

CHAPTER 715

An act relating to tide and submerged lands granted in trust to the County of Orange and to the City of Newport Beach.

[Approved by Governor August 23, 1984. Filed with Secretary of State August 24, 1984.]

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares as follows:

(a) By Chapter 526 of the Statutes of 1919, as amended by Chapter 415 of the Statutes of 1975, the Legislature conveyed certain tide and submerged lands to the County of Orange bordering upon and under Newport Bay which were outside of the corporate limits of the City of Newport Beach, a municipal corporation, on July 25, 1919, the same to be forever held by the county and by its successors in trust for the purposes therein stated, primarily for the promotion and accommodation of commerce and navigation.

(b) Certain portions of those tide and submerged lands surrounding Harbor Island, an island developed with private residences, have been filled and reclaimed as a result of either natural or artificial occurrences and have been improved with landscaping and other yard improvements. These lands are described in Section 3 and are hereafter referred to in this act as county Harbor Island tidelands.

(c) The county Harbor Island tidelands, having been filled and reclaimed, are no longer submerged or below the mean high tide line, are generally inaccessible to the public, and, in their present condition, are not suitable for public trust uses.

(d) In recognition of the facts set forth in subdivisions (b) and (c), and in view of the amount of public trust land remaining in Newport Bay that is suitable for public trust use, the county Harbor Island tidelands have been leased to the owners of adjacent upland residences on a short-term basis. These lands are producing income to support the statutory trusts under which the tide and submerged lands granted to the county are held and, except for the production of income to support the statutory trusts, are not presently required or needed for use by the public.

SEC. 2. (a) The county, or its successors, may allow the county Harbor Island tidelands to continue to be used for those purposes set forth in the existing leases of those lands by leasing anew the lands or any part thereof for the purposes set forth in the existing leases for a period of 49 years or less. During the term of the leases, the lands shall be considered excess to public trust needs in the area, and the public trust easement shall not be exercised on the leased land.

(b) The consideration to be received by the county for leases of county Harbor Island tidelands shall be the fair market rental value of the lands, taking into account the added value to the adjacent

uplands provided by the acreage, usage, and littoral location of the tidelands, as well as the benefits of their exclusive use by the adjacent upland owner. The form of the leases and the range of consideration to be received by the county shall be approved by the State Lands Commission prior to the issuance of any lease.

(c) All money received by the county from existing and future leases of county Harbor Island tidelands shall be deposited in a county tideland trust fund established pursuant to subdivision (k) of Section 1 of Chapter 526 of the Statutes of 1919, and shall be available for expenditure in accordance with subdivision (l) of Section 1 of that act for the purposes set forth in that act, including the enhancement of the Upper Newport Bay Ecological Reserve.

SEC. 3. The county Harbor Island tidelands referred to in this act are described as follows:

That portion of the public tide and submerged lands granted to and held in trust by the County of Orange pursuant to Chapter 526 of the Statutes of 1919, as amended, lying above the present line of mean high water within the area bounded by the adjudicated line of ordinary high tide surrounding all of Tract No. 802 in the City of Newport Beach, County of Orange, State of California, as per map recorded in Book 24, Page 7 of Miscellaneous Maps, in the Office of the County Recorder of the county; as established by the Judgment in Case No. 23690, Superior Court, County of Orange, State of California, as recorded in Book 22, Page 332 of Judgments on July 2, 1928, and approved by the Legislature pursuant to Chapter 142 of the Statutes of 1929; and bounded seaward by the limit of the United States Bulkhead line as approved by the Department of the Army, Office of the Chief of Engineers on February 15, 1951; those limit lines having been established between the following station points:

BEGINNING at the most easterly point of the land described in the above mentioned Case No. 23690; that Station being No. 142 of the United States Government Bulkhead above mentioned; THENCE Westerly to Station No. 143; THENCE Northwesterly to Station No. 144; THENCE Northwesterly to Station No. 145; THENCE Northerly to Station No. 138; THENCE Easterly to Station No. 139; THENCE Southeasterly to Station No. 140; THENCE Southeasterly to Station No. 141; THENCE Southwesterly (at right angles to the line between Station No. 140 and 141) to the point of beginning. That point being Station No. 142 of the United States Government Bulkhead Line.

SEC. 4. The Legislature finds and declares as follows:

(a) In Section 1 of Chapter 74 of the Statutes of 1978, the Legislature conveyed certain tide and submerged lands in trust to the City of Newport Beach that were within the boundaries of the city on July 25, 1919, for the purposes therein stated, primarily for the promotion and accommodation of commerce and navigation.

(b) Certain portions of those tide and submerged lands surrounding Harbor Island, an island developed with private residences, have been filled and reclaimed as a result of either

natural or artificial occurrences and have been improved with landscaping and other yard improvements. These lands are described in Section 6 and are hereafter referred to in this act as city Harbor Island tidelands.

(c) The city Harbor Island tidelands, having been filled and reclaimed, are no longer submerged or below the mean high tide line, are generally inaccessible to the public, and in their present condition are not suitable for public trust uses. In view of these facts, the amount of public trust land remaining in Newport Bay that is suitable for public trust use, and the small amount of acreage comprising the city Harbor Island tidelands, it is determined that the city Harbor Island tidelands are not presently required or needed for use by the public.

SEC. 5. (a) The city, or its successors, may allow the city Harbor Island tidelands to continue to be used for nonpermanent recreational and landscaping uses by leasing those lands or any part thereof for a period of 49 years or less for the purposes set forth in the existing leases between the Harbor Island homeowners and the County of Orange. During the term of the leases, the land shall be considered excess to public trust needs in the area, and the public trust easement shall not be exercised on the leased land.

(b) The consideration to be received by the city for leases of city Harbor Island tidelands shall be the fair market rental value of the lands taking into account the added value to the adjacent uplands provided by the acreage, usage, and littoral location of the tidelands, as well as the benefits of their exclusive use by the adjacent upland owner. The form of the leases and the range of consideration to be received by the city shall be approved by the State Lands Commission prior to the issuance of any lease.

(c) All money received by the city from leases of city Harbor Island tidelands shall be deposited in a city tideland trust fund established pursuant to subdivision (i) of Section 1 of Chapter 74 of the Statutes of 1978 and shall be available for expenditure in accordance with subdivision (j) of Section 1 of that act. For purposes of this section, the expenditure of trust funds to enhance the Upper Newport Bay Ecological Reserve shall be deemed to be in furtherance of the purposes of the trust created by Chapter 74 of the Statutes of 1978.

SEC. 6. The city Harbor Island tidelands referred to in this act are described as follows:

That portion of the public tide and submerged lands granted to and held in trust by the City of Newport Beach pursuant to Chapter 74 of the Statutes of 1978, lying above the present line of mean high water within the area bounded by the adjudicated line of ordinary high tide surrounding all of Tract No. 802 in the City of Newport Beach, County of Orange, State of California, as per map recorded in Book 24, Page 7 of Miscellaneous Maps, in the Office of the County Recorder of the county; as established by the Judgment in Case No. 23690, Superior Court, County of Orange, State of California as

recorded in Book 22, Page 332 of Judgments on July 2, 1928, and approved by the Legislature pursuant to Chapter 142 of the Statutes of 1929; and bounded seaward by the limit of the United States Bulkhead line as approved by the Department of the Army, Office of the Chief of Engineers on February 15, 1951; those limit lines having been established between the following station points:

BEGINNING at the most easterly point of the land described in the above mentioned Case No. 23690; that Station being No. 142 of United States Government Bulkhead above mentioned; THENCE Westerly to Station No. 143; THENCE Northwesterly to Station No. 144; THENCE Northwesterly to Station No. 145; THENCE Northerly to Station No. 138; THENCE Easterly to Station No. 139; THENCE southeasterly to Station No. 140; THENCE Southeasterly to Station No. 141; THENCE Southwesterly (at right angles to the line between Station No. 140 and 141) to the point of beginning. That point being Station No. 142 of the United States Government Bulkhead Line.