

CITY OF SANTA BARBARA WATERFRONT DEPARTMENT

MEMORANDUM

Date: June 18, 2014
To: Harbor Commission
From: Scott Riedman, Waterfront Director
Subject: **Appeal of Slip Permit Termination for Slip 2-B-013, Mr. Tim Korner**

RECOMMENDATION:

That Harbor Commission consider Mr. Tim Korner's appeal of a slip permit termination for slip 2-B-013 in Santa Barbara Harbor; and take action to either:

- A. Uphold the slip permit termination; or
- B. Uphold Mr. Korner's appeal.

BACKGROUND:

The Waterfront Department rents slips on a month-to-month basis to boaters who own a boat docked in a particular slip and are registered with the Department as a slip permittee. Mr. Korner has been a slip permittee at slip 2-B-013 since early 2001 and has had a chronic history of late slip payments dating back to April 2003. Mr. Korner also has a liveaboard permit. Over the past year, the Department has mailed to Mr. Korner, 15 separate late-slip-fee notices, including numerous 45 and 60-day past-due notices.

DISCUSSION:

Below is a timeline of communication and Departmental actions leading up to and including Mr. Korner's slip permit termination. It should be noted that although not required, Waterfront Department staff always makes an extra effort to call slip permittees prior to sending out 30 and 45-day notices. Staff placed several calls to Mr. Korner as well as visited his slip numerous times during this slip-termination process. Phone messages were unreturned and mail was often returned.

<u>Date</u>	<u>Action</u>
March 1, 2015	Slip fees due, no payment received.
March 18, 2015	1 st late-slip-fee notice mailed; 15-day notice of unpaid slip fees.
April 1, 2015	30-day Intent to Terminate Notice mailed (via Certified Mail & U.S. First Class); Letter notes date and time the payment is due to avoid termination. (Attachment 1)

- April 22, 2015 Mailed a reminder (via Certified Mail & U.S. First Class) that we sent 30-day Intent to Terminate Notice on April 1. Letter reiterates the date and time the payment is due to avoid termination. (Attachment 2)
- May 1, 2015 Harbor Patrol makes personal contact with Mr. Korner regarding need to pay by midnight in order to avoid Notice of Termination process from commencing.
- May 5, 2015 Termination Letter mailed (via Certified Mail & U.S. First Class). Termination effective May 5. (Attachment 3)
- May 15, 2015 Mr. Korner formally requests waiver of termination from Waterfront Director. (Attachment 4)
- May 27, 2015 Waiver of termination denied. Letter mailed (via Certified Mail & U.S. First Class) to Mr. Korner regarding decision and noted the appeal process and that appeal must be received within 10 days of receipt of letter. (Attachment 5)
- June 6, 2015 Mr. Korner appeals slip permit termination to the Harbor Commission. (Attachment 6)

A slip permit termination for unpaid fees is an action the Department only rarely undertakes. Most late-slip-fee issues are resolved by Department staff and the slip permittee well in advance of a termination letter. The last termination for unpaid slip fees took place in January 2014 and before that, November 2007. Those terminations were appealed to the Harbor Commission and the Harbor Commission denied both appeals and upheld the terminations.

- Attachments:
1. Waterfront Dept Letter dated April 1, 2015 - Intent to Terminate Notice
 2. Waterfront Dept Letter dated April 22, 2015 - Reminder Notice, Intent to Terminate
 3. Waterfront Dept Letter dated May 5, 2015 - Termination Notice
 4. Korner Waiver Request received May 15, 2015
 5. Waterfront Dept Letter May 27, 2015 - Korner Waiver Request Denial (without attachments)
 6. Korner Appeal to Harbor Commission dated June 6, 2015
 7. Waterfront Department Billing Process
 8. Municipal Code 17.20.005, Sections I and J

Prepared by: Brian J. Bosse, Waterfront Business Manager



City of Santa Barbara
Waterfront Department

June 18, 2015
Report #6

www.SantaBarbaraCA.gov

April 1, 2015

Administration

Tel: 805.564.5531
Fax 805.560.7580

Timothy Korner
P.O. Box 50226
Santa Barbara, CA 93150

Parking

Tel: 805.897.1965
Fax 805.560.7580

Slip: 2B013
Account # 042751

Stearns Wharf

Tel: 805.564.5518
Fax 805.963.1970

Outstanding Slip Fees: \$785.51
Additional Deposit: \$
Total Due: \$785.61

Harbor Patrol

Tel: 805.564.5530
Fax 805.897.2588

Cert No. 9171 9690 0935 0079 8321 41

Dear Slipholder:

Harbor Maintenance

Tel: 805.564.5522
Fax 805.966.1431

Waterfront Department records indicate that the account for Slip# 2B013 is past due.

Please carefully check your payment records. If your records indicate timely payment of slip fees, please call our office as soon as possible at 805-564-5531 so that we can correct any error that may have occurred.

PO Box 1990

Santa Barbara, CA
93102-1990

If, however, the City's records are correct, we would like you to bring your account up to date to avoid further consequences, especially potential termination of your slip permit. Per the Santa Barbara Municipal Code §17.20.005 I, Waterfront Director Termination of Slip Permits, past due slip fees can trigger a process resulting in Slip termination.

132 A Harbor Way
Santa Barbara, CA
93109

This letter is notice that such a process has begun. If the Waterfront Department does not receive payment in full, (back rent, late fees, and possible additional deposit), by 5:00 p.m. Friday, May 1, 2015, the slip permit for #2B013 will be terminated effective that date.

Thank you for your cooperation. If you have any questions, please feel free to contact us.

Respectfully,

Brian Bosse
Waterfront Business Manager

Attachment #1



City of Santa Barbara
Waterfront Department

June 18, 2015
Report #6

www.SantaBarbaraCA.gov

April 22, 2015

Administration

Tel 805 564 5531

Fax 805 580 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 805 956 1431

PO Box 1990

Santa Barbara, CA

93102-1990

Timothy Korner
P.O. Box 41308
Santa Barbara, CA 93140

Certified Mail: 9171 9690 0935 0079 8322 19

RE: Slip #2B013
Account #042751

Dear Slip Permittee:

The attached letter was mailed to you on April 1, 2015, regarding delinquent slip fees due to the City of Santa Barbara.

As of this date no payment or only partial payment has been posted to your account and we've not received a written appeal to the Waterfront Director. The deadline for your action is by 5:00 p.m. Friday, May 1, 2015, to prevent you from losing your slip.

Your prompt attention to this matter is appreciated. Please contact the Waterfront Department if you have any questions.

Respectfully,

A handwritten signature in black ink, appearing to read "Brian Bosse".

Brian Bosse
Waterfront Business Manager

Cc: First Class Mail

Attachment #2



City of Santa Barbara
Waterfront Department

June 18, 2015
Report #6

www.SantaBarbaraCA.gov

April 1, 2015

Administration

Tel: 805.564.5531
Fax 805.560.7580

Timothy Korner
P.O. Box 50226
Santa Barbara, CA 93150

Parking

Tel: 805.897.1965
Fax 805.560.7580

Slip: 2B013
Account # 042751

Stearns Wharf

Tel: 805.564.5518
Fax 805.963.1970

Outstanding Slip Fees:	\$785.51
Additional Deposit:	\$
Total Due:	\$785.61

Harbor Patrol

Tel: 805.564.5530
Fax 805.897.2588

Cert No. 9171 9690 0935 0079 8321 41

Dear Slipholder:

Harbor Maintenance

Tel: 805.564.5522
Fax 805.966.1431

Waterfront Department records indicate that the account for Slip# 2B013 is past due.

Please carefully check your payment records. If your records indicate timely payment of slip fees, please call our office as soon as possible at 805-564-5531 so that we can correct any error that may have occurred.

PO Box 1990

Santa Barbara, CA
93102-1990

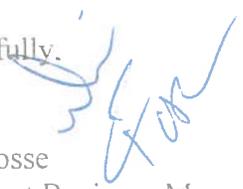
If, however, the City's records are correct, we would like you to bring your account up to date to avoid further consequences, especially potential termination of your slip permit. Per the Santa Barbara Municipal Code §17.20.005 I, Waterfront Director Termination of Slip Permits, past due slip fees can trigger a process resulting in Slip termination.

132 A Harbor Way
Santa Barbara, CA
93109

This letter is notice that such a process has begun. If the Waterfront Department does not receive payment in full. (back rent, late fees, and possible additional deposit), by 5:00 p.m. Friday, May 1, 2015, the slip permit for #2B013 will be terminated effective that date.

Thank you for your cooperation. If you have any questions, please feel free to contact us.

Respectfully,


Brian Bosse
Waterfront Business Manager

Attachment #2



City of Santa Barbara

Waterfront Department

June 18, 2015
Report #6

www.SantaBarbaraCA.gov

May 5, 2015

Timothy S. Korner
P.O. Box 50226
Santa Barbara, CA 93150

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

Slip Permit 2B013
Balance as of May 1, 2015: \$820.51
Security Deposit Used: \$467.64
Due: \$352.87

NOTICE OF TERMINATION OF SLIP PERMIT

This is to notify you that the slip permit issued to you for slip 2B013 has been terminated for non-payment of slip fees.

On April 1, 2015, a 30-day Notice of Termination for delinquent fees was mailed to you.

During the 30-day termination period, we did not receive full payment of slip fees. Your account has been closed, your security deposit used, and the outstanding balance of \$352.87 is due immediately.

Effective May 5, 2015, your vessel has been placed on a daily transient rate of \$24.30. If visitor fees are not paid, the vessel is subject to impound. Additional fees may be incurred for storage beyond fourteen (14) cumulative days and again beyond twenty-eight (28) cumulative days. See the enclosed Rate and Fee Schedule for visitor fee rates. Your vessel should be removed from the Harbor as soon as possible to avoid increasing the amount due the City. If payment is not received and the vessel removed from the Harbor by June 2, 2015 the City will begin the lien sale process on your vessel.

Please Kathy Sangster at 805-564-5531 to arrange for payment and to let us know your plans for removing your vessel from the Harbor.

If you choose, you may request a waiver of the termination from the Waterfront Director, Scott Riedman. This written request must be received by 5:00 pm, May 15, 2015 at the Waterfront Administration Office, 132 A Harbor Way, Santa Barbara, CA 93109.

Yours truly,

Brian Bosse
Waterfront Business Manager

enclosure: SBMC 17.20.005
cc: First Class Mail
Hand Delivered to Slip 2B013

Attachment #3

9171 9690 0935 0079 8322 95



To:

Scott Riedman,

I AM REQUESTING A WAIVER OF TERMINATION OF MY HOLDING OF 2.B.13. I KNOW I'VE ASKED FOR A WAIVER IN THE PAST, BUT HAVING CALLED MY BOAT 'MY HOME' FOR THE PAST 10 YEARS, I'D LIKE TO ASK AGAIN. I'M SURE YOU CAN UNDERSTAND MY SITUATION (I'M 57 AND HAVE HAD SOME FINANCIAL DIFFICULTIES THIS YEAR) AND MY DESIRE TO ~~RE~~ RECTIFY IT. PLEASE CALL ME AT: (below) FOR AN APPOINTMENT. THANK YOU,

Tim KORNER
2 B 13
805-636-9594

WY1E18001 DEBYUS11WEM1
WYA 7 2 5012

RECEIVED



City of Santa Barbara
Waterfront Department

June 18, 2015
Report #6



www.SantaBarbaraCA.gov

May 27, 2015

Administration
Tel: 805.564.5531
Fax 805.560.7580

Mr. Timothy S. Korner
PO Box 50226
Santa Barbara, CA 93150

Parking
Tel: 805.897.1965
Fax 805.560.7580

RE: Slip 2-B-013 - Slip Permit Termination

Dear Mr. Korner:

Stearns Wharf
Tel: 805.564.5518
Fax 805.963.1970

The Waterfront Department is in receipt of your letter of May 15, 2015, requesting that the above-referenced slip termination be waived. Based on the lack of substantial or compelling reasons described in your letter, and a review of your account history, staff cannot waive the slip termination.

Harbor Patrol
Tel: 805.564.5530
Fax 805.897.2588

Your vessel should be removed from the Harbor as soon as possible. Effective May 5, 2015, your account was closed and your vessel was placed on visitor status. As of noon May 28, 2015, the vessel has accumulated approximately \$1,245.47 in delinquent slip fees and visitor fees. After June 2, the vessel will begin to accumulate an additional \$75 per night. You may refer to the enclosed Rate and Fee Schedule for visitor fee rates.

Harbor Maintenance
Tel: 805.564.5522
Fax 805.966.1431

PO Box 1990
Santa Barbara, CA
93102-1990

Per Section 17.20.005(J) of the Santa Barbara Municipal Code (attached), you may appeal the slip termination by addressing the Harbor Commission at the June 18, 2015 meeting. The meeting will take place at 6:30pm in the City Council Chambers at City Hall, 735 Anacapa Street. To appeal the slip termination before the Harbor Commission, you must file your appeal with the City Clerk within 10 days of receipt of this letter.

132 A Harbor Way
Santa Barbara, CA
93109

I can be reached at 897-1969 if you have any questions.

Sincerely,

Scott Riedman
Waterfront Director

Enclosures: Fee Resolution /Visiting Vessel Fees
S.B.M.C. 17.20.005.I & 17.20.005.J

Attachment #5

June 18, 2015
Report #6

June 6, 2015
Tim Korner
2-B-013
805-636-9594

Santa Barbara Harbor Commission,

In reference to the termination of the permit for Slip 2-B-013. This slip has been in my family for 40 years and mine for 16 years. It has also been my home for the last 10 years. To lose it would be a great hardship for me.

The last year has been a tough one for me. I am ready to pay my fees and commit to being on time from now on.

Thank you,

Tim Korner

A handwritten signature in black ink, appearing to be 'TK', written over a horizontal line.

Attachment #6

RECEIVED

JUN 08 2015

**WATERFRONT
DEPARTMENT**

Waterfront Department Slip Fee Billing Process

The slip fee billing process is as follows:

- Slip fees are due on the first of the month.
- 1st Late Slip Fee Notice: If slip fees have not been paid in full by the 15th of the month, the Department mails a reminder (via First Class U.S. Mail) to the slip permittee and a late fee of \$35.00 is assessed.
- 2nd Late Slip Fee Notice: If slip fees have not been paid in full by the end of that month(30 days past due) the Department mails a “30-Day letter” (via Certified Mail & U.S. First Class) to the slip permittee on the first day of the following month. This letter notifies the slip permittee that if payment is not received in full by the first of the following month (60 days past due) the slip permit will be terminated. The potential termination date is stated in this letter.
- 3rd Late Slip Fee Notice: If slip fees has not been paid 45 days after they were initially due, the Department mails a 45-day letter (via Certified Mail & U.S. First Class) reminding the slip permittee that payment is due by the first of the upcoming month and if full payment is not received the slip permit will be terminated.
- Notice of Termination: If all due slip fees are not received by the first of the following month (now 60 days past due), the slip is officially terminated and a letter is sent (via Certified Mail & U.S. First Class) to the slip permittee, informing them of the decision. The slip permittee is provided 10 calendar days from the date of the decision to request a waiver of termination from the Waterfront Director, per 17.20.005 (J) of the Santa Barbara Municipal Code.
- Decision on Waiver Request Notice: If a waiver is requested, the Waterfront Director sends a letter (via Certified Mail & U.S. First Class) to the applicant explaining the Director’s decision regarding that waiver request. If the Director waives the termination the slip permittee must pay all outstanding fees in full. If the Director does not waive the termination the slip permittee has 10 calendar days to appeal the decision to the Harbor Commission. The Harbor Commission can uphold the appeal or deny the slip permittee’s appeal. The Harbor Commission’s decision is final.

**Municipal Code Title 17
Section 17.20.005 I. and J.**

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.

J. APPEAL.

If the Waterfront Director terminates a Slip Permit, the slip permittee may request a waiver of the termination from the Waterfront Director. To request a waiver, the slip permittee must file a written waiver request setting forth the grounds upon which the waiver is requested with the Waterfront Director within ten (10) days of the date that the Slip Permit is terminated. If the Waterfront Director denies the waiver, 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. The Harbor Commission's decision on the appeal shall be final. If no waiver request is filed, the slip permittee may appeal the Waterfront Director's decision to terminate the Slip Permit to the Harbor Commission. The slip permittee must file a written appeal setting forth the grounds upon which the appeal is based with the City Clerk within ten (10) days of the date that the Slip Permit is terminated. The Harbor Commission's decision on the appeal shall be final.