Barbara Municipal Code, which prohibits living aboard a vessel for longer than four nights during a seven-day period without a permit or conducting a business in the Harbor without a permit.

In response, staff has repeatedly notified the boating community that this activity violates slip permit Rules and Regulations and the Municipal Code, and that such violations would result in slip-permit termination. Discussion and warnings about this activity occurred three times at the Harbor Commission, in 10/13, 9/14 and 10/14 (Attachments 13, 14, 15). In addition, an article in the December, 2013 issue of *Docklines*, a Waterfront Department newsletter mailed to all slip permittees, cautioned against permittees renting their slips (Attachment 16). In October, 2014, staff posted signs on marina gates that warn against this activity and clearly state the consequence for doing so, including slip-permit termination (Attachment 17).

These notifications reflect staff's diligent effort to uphold policy directives of the Local Coastal Program and Harbor Master Plan, which describe Santa Barbara Harbor as a "Working Harbor" with priorities for commercial fishing and recreational boating. Demand for slips to accommodate these priority uses far exceeds supply. The Master Slip Waiting List, for example, still includes 28 applicants, some of whom have been waiting decades for a slip in the Harbor. Using slips as unpermitted "boatels" violates the law and counteracts policies intended to maintain the Harbor as a commercial fishing and recreational boating port.

Grounds for Terminating Mr. Richard Smith's Slip Permit:

During a routine review of the AirBnB website in July, 2014, staff discovered a "listing" for vacation rentals and island charters aboard a vessel whose name and specific location were not given, nor was a phone contact provided. The post appeared in Carpinteria and Goleta AirBnB listings, but not Santa Barbara. Since there are no harbors in Carpinteria or Goleta, staff assumed the vessel in question was likely berthed in Santa Barbara Harbor.

The AirBnB listing also did not include the vessel owner's name (other than to say "Randy" was its "host"), though it did post nightly rates (including amenities) for staying aboard, plus a weekly rental rate of \$800.00—approximately 2.4 times the *monthly* slip fee for 4A021 (Attachment 18). Photos of the vessel in "Randy's" posts showed no characteristics by which staff could identify the vessel and included what appeared to be photos taken *from* the boat, not *of* the boat (Attachment 19). Customer reviews confirmed that the vessel was also being used for island charters (Attachment 20).

On or about November 7, 2014 "Randy" began an online dialog on his AirBnB site with a prospective customer, explaining that his boat was in Santa Barbara Harbor, stating, "Sorry about my vague profile but the City does not like my AirBnB business so I have to keep it low key. . . there is only one 'private' room with a door on the boat. I live on the boat but I can sleep elsewhere is you so desire (sic)" (Attachment 21).

Subsequently, "Randy" provided his phone number (for texting purposes) to the prospective client, in case the client wanted further information about "Randy's" advertised AirBnB vacation rental and charters (see Attachment 21, page 2). Cross-referencing that phone number with Waterfront Department records, it matched a parking permit and phone number in the name of Mario Geary, co-owner of a vessel with Richard Smith in slip 4A021 (Attachments 22, 23). **[Note:** Richard Smith has been the sole slip permittee in 4A021, a 35' slip, since September 13, 1999. In 2011, he switched boats registered to that slip from a Coronado 35 to an Islander 34, adding Mario T. Geary as co-owner of the vessel, but not a slip permittee. Since Mr. Smith became a Slip Permittee in 4A021, he has not applied for either a Liveaboard Permit or Business Activity Permit.]

Further research via Google and Facebook indicated that photos posted on "Randy's" AirBnB profile were identical to photos posted on a Google blog registered to Mario Geary, and a Facebook account for a Mario Randleson--aka "Randy" (Attachments 24),

25). In summary, it appears “Randy” was an alias used by Mario Geary for promoting his AirBnB business from slip 4A021.

Slip Permit Rules and Regulations signed by Mr. Smith expressly provide that the slip permit may not be loaned or used by any other person and requires that the slip permittee be responsible and accountable for the activities of his/her guests. Mr. Smith allowed Mr. Geary to conduct a business out of his slip without the required Business Activity Permit and to live aboard the vessel without a the required Liveaboard Permit, both violations of the Santa Barbara Municipal Code.

On November 18, 2014, Harbor Operations Manager Mick Kronman and the Department’s Executive Assistant Jeanette Prusinski met with Mr. Richard Smith at the Waterfront Department (notes from the meeting, taken by Ms. Prusinski, are included as Attachment 26). At the outset of the meeting, Mr. Kronman informed Mr. Smith of the Department’s investigation and conclusions resulting from the AirBnB vacation-rental and charter operation conducted from slip 4A021. Mr. Kronman informed Mr. Smith that based on findings from this investigation the Department intended to issue Mr. Smith a 30-day slip-permit-termination notice.

During this meeting, Mr. Smith said Mario Geary had received a phone call from the Harbormaster about the AirBnB operation “a couple of months ago,” and that Mr. Smith had told Mr. Geary to take down the site if the “harbor saw it as a problem,” adding, “If Mario is still doing this he’s lying to me.”

Mr. Smith then asked if “we” could phone Mr. Geary to discuss the situation with him. On the resulting speaker-phone conversation, Mr. Smith told Mario, “They’re terminating my slip permit.” Mario said he couldn’t do anything about it since he’s “stuck in L.A.” Mr. Smith told Mario, “Stop these reservations.” Mario said “okay.” Mr. Kronman told Mr. Geary that the Department has been tracking his aliases and activities for some time. Mr. Geary said the worst he thought would happen if he was caught was termination of “their lease” (referring to an arrangement between Mr. Geary and Mr. Smith). Mr. Smith then said it was a “partnership.” Mario asked Mr. Smith when he (Mr. Geary) needs to get “his boat” out of Mr. Smith’s slip. The boat left the slip four days later, on November 22, 2014 (Attachment 27).

Mr. Smith claims he should not be held responsible for violations of the Municipal Code and Harbor rules. He claims that even though he was the sole Slip Permittee in 4A021 and allowed the co-owner of the vessel occupying the slip (and payer of monthly slip fees) to engage in the violating activities, it was not Mr. Smith who engaged in those activities, of which he claims he had no knowledge, and thus he should not be punished for them (See Attachment 4, p.1).

As noted in Attachment 26, statements made to Waterfront staff indicate Mr. Smith was aware of illegal activities engaged in by Mr. Geary aboard the boat they co-owned in slip 4A021. Moreover, since Mr. Smith was the sole Slip Permittee in 4A021, Mr. Geary could only be allowed access to the slip as a guest or invitee of Mr. Smith’s. SBMC Section 17.20.I.5 provides that a slip permit may be terminated for failure of the slip permittee or the slip permittee’s guest, visitor, or invitee’s to comply with all applicable

local, state and federal laws and all Waterfront Department Rules and Regulations. Thus, Mr. Smith's Slip Permit was subject to termination due to the activities of his guests and invitees, whether he knew about those activities or not.

In summary, grounds for termination of Mr. Richard Smith's Slip Permit include:

1. **Violation of Santa Barbara Municipal Code Section 17.18.010.** Mr. Smith allowed his guest (Mr. Geary), for whom he is responsible, to live aboard his vessel "on any four nights during a seven (7) day period" and which did not meet the Vacation Use Exception as defined by Section 17.18.090 of the Santa Barbara Municipal Code.
2. **Violation of Santa Barbara Municipal Code Section 17.28.010.** Mr. Smith allowed his guest (Mr. Geary), for whom he is responsible, to conduct business activities (vacation rentals and charters) without having applied for and obtained the required permit.
3. **Violation of Marina Rules and Regulations Number 17.** Rule 17 prohibits slips from being loaned or subleased by the slip permittee. Mr. Smith violated Rule 17 by loaning his slip to Mr. Geary. Mr. Smith also violated Rule 17 by allowing his guest (Mr. Geary) for whom he is responsible, to loan out slip 4A021 for purposes of operating vacation rentals of the boat and slip as well as island charters.

- Attachments:
1. Notice dated Dec 2, 2014 – 30-Day Notice of Slip Permit Termination
 2. Letter dated Dec 12, 2014 – Request for a Waiver of Termination
 3. Letter dated Jan 12, 2015 – Waterfront Director Denial of Waiver
 4. Letter dated Jan 21, 2015 – Request to Appeal Determination
 5. City of Santa Barbara Waterfront Department Slip Permit Form
 6. SBMC 17.28.010 – Permit Required, Business Activity
 7. SBMC 17.18.010 – Permit Required, Live Aboards
 8. SBMC 17.04.010 DD, EE – Definitions
 9. SBMC 17.20.005 I – Waterfront Director Termination of Slip Permits
 10. Santa Barbara Slip Permit, Page 2 – Marina Rules and Regulations
 11. SBMC 17.20.005 I (5) – Failure of Slip Permittee to Comply With Waterfront Department Rules and Regulations
 12. Marina Rules and Regulations – Rule #7
 13. Oct 17, 2013 Harbor Operations Report to the Harbor Commission, "Slip Sublets, Leases, Loans or Rentals – A Violation of City Rules"
 14. Sept 25, 2014 Harbor Commission Minutes, Commission/ Staff Communications
 15. Oct 23, 2014 Harbor Commission Minutes, Commission/ Staff Communications
 16. Dec 2013 issue of *Docklines* – Slip Sublets or Rentals – A Violation of City Rules
 17. Warning Sign posted on all marina gates
 18. AirBnB.com – "Randy's" Profile

19. AirBnB.com – “Randy’s” Profile Pictures
20. AirBnB.com – “Randy’s” Customer Reviews
21. AirBnB.com – E-Mail Correspondence with “Randy”
22. Registration Card for Waterfront Parking Pass #4891
23. Page 1 of the Slip Permit for berth 4A021
24. Google Blog in the name of Mario Geary
25. Facebook Profile in the name of Mario Randleson
26. Notes of a Meeting with Richard Smith on Nov 18, 2014
27. Temporarily Available Slip Report

Prepared by: Mick Kronman, Harbor Operations Manager



City of Santa Barbara
Waterfront Department

February 19, 2015
#5

www.santabarbaraca.gov

December 2, 2014

Certified Mail 7013 0600 0000 7974 5892

Mr. Richard Smith
5516 Armitos Avenue #66
Goleta, CA 93117

Administration
Tel: 805 564 5531
Fax: 805 560 7580

Parking
Tel: 805 567 1985
Fax: 805 560 7580

Stearns Wharf
Tel: 805 564 5518
Fax: 805 563 1975

Harbor Patrol
Tel: 805 564 5530
Fax: 805 897 2588

Harbor Maintenance
Tel: 805 564 5522
Fax: 805 563 1131

PO Box 1350
Santa Barbara, CA
93102-1350

RE: Slip 4 A021, Slip Permit Termination

30-DAY NOTICE OF SLIP PERMIT TERMINATION

Mr. Smith:

This letter serves as the City's 30-day notice of termination of Slip Permit 4A021 in Santa Barbara Harbor. The slip permit for berth 4A021 will terminate thirty (30) days from December 2, 2014. As such, the termination will be effective January 2, 2015. I am taking this action due to the use of slip 4A021 and its occupant vessel CF 6470 GF for:

- Vacation ("boatel") rental of boat and slip, in violation of Rule #17 of Marina Rules and Regulations included in the Slip Permit you signed on December 27, 2011;
- Illegal liveaboard activities, in violation of MC 17.18.010; and
- Operation of a chartering business without a City-issued Business Activity Permit, in violation of MC 17.28.010

Authority to terminate your slip permit for the violations noted above is contained in SBMC17.20.005 I (5) (Attachment 4). If you so choose, you may appeal this slip permit termination under provisions described in SBMC 17.20.005 J (Attachment 5).

If you have any questions, please call me at 805-897-2587.

Sincerely,

Mick Kronman
Harbor Operations Manager

- Attn:
1. Slip Permit signed 12/27/11, Rules and Regulations (see #17)
 2. SBMC 17.18.010 Liveaboard Permit Required
 3. SBMC 17.28.010 Permit Required—Business Activity
 4. SBMC 17.20.005 I (5)—Termination of Slip Permits
 5. SBMC 17.20.005 J—Appeal procedure, slip permit termination
 6. Vacation rental listings and reservation calendars for slip 4A021 (source: Airbnb.com)
 7. Evidence of illegal liveaboard (source: Airbnb.com)
 8. Evidence of illegal chartering (source: Airbnb.com)

CC: Scott Riedman, Waterfront Director
Sarah Knecht, Assistant City Attorney
Richard Smith, First Class Mail

Attachment #1

February 19, 2015
#5

FELL, MARKING, ABKIN, MONTGOMERY, GRANET & RANEY, LLP
ATTORNEYS AT LAW

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JAMES E. DAVIDSON
WRITER'S EMAIL:
DTAPPEINER@FMAM.COM

December 12, 2014

VIA CERTIFIED MAIL AND HAND DELIVERY

Mr. Mick Kronman - Harbor Operations Manager
Mr. Scott Riedman – Waterfront Director
City of Santa Barbara
Waterfront Department
132-A Harbor Way
Santa Barbara, CA 93109

And P.O. Box 1990
Santa Barbara, CA 93102-1990

Re: Mr. Richard H. Smith – Slip 4 A021 – Slip Termination Notice

Dear Messrs. Kronman and Riedman:

We have been retained by Mr. Richard Smith with respect to the 30-Day Notice of Slip Permit Termination dated December 2, 2014 (“Slip Termination Notice”) concerning the real property/boat slip in the Santa Barbara Harbor identified as Slip 4 A021 (the “Slip”).

This letter is intended to be an informal appeal and request for waiver of the termination under *SBMC 17.20.005 J* to you and Mr. Scott Riedman (the Waterfront Director) for the reasons stated herein. However, to the extent necessary, it is also intended to serve as a formal appeal in order to ensure that our client does not lose any of his rights.

Without admitting any of the alleged violations set forth in the Slip Termination Notice, our client assures you that there are no continuing violations at the Slip. Accordingly, any violations of the Marina Rules and Regulations or the Santa Barbara Municipal Code which may have occurred have been corrected and our client assures you that there will be no further such violations.

Attachment #2

February 19, 2015
#5

Mr. Smith's ability to continue to occupy and use the Slip is very important to him. He apologizes for any violations and respectfully requests a one-time waiver of the termination.

While it is our sincere hope that the waiver will be granted and that the Slip Termination Notice will be withdrawn, we would also like to point out that it is our understanding that any termination of our client's Slip rights is subject to California's statutory unlawful detainer procedures as the Slip is considered to be real property. This was the finding in *Smith v. Municipal Court* (1988) 202 Cal.App.3d 685: "Water in its natural state is part of the land; therefore, a rented boat slip or berth in a marina is "real property" subject to the unlawful detainer statutes. *Smith* at 689-690.

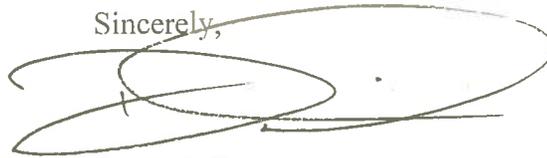
Similar to a tenant who leases an apartment, if there is a breach of a term of the lease, the tenant has the ability to cure the breach and avoid eviction.¹ As noted above, to the extent there were any violations of the rules or the SBMC, Mr. Smith has cured any such violations. Accordingly, we believe he would have legitimate defenses if an unlawful detainer proceeding was to be commenced.

Again, it is our hope that Mr. Smith's request for a waiver of the termination and withdrawal of the Slip Termination Notice will be granted for the reasons set forth herein. If not granted for some reason, we believe that possession of the Slip cannot be re-taken without following the statutory unlawful detainer procedures, thus affording Mr. Smith the ability to present his defenses to such an action.

Please feel free to contact me directly if you have any questions or concerns that are not addressed in this correspondence.

Your time and consideration of Mr. Smith's requests are sincerely appreciated.

Sincerely,



David J. Tappeiner

cc: Richard H. Smith
Joshua P. Rabinowitz, Esq.

¹ There are exceptions of course (e.g., non-payment of rent and breaches that cannot be cured).



City of Santa Barbara
Waterfront Department

February 19, 2015
#5
www.SantaBarbaraCA.gov

January 12, 2015

Mr. David Tappeiner, Esq
Fell, Marking, Abkin, Montgomery, Granet & Raney, LLP
222 East Carrillo Street, Fourth Floor
Santa Barbara, CA 93101

Administration

Tel: 805 564 5511
Fax: 805 564 5511

Re: Decision on Request for Waiver, slip permit termination—4A021

Mr. Tappeiner:

Parking

Tel: 805 857 1965
Fax: 805 530 7580

As indicated in my letter to you on December 14, 2014, this letter responds to your request, on behalf of your client, Richard Smith, to waive my determination to terminate Slip Permit 4A021. I have considered and weighed all points you advanced in your December 12, 2014 letter to me regarding the slip permit termination for berth 4A021 in Santa Barbara Harbor, as well as all applicable rules, regulations, policies and laws pertinent to this issue. I have also reviewed the file containing facts supporting the determination to terminate the slip permit.

Stearns Wharf

Tel: 805 564 5516
Fax: 805 963 1970

I have determined that in this case the scope and nature of the violations of the Slip Permit Rules and Regulations do not warrant a waiver of the termination. Furthermore, I would like to draw your attention the express language of the slip permit which provides that it is "a limited license" that may be terminated by the City upon violation of its terms. Your client acknowledged that fact and agreed to those limitations.

Harbor Patrol

Tel: 805 564 5530
Fax: 805 897 2588

Your letter of December 12, 2014 states that it is both a "waiver" and an "informal appeal" and a "formal appeal" of the slip permit termination. Section 17.20.005 (J) of the City of Santa Barbara Municipal Code, attached to this letter, provides, in part, "the slip permittee may appeal the Waterfront Director's decision to the Harbor Commission. The appeal shall be filed in writing with the City Clerk within ten (10) days of the date of the Waterfront Director's decision." Please confirm your client's intent with regard to pursuing an appeal, in writing, within this ten (10) day appeal period. If you wish to submit any supplemental materials for consideration by the Harbor Commission, please deliver those to this office no later than February 2, 2015. The first available date the Harbor Commission could hear your appeal would be at its February 19, 2015 meeting.

Harbor Maintenance

Tel: 805 564 5522
Fax: 805 956 1411

PO Box 1990

Santa Barbara, CA
93102 1990

I look forward to your reply.

Sincerely,

Scott Riedman
Waterfront Director
City of Santa Barbara
805-564-5519

Enclosures: SBMC 17.20.005 J

Cc: Richard H. Smith
Sarah Knecht, Assistant City Attorney
Mick Kronman, Harbor Operations Manager

Attachment #3

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JAMES E. DAVIDSON

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January 21, 2015

VIA HAND DELIVERY AND CERTIFIED MAIL

Santa Barbara Harbor Commission
Office of the City Clerk
735 Anacapa Street
Post Office Box 1990
Santa Barbara, CA 93102-1990

Re: Appeal of Slip Permit Termination - Slip 4A021

Dear Commission Members:

We represent Richard Smith, the current owner of the real property/boat slip in the Santa Barbara Harbor commonly identified as Slip 4A021 (the "Slip"). This letter is intended to serve as a formal appeal of the Waterfront Director's Slip Permit Termination and subsequent denial of our client's request for a waiver of the termination under *SBMC 17.20.005J*.

Enclosed for reference as **Exhibit A** is our letter dated December 12, 2014, requesting a waiver of the Slip Termination. **Exhibit B** is the letter from Mr. Scott Riedman (Waterfront Director) dated January 12, 2015, denying the waiver request.

Factual Background:

Mr. Smith has been the "owner" of the slip for approximately fifteen (15) years. Of that time, Mr. Smith used the slip for his personal vessel without significant incident for approximately twelve (12) years. Mr. Smith subsequently sold his vessel and took on a partner who had his own vessel and who agreed to pay all of the slip fees as Mr. Smith no longer had any need for the use of the Slip. This arrangement lasted for approximately three (3) years. Mr. Smith intended to either acquire another vessel or to sell/transfer the Slip to a third-party. During the time that the Slip was being used by Mr. Smith's partner, Mr. Smith had no knowledge of the violations that were allegedly committed by his partner. When he was given

notice of the violations in November 2014 by Mr. Kronman, Mr. Smith took immediate action to terminate the relationship with his partner. Very shortly thereafter, Mr. Smith's partner moved his vessel from the Slip.

Argument:

We believe that a waiver of the termination of the Slip permit was warranted because Mr. Smith is a longtime Slip holder and took immediate action upon learning of the breaches of the Slip Permit Rules and Regulations allegedly committed by his partner. Further, there are no on-going violations, other than the fact that there is currently no vessel attached to the Slip.

In addition to the foregoing, as explained in our letter of December 12, 2014, we believe that the Slip interest constitutes a real property right. *SBMC 17.20.005B* refers to the Slip Rental Agreement and provides that the term shall of the rental "shall be for month-to-month terms," which is more similar to lease terminology than to a license. We further believe that in order for Mr. Smith to be divested of his property rights, an unlawful detainer action would need to be commenced in the Santa Barbara Superior Court. As explained in our letter, the Court in *Smith v. Municipal Court* (1988) 202 Cal.App.3d 685 confirmed that a rented boat slip is "real property" and subject to the unlawful detainer statutes, finding as follows:

"Water in its natural state is part of the land. Therefore a rented boat slip for birth in a marina is 'real property' subject to the unlawful detainer statutes." *Smith* at 689, 690.

While the Slip permit may be designated by the City of Santa Barbara as a license, the City's classification of it as a license does not necessarily make it so. Our client has a significant property interest in the Slip. We do not believe that his interest in the Slip can be terminated absent a formal unlawful detainer proceeding. He should have the right to defend against the termination in the same manner that a tenant of other real property has.

As you are well aware, the slips in the Santa Barbara Harbor are at a premium. Our client paid significant money in order to obtain the Slip. We do not believe that his significant property rights can be taken by the City by a mere revocation of an alleged license. Our research does not show any case law that is contrary to the *Smith* case cited above and it does not appear that this issue has been tested in the Santa Barbara courts.

As our client no longer owns a vessel, he would simply like the opportunity to transfer his Slip to a third-party and attempt to recoup the significant amount of money that he paid to acquire the Slip. Accordingly, our client proposes to resolve this matter, as follows:

The Slip Permit will be reinstated upon the following conditions: (i) Mr. Smith shall make no further use of the Slip, and (ii) he shall be given one hundred twenty (120) days to secure the transfer of the Slip to a third-party, subject to the customary and reasonable approval by the City.

This proposal will allow Mr. Smith to find a suitable transferee for the Slip and to hopefully to recoup at least some of the significant premium that he paid in order to obtain the Slip in the first instance. In speaking with Mr. Riedman, he indicated that the Commission may consider this proposal as a reasonable solution to this matter.

If the appeal is denied and no other resolution is available, then Mr. Smith's only option will be to seek injunctive relief through the court. We do not believe this should be necessary under the circumstances and we urge you to give due and proper consideration to the proposal set forth above. We also understand that the City will likely benefit from allowing the Slip to be transferred due to the significant Slip transfer fee of \$200.00 to \$375.00 per foot that is to be imposed.

I am happy to discuss the forgoing proposal with you to see if we can structure a proper settlement at your earliest convenience.

Sincerely,

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke at the end.

David J. Tappeiner

DJT/mal

cc: Richard H. Smith
Scott Riedman, Waterfront Director
Sarah Knecht, Assistant City Attorney
Mick Kronman, Harbor Operations Manager
Joshua P. Rabinowitz, Esq.

February 19, 2015

#5

EXHIBIT A

Attachment #4

February 19, 2015
#5

FELL, MARKING, ABKIN, MONTGOMERY, GRANET & RANEY, LLP
ATTORNEYS AT LAW

222 EAST CARRILLO STREET, FOURTH FLOOR
SANTA BARBARA, CALIFORNIA 93101
TELEPHONE (805) 963-0755 • FACSIMILE (805) 965-7237

DOUGLAS E. FELL
PHILIP W. MARKING
JOSEPH D. ABKIN
FREDERICK W. MONTGOMERY
CRAIG S. GRANET
JAMIE FORREST RANEY

MICHAEL D. HELLMAN
JOSHUA P. RABINOWITZ
JENNIFER GILLON DUFFY
DAVID J. TAPPEINER
GAMBLE T. PARKS
MARK A. DEPACO

CINDY KLEMPNER
ALLAN S. MORTON
OF COUNSEL
JAMES E. DAVIDSON
WRITER'S EMAIL:
DTAPPEINER@FMAM.COM

December 12, 2014

VIA CERTIFIED MAIL AND HAND DELIVERY

Mr. Mick Kronman - Harbor Operations Manager
Mr. Scott Riedman – Waterfront Director
City of Santa Barbara
Waterfront Department
132-A Harbor Way
Santa Barbara, CA 93109

And P.O. Box 1990
Santa Barbara, CA 93102-1990

Re: Mr. Richard H. Smith – Slip 4 A021 – Slip Termination Notice

Dear Messrs. Kronman and Riedman:

We have been retained by Mr. Richard Smith with respect to the 30-Day Notice of Slip Permit Termination dated December 2, 2014 (“Slip Termination Notice”) concerning the real property/boat slip in the Santa Barbara Harbor identified as Slip 4 A021 (the “Slip”).

This letter is intended to be an informal appeal and request for waiver of the termination under *SBMC 17.20.005 J* to you and Mr. Scott Riedman (the Waterfront Director) for the reasons stated herein. However, to the extent necessary, it is also intended to serve as a formal appeal in order to ensure that our client does not lose any of his rights.

Without admitting any of the alleged violations set forth in the Slip Termination Notice, our client assures you that there are no continuing violations at the Slip. Accordingly, any violations of the Marina Rules and Regulations or the Santa Barbara Municipal Code which may have occurred have been corrected and our client assures you that there will be no further such violations.

Attachment #4

February 19, 2015
#5

Mr. Smith's ability to continue to occupy and use the Slip is very important to him. He apologizes for any violations and respectfully requests a one-time waiver of the termination.

While it is our sincere hope that the waiver will be granted and that the Slip Termination Notice will be withdrawn, we would also like to point out that it is our understanding that any termination of our client's Slip rights is subject to California's statutory unlawful detainer procedures as the Slip is considered to be real property. This was the finding in *Smith v. Municipal Court* (1988) 202 Cal.App.3d 685: "Water in its natural state is part of the land; therefore, a rented boat slip or berth in a marina is "real property" subject to the unlawful detainer statutes. *Smith* at 689-690.

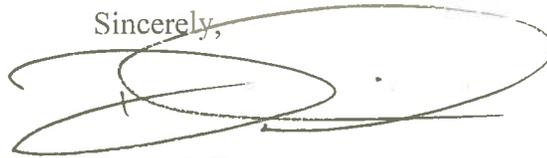
Similar to a tenant who leases an apartment, if there is a breach of a term of the lease, the tenant has the ability to cure the breach and avoid eviction.¹ As noted above, to the extent there were any violations of the rules or the SBMC, Mr. Smith has cured any such violations. Accordingly, we believe he would have legitimate defenses if an unlawful detainer proceeding was to be commenced.

Again, it is our hope that Mr. Smith's request for a waiver of the termination and withdrawal of the Slip Termination Notice will be granted for the reasons set forth herein. If not granted for some reason, we believe that possession of the Slip cannot be re-taken without following the statutory unlawful detainer procedures, thus affording Mr. Smith the ability to present his defenses to such an action.

Please feel free to contact me directly if you have any questions or concerns that are not addressed in this correspondence.

Your time and consideration of Mr. Smith's requests are sincerely appreciated.

Sincerely,



David J. Tappeiner

cc: Richard H. Smith
Joshua P. Rabinowitz, Esq.

¹ There are exceptions of course (e.g., non-payment of rent and breaches that cannot be cured).

February 19, 2015
#5

EXHIBIT B

Attachment #4



City of Santa Barbara
Waterfront Department

February 19, 2015
#5

www.SantaBarbaraCA.gov

January 12, 2015

Mr. David Tappeiner, Esq
Fell, Marking, Abkin, Montgomery, Granet & Raney, LLP
222 East Carrillo Street, Fourth Floor
Santa Barbara, CA 93101

Administration

Tel: 805 564 5511
Fax: 805 564 5511

Re: Decision on Request for Waiver, slip permit termination—4A021

Mr. Tappeiner:

Parking

Tel: 805 857 1965
Fax: 805 530 7580

As indicated in my letter to you on December 14, 2014, this letter responds to your request, on behalf of your client, Richard Smith, to waive my determination to terminate Slip Permit 4A021. I have considered and weighed all points you advanced in your December 12, 2014 letter to me regarding the slip permit termination for berth 4A021 in Santa Barbara Harbor, as well as all applicable rules, regulations, policies and laws pertinent to this issue. I have also reviewed the file containing facts supporting the determination to terminate the slip permit.

Stearns Wharf

Tel: 805 564 5516
Fax: 805 953 1970

I have determined that in this case the scope and nature of the violations of the Slip Permit Rules and Regulations do not warrant a waiver of the termination. Furthermore, I would like to draw your attention the express language of the slip permit which provides that it is "a limited license" that may be terminated by the City upon violation of its terms. Your client acknowledged that fact and agreed to those limitations.

Harbor Patrol

Tel: 805 564 5530
Fax: 805 897 2588

Your letter of December 12, 2014 states that it is both a "waiver" and an "informal appeal" and a "formal appeal" of the slip permit termination. Section 17.20.005 (J) of the City of Santa Barbara Municipal Code, attached to this letter, provides, in part, "the slip permittee may appeal the Waterfront Director's decision to the Harbor Commission. The appeal shall be filed in writing with the City Clerk within ten (10) days of the date of the Waterfront Director's decision." Please confirm your client's intent with regard to pursuing an appeal, in writing, within this ten (10) day appeal period. If you wish to submit any supplemental materials for consideration by the Harbor Commission, please deliver those to this office no later than February 2, 2015. The first available date the Harbor Commission could hear your appeal would be at its February 19, 2015 meeting.

Harbor Maintenance

Tel: 805 564 5522
Fax: 805 956 1411

PO Box 1990

Santa Barbara, CA
93102 1990

I look forward to your reply.

Sincerely,

Scott Riedman
Waterfront Director
City of Santa Barbara
805-564-5519

Enclosures: SBMC 17.20.005 J

Cc: Richard H. Smith
Sarah Knecht, Assistant City Attorney
Mick Kronman, Harbor Operations Manager

Attachment #4

CITY OF SANTA BARBARA – WATERFRONT DEPARTMENT

SLIP PERMIT INFORMATION

SLIP NO. _____
SLIP SIZE. _____

VESSEL REGISTERED OWNER(S)									
Last Name			First Name				M.I.		
Residence Address						Home Phone ()			
City		State		Zip		Cell Phone ()			
Business Address						Work Phone ()			
City		State		Zip		Email			
Last Name			First Name				M.I.		
Residence Address						Home Phone ()			
City		State		Zip		Cell Phone ()			
Business Address						Work Phone ()			
City		State		Zip		Email			
Last Name			First Name				M.I.		
Residence Address						Home Phone ()			
City		State		Zip		Cell Phone ()			
Business Address						Work Phone ()			
City		State		Zip		Email			
EMERGENCY CONTACT			Name				Phone ()		
VESSEL LEGAL OWNER									
Name						Phone ()			
Address									
City						State		Zip	
BILLING ADDRESS									
Name						Phone ()			
Address									
City						State		Zip	
VESSEL DESCRIPTION									
Vessel Name					Registration/Document No.				
Hull ID No.					Port of Documentation				
Length (OA) Feet		In.	Beam		Draft		Type:	Power	Sail
Use:	Commercial	Pleasure	Hull Material			Currently Registered: Yes No			
Builder				Model			Year Built		
Engine(s) Make			H.P.	Single		Twin		Fuel Type	
Number and Type of Heads (MSD)				Holding Tank: Yes No		Sink: Yes No		Shower: Yes No	

FEES AND CHARGES – (FOR OFFICE USE ONLY)			Transfer	New Boat	Trade	Update	Add Spouse
Length		Rate \$		Monthly Rent \$			
Starting Mo./Yr.		Security Deposit \$		Fee \$			
Date of Original Permit		Key Card Issued		Total Due \$			
Comment:							

CITY OF SANTA BARBARA - WATERFRONT DEPARTMENT MARINA RULES AND REGULATIONS

1. All boats must be secured so no part extends over any portion of the walkway.
2. A vessel must occupy at least 80% of the slip length and extend a distance into the fairway no greater than that allowed by City Resolution.
3. A slip permittee's dinghy may be kept within the slip, but may not extend beyond the designated slip boundary.
4. Slip fees are for the overall length of the boat or slip, whichever is greater.
5. Boat owners may stay aboard their vessels a maximum of three (3) nights per seven (7) day period. Vacation time aboard for up to 60 days per year may be approved upon application to the Waterfront Director. A live aboard permit is required for time aboard greater than this.
6. Discharge of pollutants in the harbor, including detergents or emulsifiers on fuel spills, is prohibited. Use oil absorbent materials in the bilge. Dispose of solid and liquid waste properly. Use of non-biodegradable soaps and disinfectants in vessel washdown water prohibited. All dock hoses must be equipped with automatic shut-off nozzles.
7. At the discretion of the Waterfront Director, boats may be moved or reassigned as necessary.
8. Walkways and fingers may not be obstructed in any manner except by a landing step of approved size and weight. Landing steps may be no wider than ½ the dock width, may not be used for storage, may weigh no more than fifty (50) pounds. One dock box for storage is assigned for each slip. No storage of flammables or other hazardous materials allowed. No unattended paint cans or maintenance supplies on dock.
9. Items found on the docks will be disposed of at the expense of the slip permittee.
10. Dock alterations by other than the Waterfront Department not permitted. Potted plants require secondary containment.
11. A shore power cord must be marine grade, a maximum of 50 feet in length, with a minimum of 10 gauge for 30 ampere (120 volt) receptacles and 6 gauge for 50 ampere (208 volt) receptacles. All plugs must be male twist locking with a grounding connector. Pigtailed and other adapters are not allowed.
12. All pets must be kept on leash while in the harbor and marina areas. Owners must clean up after pets.
13. No swimming is allowed within the harbor except in designated swimming areas.
14. Fishing is not allowed from walkways and fingers, but is permitted from boats in slips. No disposal of fish offal in harbor waters. Use proper containers.
15. Slip permittees shall report absences greater than 5 days to the Waterfront Department. The permittee shall give the Waterfront Department 3 days notice before returning.
16. A slip may be occupied only by the vessel assigned by the Waterfront Department. Visiting vessels will be assigned to unoccupied slips.
17. Slips may not be loaned or subleased by the slip permittee.
18. Temporary cancellation status is not permitted if ownership in the vessel is not retained.
19. The Waterfront Department may remove a boat from the harbor or to another area for failure to pay fees. A boat may become subject to lien sale in accordance with the State of California Boater's Lien Law.
20. Any change in title, ownership, or change of address of ownership of a boat must be reported to the Waterfront Department within 5 days. All correspondence will be sent to the latest name and address on file. The permittee agrees that any notices sent to that address will be considered received within five (5) working days.
21. Any slip transfer or addition of a new boat in a slip requires a marine sanitation device (MSD) inspection and dye tabbing. Any slip permittee convicted of two overboard sewage violations in a 36-month period is subject to slip termination. Any slip permittee whose slip permit is terminated for violation of sewage-discharge regulations is prohibited from being assigned a slip for one year.
22. All slip permittees and their guests must comply with reasonable standards of health, safety and welfare in the use of slips, vessels and the harbor.

I HAVE READ THE REGULATIONS, RULES, AND LAWS AND AGREE TO COMPLY WITH THEM.

Signature _____ Print name _____ Date _____

Signature _____ Print name _____ Date _____

CITY OF SANTA BARBARA WATERFRONT DEPARTMENT
SLIP PERMIT

February 19, 2015
#5

This Slip Permit is a limited license issued by the City of Santa Barbara (hereinafter called "City") to the vessel owner(s) (hereinafter called "Permittee") for the purpose of mooring the Permittee's vessel as identified herein, subject to the terms set forth herein.

1. **TERM:** Month-to-month commencing on _____ and continuing until terminated by either party upon 30 days written notice. In addition, if the Permittee violates any terms of this agreement, the City may terminate forthwith.
2. **SLIP FEES:** Permittee agrees to pay the City slip fees monthly in the amount established by City Council Resolution in advance on or before the first of the month. The first month's rent is due upon execution of this permit. Accounts are delinquent after the fifteenth of the month. Delinquent accounts are subject to a late payment charge as established by City Council Resolution.
3. **SECURITY DEPOSIT:** Upon execution of the permit, the Permittee shall pay to the City a security deposit equal to two months slip fees. Said security deposit shall be used to pay any account insufficiency or legitimate claim of the City. The unused portion of the security deposit is refundable upon permit termination.
4. **MARINA BERTH:** The City retains the right to reassign the Permittee to other marina berths and to utilize the Permittee's berth for other vessels when it is temporarily vacant.
5. **INFORMATION CHANGES:** Permittee agrees to give the City written notice of change of address or telephone numbers within five days of such change either by personal delivery or mail to the office of the Harbormaster, 132A Harbor Way, Santa Barbara, CA 93109.
6. **TAXES:** Permittee understands that this permit may create a possessory interest subject to property taxation and agrees to promptly pay all real, personal, and possessory interest taxes incurred pursuant to the use of City owned facilities.
7. **RULES AND REGULATIONS:** Permittee agrees to abide by Municipal Ordinances relating to Harbor use, posted rules and attached regulations, and any new regulations, policies or ordinances that may be adopted.

Signature _____ Print Name _____ Date _____

Signature _____ Print Name _____ Date _____

Signature _____ Print Name _____ Date _____

Approved _____ Date _____

HARBOR SLIP PERMIT RELEASE OF LIABILITY AND INDEMNIFICATION

Slip Permittee, on behalf of him or herself and his or her heirs, executors and administrators and invitees, shall investigate, defend, indemnify and hold the City and the respective officers, agents and employees of the City harmless from and against all liabilities, obligations, damages, penalties, claims, costs, charges and expenses (including reasonable attorneys' fees) by reason of injury or death of any person, or damage to or destruction of any property which may be imposed upon, incurred by or asserted against the City, or the respective officers, agents and employees of the City arising out of or in any way connected with the Slip Permit or the use or enjoyment of the Santa Barbara Harbor by the Slip Permittee or invitees of the Permittee.

Slip Permittee hereby releases, waives, discharges and covenants not to sue the City of Santa Barbara, its employees, officers, and agents (hereinafter referred to as "releasees") from all liability to Slip Permittee, his or her personal representatives, assigns, heirs, next of kin and invitees for any loss, damage, or claim therefore on account of injury to the person or property of Slip Permittee or Slip Permittee's invitees, whether caused by any negligent act or omission of the releasees or otherwise while the Slip Permittee or invitees of the Slip Permittee is engaged in any way with the use or enjoyment of the Santa Barbara Harbor District.

Slip Permittee acknowledges that other than the issuance of a Slip Permit to Slip Permittee for Slip Permittee's use of the Harbor pursuant to the permit, no representation of fact or opinion has been made by the City of Santa Barbara or any of its respective officers, employees or agents, to induce this release, and that Slip Permittee has signed this release freely and voluntarily, after having read it completely, and with full knowledge of any rights or privileges that Slip Permittee may be waiving or releasing.

Signature _____ Date _____

Signature _____ Date _____

Signature _____ Date _____

17.28.010 Permit Required - Business Activity.

Except as expressly authorized in writing by the Waterfront Director or his or her designee, no person shall engage in any business or commercial activity of any kind whatsoever in the Harbor District without first having applied for and obtained the appropriate license, lease or permit. (Ord. 5528, 2010; Ord. 4757, 1992; Ord. 3517 §2(part), 1972.)

17.18.010 Permit Required.

It is unlawful for any person to live-aboard in the Santa Barbara Harbor without having been issued a valid live-aboard permit by the Waterfront Director. (Ord. 4757, 1992; Ord. 4387, 1986)

17.04.010 Definitions.

The following words and phrases shall have the meaning indicated, unless the context or usage clearly requires a different meaning:

A. ANCHOR. A heavy metal device, fastened to chain or line, designed to help hold a vessel in position. (Ord. 5386, 2006.)

B. ANCHORING EQUIPMENT. An Anchor, line or chain and associated gear that is retrievable, stowable, non-permanent ground tackle designed to engage the seafloor and through its resistance to drag maintain a vessel within a given radius. (Ord. 5386, 2006.)

C. BERTH. A water surface area, delineated by either floating or fixed dock structures, intended for the purposes of embarking, disembarking and the wet storage of boats. A Berth is also known as a "Slip." (Ord. 5386, 2006.)

D. CITY-APPROVED MOORING INSPECTOR. An individual who, by satisfactorily demonstrating appropriate qualifications, has been included on a City-approved list of inspectors eligible to install, inspect and repair ground tackle for Mooring Permittees in the Santa Barbara Mooring Area. (Ord. 5386, 2006.)

E. CITY PIER. The City Pier is located adjacent to the Breakwater at the Southeastern end of Harbor Way in the Santa Barbara Harbor formerly known as the "Navy Pier." (Ord. 5386, 2006; Ord. 4757, 1992.)

F. DINGHY. A small boat used as a tender to a larger vessel. A Dinghy is also known as a "Skiff." (Ord. 5386, 2006.)

G. DISCHARGE. To spill, leak, pump, pour, emit, empty, dump, deposit, or throw. (Ord. 5386, 2006; Ord. 5282, 2003.)

H. DOCK. A platform, either floating or fixed, provided in a marina for the wet storage of a boat and pedestrian access to and from the boat. (Ord. 5386, 2006.)

I. DOCKAGE. The daily rate assessed a vessel which ties up to any wharf or pier in the Harbor. (Ord. 5386, 2006; Ord. 4757, 1992.)

J. FLOAT. A wharf, pier, quay or landing. (Ord. 5386, 2006; Prior Code §24.1.)

K. GROUND TACKLE. All equipment used for Mooring or anchoring a vessel securely to the seafloor. (Ord. 5386, 2006.)

L. HARBOR. The area depicted on Exhibit "A" attached to Chapter 17.20 generally bounded by and including Stearns Wharf on the east, the Breakwater on the south, the seawall abutting Harbor Way and the Harbor commercial area on the west, the concrete walkway and seawall along currently-designated Marinas 2, 3 and 4 and including the area commonly known as West Beach on the north. (Ord. 5386, 2006; Ord. 4757, 1992; Prior Code §24.1.)

M. HARBOR DISTRICT. The entire Waterfront of the City, including all navigable waters and all tidelands and submerged lands, whether filled or unfilled, situated below the line of mean high tide, bounded by the limits of the City as now fixed or hereafter may be extended. (Ord. 5386, 2006; Ord. 4757, 1992; Prior Code §24.1.)

N. HARBORMASTER. The person designated by the Waterfront Director as the division manager of the Operations Division of the Waterfront Department. (Ord. 5386, 2006; Ord. 4757, 1992.)

O. HARBOR PATROL SUPERVISOR. The person designated by the Waterfront Director as the supervisor of the Harbor Patrol Officers in the Operations Division of the Waterfront Department. (Ord. 5386, 2006; Ord. 4757, 1992.)

P. LIVE-ABOARD. The use or occupancy of a vessel for habitation on any four (4) nights during a seven (7) day period. The term does not include the vacation use of a vessel, as defined in Section 17.18.090, by its registered owner and the owner's guests. (Ord. 5386, 2006; Ord. 4757, 1992; Ord. 4387, 1986.)

Q. MARINA. A connected system of slips in the Harbor. (Ord. 5386, 2006; Ord. 4757, 1992.)

R. MARINE SANITATION DEVICE. Equipment on board a vessel that is designed to receive, retain, treat, process, or discharge sewage. (Ord. 5386, 2006; Ord. 5282, 2003.)

S. MINIMUM GROUND TACKLE SPECIFICATIONS. The specifications for Ground Tackle used to moor a vessel, attached as Attachment "A" to the Resolution of the Council of the City of Santa Barbara Establishing Minimum Ground Tackle Specifications and Procedures for Installing, Inspecting and Repairing Moorings in the Santa Barbara Mooring Area, as may be amended from time to time by the Harbor Commission, with which all vessels intending to moor in the City of Santa Barbara Mooring Area must comply. (Ord. 5386, 2006.)

T. MOORING. An Anchor, chain, buoy, pendant, snubber, chafing gear and associated equipment, not typically stowed or carried aboard a vessel when underway, used to engage the seafloor and through its resistance to drag maintain a vessel within a given radius. (Ord. 5386, 2006; Ord. 4757, 1992; Prior Code §24.1.)

U. MOORING INSPECTION REPORT. A City form on which a City-Approved Mooring Inspector provides the results and recommendations of a Mooring Inspection. (Ord. 5386, 2006.)

V. MOORING PERMIT. An annual non-transferable Mooring Site rental agreement issued by the Waterfront Director to a Mooring Permittee to place a Mooring and vessel in a Mooring Site in the Santa Barbara Mooring Area. (Ord. 5386, 2006.)

W. MOORING SITE. A designated location within the Santa Barbara Mooring Area assigned by the Waterfront Director through a Mooring Permit to a Mooring Permittee for purposes of Mooring a vessel. (Ord. 5386, 2006.)

X. OPERABLE. A vessel's ability to maneuver safely under its own power from any place in the Harbor District to the open waters of the Pacific Ocean and back to its point of origin. (Ord. 5386, 2006.)

Y. RODE. All gear, collectively, that lies between a boat and its Anchor. (Ord. 5386, 2006.)

Z. SANTA BARBARA MOORING AREA. The area located in the City of Santa Barbara tidal waters east of Stearns Wharf as depicted on the reference map attached as Exhibit "A" to Chapter 17.20. (Ord. 5386, 2006.)

AA. SEASONAL ANCHORAGE. The area depicted on the reference map attached as Exhibit "A" to Chapter 17.20. (Ord. 5386, 2006.)

BB. SEWAGE. Human body wastes and the wastes from toilets and other receptacles intended to receive or retain body waste. (Ord. 5386, 2006; Ord. 5282, 2003.)

CC. SLIP. A docking space for a vessel within the Harbor. (Ord. 5386, 2006; Ord. 4757, 1992.)

DD. SLIP FEE. The monthly license fee paid by a slip permittee for berthing privileges in the Harbor, including the monthly fees paid for live-aboard privileges if applicable. (Ord. 5420, 2007.)

EE. SLIP PERMIT. A slip rental agreement issued by the Waterfront Director to a Slip Permittee to berth a vessel in a slip in the Santa Barbara Harbor. (Ord. 5386, 2006; Ord. 4757, 1992.)

FF. SPECIAL ACTIVITY MOORING PERMIT. A Mooring Permit issued by the Waterfront Director to individuals, organizations and governmental entities found to be operating research, scientific, clean-up or other functions necessary to the long-term health and operation of the Harbor District and marine environment, or critical to the safety, welfare and protection of persons and assets within the Harbor District. (Ord. 5386, 2006.)

GG. STEARNS WHARF. The wharf structure and all of its improvements located at the foot of State Street. (Ord. 5386, 2006; Ord. 4757, 1992; Ord. 4272, 1984.)

HH. TRANSFER FEE. The fee charged to transfer a Slip Permit. (Ord. 5420, 2007; Ord. 5386, 2006; Ord. 4757, 1992.)

II. WATERFRONT. The Harbor, Stearns Wharf, West Beach and all City-owned or -operated parking lots and related structures and facilities along Cabrillo Boulevard or Shoreline Drive within the City of Santa Barbara. (Ord. 5386, 2006; Ord. 4757, 1992; Ord. 4272, 1984.)

JJ. WHARFAGE. The hourly rate assessed any vessel which uses or is tied up to any structure in the Harbor for the loading or unloading of merchandise, excluding the products of commercial fishing. (Ord. 5386, 2006; Ord. 4757, 1992.)

KK. YEAR-ROUND ANCHORAGE. The area depicted on the reference map attached as Exhibit "A" to Chapter 17.20. (Ord. 5386, 2006.)

17.20.005 Slip Assignment Policy.**I. WATERFRONT DIRECTOR TERMINATION OF SLIP PERMITS.**

The Waterfront Director may terminate a Slip Permit upon thirty days prior written notice of termination (except for the longer notice period provided in subsection 2 herein) to the slip permittee for any of the following reasons:

1. Late Payment of Monthly Slip Fees. Monthly Slip Fees are due and payable on the first day of the month with or without receipt of billing, and monthly Slip Fees are delinquent after the fifteenth day of the month. After the fifteenth day of the month, a late charge, in an amount established by resolution of the City Council, will be assessed and added to the Slip Fees which are delinquent. Failure to pay monthly Slip Fees, together with all accumulated late charges, may result in termination of the Slip Permit. Termination of a Slip Permit due to late payment of Slip Fees may also result in termination of a live-aboard permit that may have been issued to a slip permittee of the terminated Slip Permit.

2. Death of a Sole Slip Permittee. A Slip Permit shall terminate sixty (60) days after the date of death of a slip permittee under circumstances where the slip permittee has no surviving spouse, registered domestic partner or Slip Permit partners at the time of death.

3. Failure to Meet Requirements for Commercial Fishing Earnings. Failure of a person with a specially designated Commercial Fishing Slip Permit issued in accordance with Section 17.20.005.B herein to meet the requirements for commercial fishing earnings, as such earnings requirement is established by resolution of the City Council, may result in termination of the Commercial Fishing Slip Permit.

4. Failure to Maintain Berthed Vessel in Operable Condition. Failure of a slip permittee to continuously maintain a vessel berthed in a Slip in an Operable condition as required by Section 17.20.005.L herein may result in termination of the Slip Permit.

5. Failure of Slip Permittee to Comply With Waterfront Department Rules and Regulations. A slip permittee's or slip permittee's guest, visitor or invitee's failure to comply with all applicable local, state and federal laws and all Waterfront Department Rules and Regulations may result in termination of the Slip Permit.

**CITY OF SANTA BARBARA - WATERFRONT DEPARTMENT
MARINA RULES AND REGULATIONS**

**February 19, 2015
#5**

1. All boats must be secured so no part extends over any portion of the walkway.
2. A vessel must occupy at least 80% of the slip length and extend a distance into the fairway no greater than that allowed by City Resolution.
3. A slip permittee's dinghy may be kept within the slip, but may not extend beyond the designated slip boundary.
4. Slip fees are for the overall length of the boat or slip, whichever is greater.
5. Boat owners may stay aboard their vessels a maximum of three (3) nights per seven (7) day period. Vacation time aboard for up to 60 days per year may be approved upon application to the Waterfront Director. A live aboard permit is required for time aboard greater than this.
6. Discharge of pollutants in the harbor, including detergents or emulsifiers on fuel spills, is prohibited. Use oil absorbent materials in the bilge. Dispose of solid and liquid waste properly. Use of non-biodegradable soaps and disinfectants in vessel washdown water prohibited. All dock hoses must be equipped with automatic shut-off nozzles.
7. At the discretion of the Waterfront Director, boats may be moved or reassigned as necessary.
8. Walkways and fingers may not be obstructed in any manner except by a landing step of approved size and weight. Landing steps may be no wider than ½ the dock width, may not be used for storage, may weigh no more than fifty (50) pounds. One dock box for storage is assigned for each slip. No storage of flammables or other hazardous materials allowed. No unattended paint cans or maintenance supplies on dock.
9. Items found on the docks will be disposed of at the expense of the slip permittee.
10. Dock alterations by other than the Waterfront Department not permitted. Potted plants require secondary containment.
11. A shore power cord must be marine grade, a maximum of 50 feet in length, with a minimum of 10 gauge for 30 ampere (120 volt) receptacles and 6 gauge for 50 ampere (208 volt) receptacles. All plugs must be male twist locking with a grounding connector. Pigtailed and other adapters are not allowed.
12. All pets must be kept on leash while in the harbor and marina areas. Owners must clean up after pets.
13. No swimming is allowed within the harbor except in designated swimming areas.
14. Fishing is not allowed from walkways and fingers, but is permitted from boats in slips. No disposal of fish offal in harbor waters. Use proper containers.
15. Slip permittees shall report absences greater than 5 days to the Waterfront Department. The permittee shall give the Waterfront Department 3 days notice before returning.
16. A slip may be occupied only by the vessel assigned by the Waterfront Department. Visiting vessels will be assigned to unoccupied slips.
17. Slips may not be loaned or subleased by the slip permittee.
18. Temporary cancellation status is not permitted if ownership in the vessel is not retained.
19. The Waterfront Department may remove a boat from the harbor or to another area for failure to pay fees. A boat may become subject to lien sale in accordance with the State of California Boater's Lien Law.
20. Any change in title, ownership, or change of address of ownership of a boat must be reported to the Waterfront Department within 5 days. All correspondence will be sent to the latest name and address on file. The permittee agrees that any notices sent to that address will be considered received within five (5) working days.
21. Any slip transfer or addition of a new boat in a slip requires a marine sanitation device (MSD) inspection and dye tabbing. Any slip permittee convicted of two overboard sewage violations in a 36-month period is subject to slip termination. Any slip permittee whose slip permit is terminated for violation of sewage-discharge regulations is prohibited from being assigned a slip for one year.
22. All slip permittees and their guests must comply with reasonable standards of health, safety and welfare in the use of slips, vessels and the harbor.

I HAVE READ THE REGULATIONS, RULES, AND LAWS AND AGREE TO COMPLY WITH THEM.

Signature _____ Print name _____ Date _____

Signature _____ Print name _____ Date _____

Attachment #10

17.20.005 Slip Assignment Policy.

I. WATERFRONT DIRECTOR TERMINATION OF SLIP PERMITS.

The Waterfront Director may terminate a Slip Permit upon thirty days prior written notice of termination (except for the longer notice period provided in subsection 2 herein) to the slip permittee for any of the following reasons:

1. Late Payment of Monthly Slip Fees. Monthly Slip Fees are due and payable on the first day of the month with or without receipt of billing, and monthly Slip Fees are delinquent after the fifteenth day of the month. After the fifteenth day of the month, a late charge, in an amount established by resolution of the City Council, will be assessed and added to the Slip Fees which are delinquent. Failure to pay monthly Slip Fees, together with all accumulated late charges, may result in termination of the Slip Permit. Termination of a Slip Permit due to late payment of Slip Fees may also result in termination of a live-aboard permit that may have been issued to a slip permittee of the terminated Slip Permit.

2. Death of a Sole Slip Permittee. A Slip Permit shall terminate sixty (60) days after the date of death of a slip permittee under circumstances where the slip permittee has no surviving spouse, registered domestic partner or Slip Permit partners at the time of death.

3. Failure to Meet Requirements for Commercial Fishing Earnings. Failure of a person with a specially designated Commercial Fishing Slip Permit issued in accordance with Section 17.20.005.B herein to meet the requirements for commercial fishing earnings, as such earnings requirement is established by resolution of the City Council, may result in termination of the Commercial Fishing Slip Permit.

4. Failure to Maintain Berthed Vessel in Operable Condition. Failure of a slip permittee to continuously maintain a vessel berthed in a Slip in an Operable condition as required by Section 17.20.005.L herein may result in termination of the Slip Permit.

5. Failure of Slip Permittee to Comply With Waterfront Department Rules and Regulations. A slip permittee's or slip permittee's guest, visitor or invitee's failure to comply with all applicable local, state and federal laws and all Waterfront Department Rules and Regulations may result in termination of the Slip Permit.

**CITY OF SANTA BARBARA - WATERFRONT DEPARTMENT
MARINA RULES AND REGULATIONS**

**February 19, 2015
#5**

1. All boats must be secured so no part extends over any portion of the walkway.
2. A vessel must occupy at least 80% of the slip length and extend a distance into the fairway no greater than that allowed by City Resolution.
3. A slip permittee's dinghy may be kept within the slip, but may not extend beyond the designated slip boundary.
4. Slip fees are for the overall length of the boat or slip, whichever is greater.
5. Boat owners may stay aboard their vessels a maximum of three (3) nights per seven (7) day period. Vacation time aboard for up to 60 days per year may be approved upon application to the Waterfront Director. A live aboard permit is required for time aboard greater than this.
6. Discharge of pollutants in the harbor, including detergents or emulsifiers on fuel spills, is prohibited. Use oil absorbent materials in the bilge. Dispose of solid and liquid waste properly. Use of non-biodegradable soaps and disinfectants in vessel washdown water prohibited. All dock hoses must be equipped with automatic shut-off nozzles.
7. **At the discretion of the Waterfront Director, boats may be moved or reassigned as necessary.**
8. Walkways and fingers may not be obstructed in any manner except by a landing step of approved size and weight. Landing steps may be no wider than ½ the dock width, may not be used for storage, may weigh no more than fifty (50) pounds. One dock box for storage is assigned for each slip. No storage of flammables or other hazardous materials allowed. No unattended paint cans or maintenance supplies on dock.
9. Items found on the docks will be disposed of at the expense of the slip permittee.
10. Dock alterations by other than the Waterfront Department not permitted. Potted plants require secondary containment.
11. A shore power cord must be marine grade, a maximum of 50 feet in length, with a minimum of 10 gauge for 30 ampere (120 volt) receptacles and 6 gauge for 50 ampere (208 volt) receptacles. All plugs must be male twist locking with a grounding connector. Pigtailed and other adapters are not allowed.
12. All pets must be kept on leash while in the harbor and marina areas. Owners must clean up after pets.
13. No swimming is allowed within the harbor except in designated swimming areas.
14. Fishing is not allowed from walkways and fingers, but is permitted from boats in slips. No disposal of fish offal in harbor waters. Use proper containers.
15. Slip permittees shall report absences greater than 5 days to the Waterfront Department. The permittee shall give the Waterfront Department 3 days notice before returning.
16. A slip may be occupied only by the vessel assigned by the Waterfront Department. Visiting vessels will be assigned to unoccupied slips.
17. Slips may not be loaned or subleased by the slip permittee.
18. Temporary cancellation status is not permitted if ownership in the vessel is not retained.
19. The Waterfront Department may remove a boat from the harbor or to another area for failure to pay fees. A boat may become subject to lien sale in accordance with the State of California Boater's Lien Law.
20. Any change in title, ownership, or change of address of ownership of a boat must be reported to the Waterfront Department within 5 days. All correspondence will be sent to the latest name and address on file. The permittee agrees that any notices sent to that address will be considered received within five (5) working days.
21. Any slip transfer or addition of a new boat in a slip requires a marine sanitation device (MSD) inspection and dye tabbing. Any slip permittee convicted of two overboard sewage violations in a 36-month period is subject to slip termination. Any slip permittee whose slip permit is terminated for violation of sewage-discharge regulations is prohibited from being assigned a slip for one year.
22. All slip permittees and their guests must comply with reasonable standards of health, safety and welfare in the use of slips, vessels and the harbor.

I HAVE READ THE REGULATIONS, RULES, AND LAWS AND AGREE TO COMPLY WITH THEM.

Signature _____ Print name _____ Date _____

Signature _____ Print name _____ Date _____

Attachment #12

CITY OF SANTA BARBARA WATERFRONT

DEPARTMENT MEMORANDUM

Date: October 17, 2013
To: Harbor Commission
From: Scott Riedman, Waterfront Director
Subject: Harbor Operations Report

Slip Sublets, Leases, Loans or Rentals – A Violation of City Rules

It has come to staff's attention that some boaters are renting or subleasing their slips, activity prohibited by Rule #17 of the Marina Rules and Regulations, which are part of every slip rental agreement signed by a prospective permittee. Authority to terminate a slip permit for violation of Rule #17 is found in MC 17.20.005 I (5).

The Department considers the sublet, rental or loan of a slip not only a violation of the slip permit agreement, but contrary to the stated Goal of the Harbor Master Plan, which says, in part, that *"The Harbor shall be a working harbor with priority given to ocean dependent uses, such as commercial fishing and recreational boating."*

With 33 persons remaining on the Department's Master Slip Waiting List, staff considers the leasing, sublet or rental of slip permits not only a Municipal Code violation and misuse of municipally owned berths granted to the City by the State in trust to manage, but an affront to the Department's efforts to make public berthing available to individuals wishing to utilize the Harbor for reasons stated in the Harbor Master Plan.

In summary, staff takes this issue quite seriously, and is aware of – and vigilantly monitors – websites and other information sources where rentals and subleases are advertised. If these activities are discovered, the permittee involved may face immediate slip permit termination.

Boat Speeds in the Harbor

Recently, staff has received several complaints about boaters speeding in the Harbor, in excess of the 5 nautical-miles-per-hour speed limit described in MC 17.12.150. On the open waters of the Pacific, there is less chance of a collision between vessels or between vessels and fixed or floating objects. In confined waters of the Harbor, however, the chance of an adverse incident greatly increases with speed.

The wake caused by speed may dissipate without notice into the open waters of the Pacific, but can cause a person to fall or spill their hot dinner pot causing serious injury. One time several years ago, a 40' boat running in a narrow channel at high speed created a wake that knocked persons to the dock and into the water. The wake broke apart docks and pushed small boats up onto the docks, causing tens of thousands of dollars in damage.

Staff asks that boaters remember that adage, “Slow is Pro” and reduce speed in the Harbor before they receive a citation or, worse yet, hurt somebody.

Save the Date – Parade of Lights December 8th

It’s not too early to save the date. On Sunday, December 8th, boats will decorate to the theme of *Rockin’, Rollin’ Holidays* during the 28th annual Parade of Lights. Activities begin at 3:00 p.m. with Santa’s Village on the City Pier, where Santa Claus and his elves will treat kids to goody bags and a 10-ton snowfield. The parade begins at 5:30 p.m., followed by a five-minute fireworks show provided by Bay Fireworks and a lively awards party at the Maritime Museum. Slip permittees will receive a registration form in their November billing statements. Forms will be available at the Waterfront Office and Harbor Market. Best views of the Parade are from Stearns Wharf and the breakwater.

- Attachments:
1. Marina Rules and Regulations
 2. Santa Barbara Municipal Code Section 17.20.005
 3. Santa Barbara Municipal Code Section 17.12.150

Prepared by: Mick Kronman, Harbor Operations Manager

**BOARD OF HARBOR COMMISSIONERS
CITY OF SANTA BARBARA
MINUTES**

Special Monthly Meeting
September 25, 2014
City Council Chambers - City Hall 6:30 p.m.

CALL TO ORDER 6:30 p.m.

ROLL CALL Commissioners Present

Bill Spicer, Chair
Jim Sloan, Vice Chair
Cory Bantilan
Betsy Cramer
Helene Webb

Staff Present

Brian Bosse, Business Manager
Mick Kronman, Harbor Operations Manager
Karl Treiberg, Facilities Manager
Jeanette Prusinski, Commission Secretary

Commissioners Absent

Stephen MacIntosh
Dennis Power

CHANGES TO THE AGENDA

None

PUBLIC COMMENT

None

CONSENT CALENDAR

1. Subject: Approval of the Minutes
Moved to approve the Minutes from the Regular Meeting of August 21, 2014
Jim Sloan/ Cory Bantilan 5-0

DEPARTMENT UPDATE

2. Director's Report
 - Council Actions
 - Semi-Annual Advisory Board Chair and Vice-Chair Meeting
 - Tentative Agenda Items for the October Meeting
3. Business Services Report
 - Changes at the Maritime Museum Store
 - Fish Market Moves Warehousing and Processing
4. Harbor Operations Report

- Santa Barbara Fisherman Pleads "No Contest" in Crab-Theft Case
- Squid Run Outside Santa Barbara Harbor
- Big South Swell Hits Local Beaches
- Oil Boom Exercise
- Harbor and Seafood Festival October 11th

NEW BUSINESS

5. Waterfront Department Fiscal Year 2014 Preliminary Budget Review

Brian Bosse presented a brief summary of the Waterfront Department's revenues and expenditures as of June 30, 2014.

6. Definition of "Vessel"

Mick Kronman presented the Harbor Commission with draft policy recommendations related to the definition of "Vessel".

Attachment: Letter from John Gill, read into the record by Commissioner Webb

Moved B. Conceptually approve proposed definition of "Vessel"

Betsy Cramer/ Jim Sloan 4-0

Abstention: Helene Webb

Moved C. Conceptually approve draft policy recommendations related to the definition of "Vessel."

Betsy Cramer/ Jim Sloan 4-0

Abstention: Helene Webb

COMMISSION/STAFF COMMUNICATIONS

Chair Spicer asked Staff to address rumors of Slip Permittees renting their vessels as hotels. Mick Kronman said renting vessels at "boatels" is illegal. Subletting, as part of the Slip Permit signed by each Permittee, is prohibited by the Municipal Code. Mr. Kronman has contacted 4 individuals advertizing online to let them know the consequences of subleasing their slip is Slip Permit termination.

Commissioner Sloan asked about signs in the Marinas regarding end-tie widening. Karl Treiberg said the notices are part of the Coastal Commission's requirement as part of our Coastal Development Permits for the end-tie widening project.

Chair Spicer concluded the boatel discussion with acknowledging Mr. Kronman's diligence with outreach on this topic through Docklines, etc; and took this opportunity to reiterate to the public that renting their vessels is against the rules.

ADJOURNMENT

Moved to Adjourn at 7:32 p.m.

Jim Sloan/ Cory Bantilan 5-0

Attachment #14

**BOARD OF HARBOR COMMISSIONERS
CITY OF SANTA BARBARA
MINUTES**

Special Monthly Meeting
October 23, 2014
City Council Chambers - City Hall 6:30 p.m.

CALL TO ORDER 6:30 p.m.

ROLL CALL Commissioners Present

Bill Spicer, Chair
Cory Bantilan
Betsy Cramer
Stephen MacIntosh
Dennis Power
Helene Webb

Staff Present

Scott Riedman, Waterfront Director
Brian Bosse, Business Manager
Mick Kronman, Harbor Operations Manager
Karl Treiberg, Facilities Manager
Adam Hendel, Supervising Civil Engineer
Jeanette Prusinski, Commission Secretary

Commissioner Absent

Jim Sloan, Vice Chair

CHANGES TO THE AGENDA

None

PUBLIC COMMENT

None

CONSENT CALENDAR

1. **Subject: Approval of the Minutes**
Moved to approve RECOMMENDATION: That Harbor Commission waive further reading and approve the Minutes from the Special Meeting of September 25, 2014
Betsy Cramer/ Cory Bantilan 4-0
Abstentions: Stephen MacIntosh and Dennis Power

DEPARTMENT UPDATE

2. **Director's Report**
 - Council Actions
 - California Marine Affairs and Navigation Conference
 - Tentative Agenda Items for the November Meeting
3. **Harbor Operations Report** **Attachment #15**

- Harbor Patrol Rescue
 - Governor Signs Boater-Education Bill
 - Coast Guard Drops Code Labels for Personal Floatation Devices
 - Harbor and Seafood Festival Recap
4. **Business Services Report**
- Safety Day on Stearns Wharf
 - Update on Business Activity Permits
5. **Facilities Report**
- Water Conservation
 - Annual Slurry Seal Project

NEW BUSINESS

6. Cabrillo Boulevard Bridge Replacement Project

City of Santa Barbara Public Works Department staff presented the Commission with a report regarding the Cabrillo Boulevard bridge replacement project.

Speakers:

- Adam Hendel, Supervising Civil Engineer, Public Works Department
- Kirsten Ayars, Community Outreach Liaison, Ayars & Associates

The Cabrillo Bridge replacement project should be completed in late 2016. Traffic lanes will be reduced to a single lane in each direction, but no left turns will be allowed onto Stearns Wharf from westbound Cabrillo Boulevard. The project also includes restoration to Mission Creek, pedestrian walkways and lighting.

7. Six-Year Capital Improvement Plan

Moved to approve RECOMMENDATION: That Harbor Commission review and approve the proposed Waterfront Department Six-Year Capital Improvement Plan for Fiscal Years 2016 through 2021

Stephen MacIntosh/ Dennis Power 6-0

COMMISSION/STAFF COMMUNICATIONS

Chair Spicer asked about another "boatel" violation that arose since last month's meeting. Director Riedman confirmed another sublet was discovered online and staff will continue outreach efforts to remind Slip Permittees that they can lose their slip permit for renting their vessel as a hotel. Chair Spicer reiterated that this is a violation of the terms of the Slip Permit, and permit terminations may come before the Harbor Commission.

ADJOURNMENT

Moved ADJOURNMENT at 8:02 p.m.
Cory Bantilan/ Betsy Cramer 6-0

Attachment #15



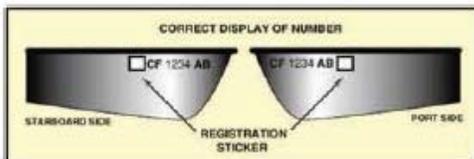
Slip Sublets or Rentals – A Violation of City Rules

It has come to the Department's attention that some boaters are renting or subleasing slips, activity prohibited by Rule #17 of the Marina Rules and Regulations, which is part of every slip rental agreement signed by a prospective permittee. Authority to terminate a slip permit for violation of Rule #17 is found in Santa Barbara Municipal Code Section 17.20.005 I (5). With 33 persons remaining on the Department's Master Slip Waiting List, subletting or renting slip permits also undermines the Department's effort to make public berthing available to individuals wishing to utilize the Harbor for recreational boating.

In short, the Department takes this issue seriously, and is aware of – and monitors – websites and other information sources where rentals and subleases are advertised. If these activities are discovered, the permittee involved may face slip permit termination. So, please use your slip and the vessel assigned to it for their intended purposes—the pleasure and enjoyment of boating.

Vessel Registration Renewal

Friendly reminder: vessel registration renewals are due by December 31, 2013. The Department of Motor Vehicles (DMV) issues a Certificate of Number (registration certificate) and registration stickers to identify a vessel as currently registered. A copy of the current registration must be kept on board your boat whenever it is used on the water. The registration (CF) numbers must be painted on or permanently attached to each side of the forward part of the vessel. The CFs must be plain, vertical block characters at least 3 inches high, of a contrasting color to the hull, and be arranged to read from left to right.



Generally, every sail-powered vessel over eight feet long and every motor-driven vessel (regardless of length) that is not documented by the U.S. Coast Guard and is used on state waters are subject to DMV registration. Commercial vessels of five net tons or more or 30 feet or more in length must be documented by the U.S. Coast Guard. Vessels previously registered in other states must be registered in California within 120 days of being brought into the state, if it will be used upon California waterways the majority of the time. Harbor

Patrol recommends registering all boats. Skiffs are frequently found adrift, both inside the harbor and at sea. If a skiff has current CF numbers posted, it's much easier to locate the owner when the vessel is recovered.

For more DMV vessel registration information: [<http://www.dmv.ca.gov/boatsinfo/boat.htm>]

Slow is Pro

Steve McCullough, Harbor Patrol Supervisor

To protect life and property, the state's Harbors and Navigation Code and local jurisdictions regulate vessel speed in harbors. Most harbors limit speed to 5 miles per hour. Vessels create wakes that become a safety concern or can damage property as speed increases. On the open waters of the Pacific Ocean there is less chance of a collision between vessels or between vessels and fixed or floating objects. In the confined waters of harbors the chance of an adverse incident greatly increases with speed. The wake caused by speed may dissipate without notice into the open Pacific, but in a harbor or anchorage, it can injure an innocent live-aboard by causing them to fall or spill a hot meal.

I've seen a 40' trawler running a narrow channel at high speed create a wake that knocked persons to the dock, deck and into the water. The wake broke apart docks and pushed small boats up onto the docks, causing thousands of dollars in damage. Not all mariners are as safe and prudent as we expect, especially after a long day of working or traveling at sea. Remember the adage: "Slow is Pro." It will keep you out of trouble (citations and fines) and ensure safety for all.

As a reminder, here's what the Santa Barbara Municipal Code says about speed and wakes in the Harbor:

17.12.150 Operation of Vessels in Harbor.

It is unlawful for any person to operate a vessel within the Harbor:

1. At a speed greater than five (5) nautical miles per hour;
2. In a manner that creates a wake that causes docks, floating structures or vessels secured to docks or floating structures to move in a way that threatens safety, or damages floating structures or vessels; or
3. In a manner that fails to account for visibility, weather conditions, other vessels, property or for the safety of all persons.

Attachment #16

Ready Your Boat for Winter

Santa Barbara winters are typically mild but it doesn't take much wind or rain to cause major problems, including damaging or sinking an unattended boat. Here are some things to consider:

- **Early warning.** Monitor weather reports. Visit your boat before the next storm. If you can't check your boat, find a responsible person who can.
- **Dock lines.** Visually inspect for chafe, wear and trip hazards (please don't run mooring lines across fingers). Tie lines securely to cleats or pilings; consider chafing gear and doubling-up lines. Replace worn lines.
- **Dock obstructions.** Don't store kayaks or other items on the dock.
- **Bilge check.** Test your bilge pump to ensure that it's working and that float switches activate and aren't hindered by debris. Be sure limber holes are open. Close seacocks and check propeller and rudder shafts.
- **Fenders.** Have an adequate number of appropriate-sized fenders.
- **Sails, rigging, tarps, loose gear on deck.** Store or tightly secure.
- **Hatches, ports and windows.** Close and secure. Make sure they're water-tight.
- **Appliances:** Make sure appliances like space heaters are not left unattended.
- **Dock boxes:** Do not store flammables in dock boxes. In case of electrical short at the power pedestal, fire or explosion could result.
- **Consider removing valuables and electronics and opening the boat during periods of fair weather to circulate air.**

For assistance or to report problems contact Harbor Patrol at 564-5530 or on VHF channels 12 or 16.



February 19, 2015
#5

WARNING

Renting, leasing or subletting slips for any purpose, including vacation rentals ("boatels"), is illegal per the Santa Barbara Municipal Code and Rule #17 of City-issued slip permits. Violators are subject to slip-permit termination.

Questions? Contact Mick Kronman, Harbor Operations Manager, at 805-897-2587.

Take A Sailing Adventure! in x
Airbnb, Inc. [US] https://www.airbnb.com/rooms/4083924
Log Off | 1 Notifications | Join | NikoSan Chez likes yo... | Imported From IE

\$85 Per Night

Take A Sailing Adventure!
Goleta, CA, United States

Randy
Shared room | 7 Guests | 1 Bedroom | 7 Beds

Check In: mm/dd/yyyy | Check Out: mm/dd/yyyy | Guests: 1

Request to Book

About This Listing

I have an awesome boat that I am available to to host you on. I can take you sailing for the day or spend a night out at the Channel Islands!

Contact Host

Save to Wish List

Share: [Email] [Facebook] [Twitter] [LinkedIn] ...

Report this listing

Take A Sailing Adventure! in x
Airbnb, Inc. [US] https://www.airbnb.com/rooms/4083924
Log Off | 1 Notifications | Join | NikoSan Chez likes yo... | Imported From IE

Photos | **About this listing** | Reviews | The Host | Location

\$85 Per Night

Check In: mm/dd/yyyy | Check Out: mm/dd/yyyy | Guests: 1

Request to Book

Save to Wish List

Share: [Email] [Facebook] [Twitter] [LinkedIn] ...

The Space
Property type: **Boat**
Accommodates: 7
Bedrooms: 1

Bathrooms: 1.5
Beds: 7
Pet Owner: **Dog(s), Cat(s), and Other pet(s)**

Amenities

- Kitchen**
- Internet**
- TV**
- Essentials**
- Shampoo**
- Heating**
- Air Conditioning**
- Washer**
- Dryer**
- Free Parking on Premises**
- Wireless Internet**
- Cable TV
- Breakfast
- Pets-Allowed
- Family/Kid Friendly**

- Suitable for Events
- Smoking Allowed
- Wheelchair Accessible
- Elevator in Building
- Indoor Fireplace
- Buzzer/Wireless Intercom
- Doorman
- Pool**
- Hot Tub
- Gym**
- Smoke Detector**
- Carbon Monoxide Detector**
- First Aid Kit**
- Safety Card**
- Fire Extinguisher**

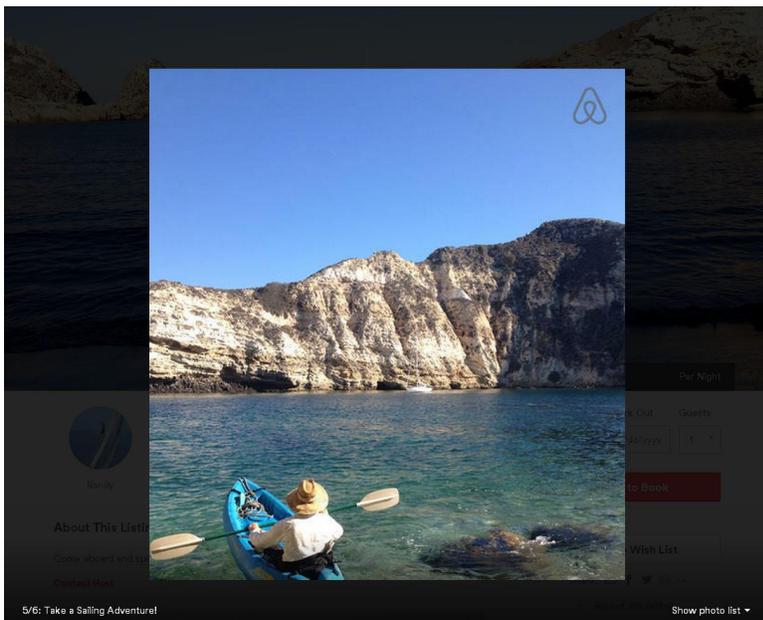
Prices
Extra people: **\$10 / night after the first guest**
Weekly Price: **\$800 / week**
Monthly Price: **\$3000 / month**
Cancellation: **Strict**

Availability
Minimum Stay: 1 night | [View Calendar](#)

Weekly price: \$800/ week







Photos About this listing **Reviews** The Host Location

\$85 Per Night

4 Reviews ★★★★★

Summary

Accuracy	★★★★★	Location	★★★★★
Communication	★★★★★	Check In	★★★★★
Cleanliness	★★★★★	Value	★★★★★

Check In: mm/dd/yyyy Check Out: mm/dd/yyyy Guests: 1

Request to Book

Save to Wish List

Geoff
November 2014
Wow. A cozy little spot in the harbour. Beautiful sailing boat. It was perfect for our camping-loving family. We didn't go sailing, but just used it as a base to explore the city.

Pierce
November 2014
Randy was a great captain. He made us feel comfortable and was extremely knowledgeable. We rode alongside dolphins and explored different areas around Santa Cruz Island. Great experience and we will definitely be going back!

Madeleine
October 2014
Randy was very friendly and nice to our family, he met us and took us to his boat we had a great time being sailors for the weekend. We slept-ed very well on the water it was just what we needed. We love boats so we enjoy this sort of thing.

Virginia
September 2014
Randy made last minute accomations for me and my two boys on his boat at the Santa Barbara Harbour. We spent a cozy, cool, relaxing night under the stars after a nice dinner on State Street. I look forward to coming back to Randys Sea boat.

“Randy was a great captain... We rode alongside dolphins and explored different areas around Santa Cruz Island.”

“Randy made last minute accomations [sic] for me and my two boys on his boat In Santa Barbara Harbour [sic].”



• [Browse](#)



• [Martin](#)



• [Help](#)

February 19, 2015
#5

[Dashboard](#)

[Inbox](#)

[Your Listings](#)

[Your Trips](#)

[Profile](#)

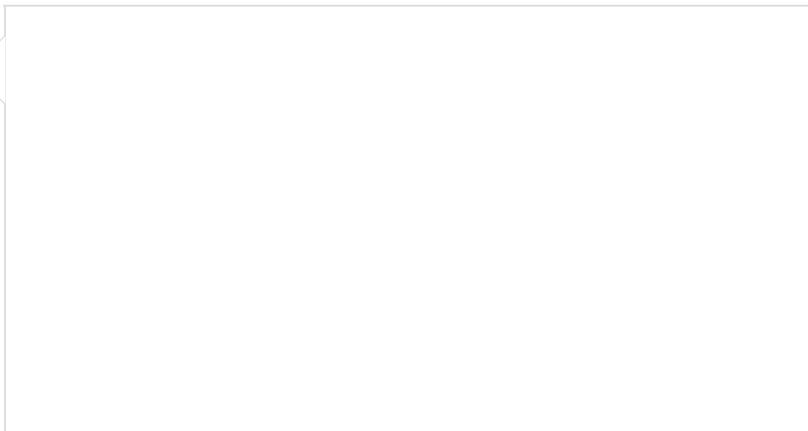
[Account](#)

Conversation with Randy

Message Sent

If this is your top choice, send this host a reservation request to let them know you want to book their space. This increases your chances of getting this listing.

[Send Request](#)



Safety Tip

For your safety and protection, only communicate and pay

Attachment #21

directly through Airbnb. Visit our [Help Center](#) to learn more about the benefits of booking through Airbnb.

February 19, 2015
#5

7382



7:35 PM



929



7:35 PM



yes there is a place nearby to park. it is difficult to send you detailed pictures of the boat because of my security. unless you text me at...619



7:35 PM



Hello Randy

Thank you for the information. I understand your situation. Maybe I will stay for just a few days on the boat. I did not plan on sailing, but it is nice. Are you able to show me a foto of the room I would stay in. Is their a place near the boat to park my rental (website hidden).
Martin

Attachment #21

3:37 PM

February 19, 2015

#5

If you wanted to do a long term stay like 2 weeks we can agreed on some sort of price, with or without an island trip or whatever.

2 days ago



It is in Marina 1 in Santa Barbara Harbor about 10 miles from Carpinteria. Here is my generic message...

Sorry about my vague profile but the city does not like my AirBnb business so I have to keep it low key. My boat is actually based out of Santa Barbara Harbor. It is walking distance to downtown Santa Barbara. There are places to rent Kayaks and paddle boards near by, as well as many restaurants and bars. I have a slip in the harbor with showers, laundry facilities, and power. The boat comes with clean bedding, free wifi, a fridge, plugs, a jambox, friendly neighbors and just about everything you need to cook. There is only one "private" room with a door on the boat. I live on the boat but I can sleep elsewhere is you so desire.

Rates:

\$85 a night on the boat (plus \$10 for each guest)

Additional \$100 for a 3-4 day sail with anchoring and swimming off the beach.

\$350 total for 1 night at Santa Cruz Island or Anacapa Island

\$400 total for 1 night at Santa Cruz Island and 1 night in the harbor

\$450 total for 2 nights at Santa Cruz Island or Santa Rosa or Anacapa Island and 1 night in the harbor

There are many places to go, things to see and do at the islands. You can hike, snorkel, surf and just relax. It is a four-hour sail one way but I highly recommend the trip. Watch the Channel Islands National Park Official Video for more inspiration or visit their website.

2 days ago

Attachment #21

February 19, 2015
#5



Inquiry about [Life on the Seas](#)

Dec 15 - 27, 2014 · 1 guest

You would pay \$1485 (will be confirmed once a reservation is made)



Hello Randy

I am coming from the Netherlands in December to visit family in Carpinteria, do your boat stay in harbor in Carpinteria?

Martin

2 days ago



[Randy](#)

Goleta, California, United States

Member since 2014

Verifications



Email Address Verified

Attachment #21



City of Santa Barbara
Waterfront Department

February 19, 2015
#5
www.SantaBarbaraCA.gov

Administration
Tel: 805.564.5531
Fax 805.560.7580

Parking
Tel: 805.897.1965
Fax 805.560.7580

Stearns Wharf
Tel: 805.564.5518
Fax 805.963.1970

Harbor Patrol
Tel: 805.564.5530
Fax 805.897.2588

Harbor Maintenance
Tel: 805.564.5522
Fax 805.966.1431

PO Box 1990
Santa Barbara, CA
93102-1990

132 A Harbor Way
Santa Barbara, CA
93109

WATERFRONT PARKING PERMIT REGISTRATION CARD	
PERMIT BUYER COMPLETE THIS SIDE:	WATERFRONT STAFF USE ONLY
LICENSE PLATE NUMBER OF PERMITTED VEHICLE <u>5PKT962</u>	PERMIT# <u>7-4891</u> ✓
MAKE <u>CHEVY</u> COLOR <u>WHITE</u> YEAR <u>2006</u>	MARINA # <u>1</u> SLIP# <u>1</u>
PRINT NAME: <u>MARIO GEARY</u>	DATE SOLD: <u>2/15/14</u> LOT <u>143</u>
PRINT ADDRESS: <u>PO BOX 51</u>	ATTENDANT NAME: <u>Jon</u>
PRINT CITY, YOUR ZIP CODE: <u>93102 SANTA BARBARA</u>	AMT. \$ <u>65</u> RETURN THIS CARD TO OFFICE AT END OF SHIFT
PHONE# <u>699297382</u>	<input type="checkbox"/> CASH <u>CL</u> <input type="checkbox"/> CHECK # <u>CL</u>
I attest to the fact that the vehicle for which this Permit has been issued does not exceed 20' in length. Subject to Measurement.	REPLACEMENT FOR _____
Vehicle Owner Signature <u>[Signature]</u> Date <u>2/15/14</u>	

CITY OF SANTA BARBARA - WATERFRONT DEPARTMENT

RECEIVED
DEC 30 2015

4A 21

February 19, 2015
#5

SLIP PERMIT INFORMATION

VESSEL REGISTERED OWNER(S)			
Last Name	Smith	First Name	Richard
M.I.	H	Residence Address	5516 #66 Armitos Ave
Home Phone	(805) 967-3270	City	Goleta
State	Ca.	Zip	93117
Cell Phone	(805) 252-2042	Business Address	
Work Phone	(805) 680-1995	City	
State		Zip	
Email		Last Name	
First Name		M.I.	
Residence Address		Home Phone	()
City		State	
Zip		Cell Phone	()
Business Address		Work Phone	()
City		State	
Zip		Email	
Last Name		First Name	
M.I.		Residence Address	
Home Phone	()	City	
State		State	
Zip		Cell Phone	()
Business Address		Work Phone	()
City		State	
Zip		Email	
Last Name		First Name	
M.I.		Residence Address	
Home Phone	()	City	
State		State	
Zip		Cell Phone	()
Business Address		Work Phone	()
City		State	
Zip		Email	
EMERGENCY CONTACT	Name	Travis Fakler	
Phone	(805) 259 8585		
VESSEL LEGAL OWNER			
Name	Mario T. Geary		Phone
Address	6503 Del Playa #4		
City	Goleta	State	CA
Zip	93117		
BILLING ADDRESS			
Name	Smith Richard H.		Phone
Address	5516 #66 Armitos Ave		
City	Goleta	State	Ca.
Zip	93117		
VESSEL DESCRIPTION			
Vessel Name	True		Registration/Document No.
Hull ID No.	CTE340231177		
Port of Documentation	SB		
Length (OA) Feet	34 In.	Beam	Draft
Type:	Power	Sail	
Use:	Commercial	Pleasure	Hull Material
FRP	Currently Registered:	Yes No	
Builder	Islander	Model	Peterson 34
Year Built	77		
Engine(s) Make	H.P.	Single	Twin
Fuel Type	G		
Number and Type of Heads (MSD)	1	Holding Tank	Yes No
Sink:	Yes No		
Shower:	Yes No		

FEES AND CHARGES - (FOR OFFICE USE ONLY)			
Transfer	New Boat	Trade	Update
Add Spouse	Length	35'5" 12-27-11	Rate \$ 8.92
Monthly Rent \$	312.20		
Starting Mo./Yr.	1-1-12		
Security Deposit \$	2		
Fee \$	50-		
Date of Original Permit	9-1-99		
Key Card Issued	2		
Total Due \$	50 pd cash		
Comment:			

Attachment #23

Google+ Mario Geary

Join Google+ Join now and connect with the people who matter most.

Profile



Mario Geary
Worked at Marines
Attended University of California, Santa Barbara
Lives in The Ocean

+ Add to circles

4 followers | 861 views



About **Posts** Photos YouTube

Mario Geary changed his profile photo.
Shared publicly · Oct 21, 2014



In his circles 4 people

-  Travis Faker
-  Ed Bastian
-  Storm Tailfero

Have him in circles 4 people

- 
- 
- 
- 

February 19, 2015

#5

f Mario Randleson Home Find Friends



 **Mario Randleson** [Add Friend](#) [Message](#) [...](#)

[Timeline](#) [About](#) [Friends](#) [Photos](#) [More](#)

DO YOU KNOW MARIO?

To see what he shares with friends, send him a friend request. [Add Friend](#)

[Also lives in Santa Barbara, California](#)

[From San Diego, California](#)
Born on May 13

[225 friends](#)

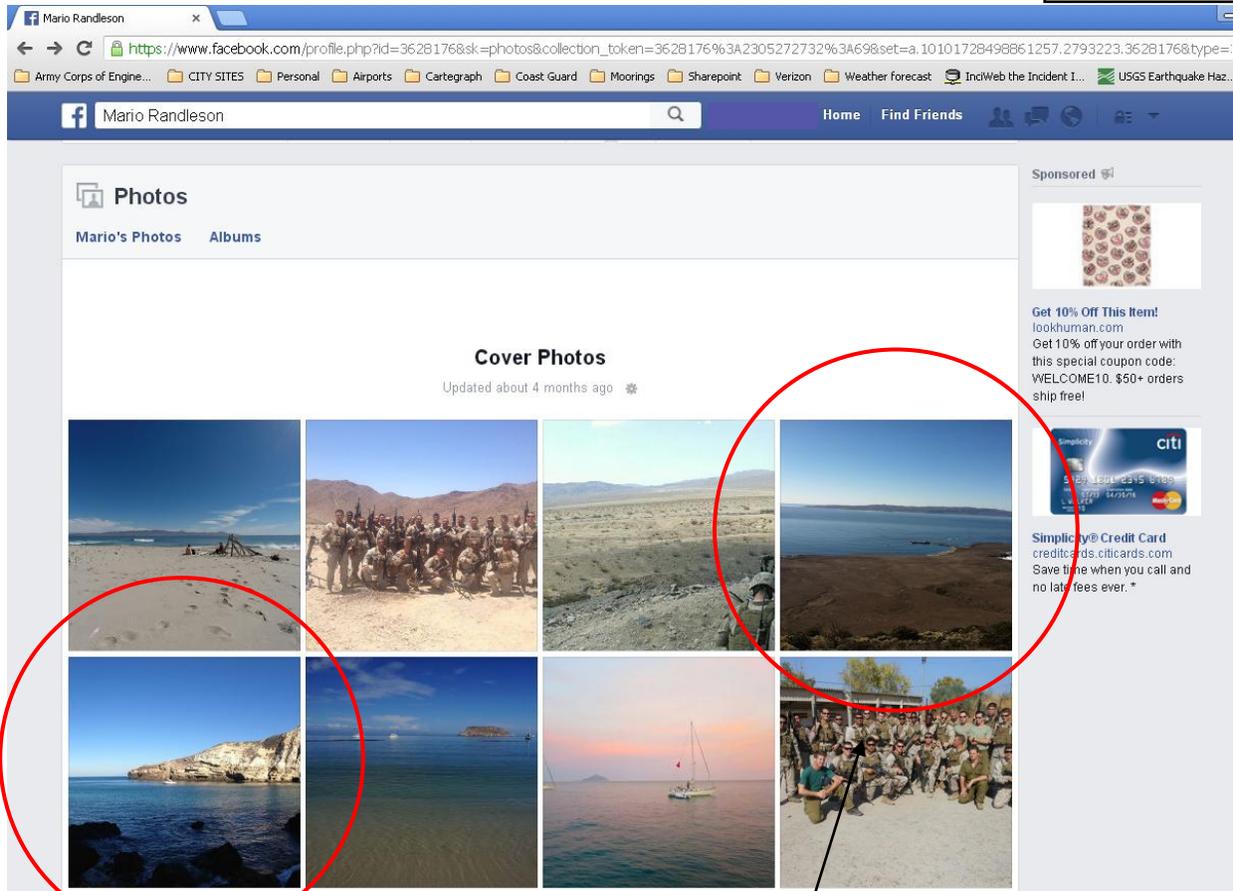
FRIENDS · 225

 Katie Lowsley-Williams	 Elise Bredenberg	 Gregory Lamberson
 Celeste Aguiar	 Johanna Jordan	 Kyle Peete
		

 **Mario Randleson** updated his cover photo.
October 6, 2014 · [...](#)



Attachment #25



Photos found in Mario Randleson's Facebook profile, match photos in "Randy's" AirBnB profile.

**Notes from meeting with Richard Smith, slipholder at 4A021
November 18, 2014. 1:30 p.m., Waterfront Conference Room**

Attendees:

Richard Smith, Slip Permittee 4A021

Mick Kronman, Harbor Operations Manager, Waterfront Department

Jeanette Prusinski, Executive Assistant, Waterfront Department

Mick Kronman:

- Gave background information on boatel activity discovered on AirBnB
- Gave background info on the liveboard policy
- Told Richard that the City will be pursuing slip termination

Richard Smith:

- Upon seeing hard-copies of AirBnB posts spread on conference room table, said, "What can I say; you've got all the evidence right here"
- Said Mario called him two months ago in response to receiving a call from the "harbormaster" sometime in October
- Said that he told Mario to take down the site if the harbor sees it as a problem
- If Mario is still doing this, then he's "lying to me"
- Richard told Mario that Mario cannot live on the boat more than a couple days

Richard Smith called Mario on speaker phone at 2:00 p.m.:

- Richard told Mario, "They are terminating my slip"
- Mario said he couldn't do anything about it since he's "stuck in L.A."
- Richard told Mario to stop "these reservations"
- Mario said "okay"
- Mick told Mario we've been tracking his aliases on and off for some time
- Mario said, "the worst I thought would happen was termination of "their lease" (referring to an agreement between Mr. Smith and Mr. Geary)
- Richard said it was a partnership
- Mario said it "makes me feel terrible and I had no idea it would go this far"
- Mario asked Richard when he needs to get his boat out of his (Mr. Smith's) slip
- Mario apologized and said he wants it to end and get his boat out of Mr. Smith's slip
- Mick described the visitor-boat process
- Call ended at 2:10 p.m.

Mick Kronman:

- Explained slip termination process
- Told Richard the termination letter will go out late Nov/ early Dec
- Asked Richard about his holiday schedule and if there was a better timeframe to initiate the termination

Richard Smith:

- Said he was thinking about how he was going to explain this to his wife
- Said the timing is bad no matter what and there was no preference regarding termination timing

Mick Kronman:

- Explained the termination and term waiver processes
- Told him a few times to drive carefully. Jeanette got him a bottle of water.

Temporarily Available Slips

SLIP	BOAT NAME	LENGTH	BEAM	FROM	TO	COMMENTS
4ST1	Johnson	35'		10-19-14	2/01/15	Boat being repaired
FF24	Steve Dunn has been	35'				empty for a while
old - 1A12	Genesis	35		11/30/14	2/1/15	permitted with 3 days before returning
old - 1H12		1/8/15 confirmed		1/17/15	Arrival	Boat sold 2/1/15
old - 4A21	True	35		11-22-14	?	Boat Sold
1L5	La Dolce Vita	30	11'-5"	11-1-14	?	Boat Sold
1KH	Kalimea	40		11-4-14	?	Boat Sold
3B36	Sea Star	28		11-25-14	?	Boat Sold
4BET2	Phillips	40			2-1-15	
1E35		25		12-11	12-26-14	
old - 1HET		81' les	tender - 14' = 65' max	12-15-14	2-01-15	2 CI body d.p. v. 8'5' stays (5-1-15)
3A30		25		1-5-15	1-4-15	in front of 15' (5-1-15)
1D16		35	11'	1-2-15	1-2-15	3 v. 15' d. 11-10-15
1S8	Mystic	50'	16'	1-5-15	1-21-15	Re-... (5-1-15)
1J35	Sokol "winner"	25		1-8-15	?	possibly through Cur...
3A36		25		1-1-15	3/1/15	boat 5' Tupper 2 p...
1N12		40		1-12-15	2-1-15	venture with ...
1P12		25		1-17-15	1-24-15	permitted with ...
1Q12		50			1-23-15	confirmed