

Re: Request for a Coastal Development Permit for Newport Beach Moorings and Liveaboards

Jan 8th, 2026

From:

Samantha McDonald, PhD
Resident Liveboard of Newport Beach
Mooring H510, Newport Beach, CA

To:

California Coastal Commission
455 Market Street, Suite 228
San Francisco, CA 94105

Dear Chair Harmon and CCC Commissioners,

I respectfully request that the California Coastal Commission **require the City of Newport Beach to file a Coastal Development Permit (CDP) for Ordinance No. 2024-15 passed by the City Council of Newport Beach.** This request is based on strong evidence that this ordinance will dramatically change coastal access in the Harbor.

Although there are many concerns — much of which has been highlighted in public comments and letters from the Newport Mooring Association — I want to focus this letter on the removal of liveaboards in Newport Beach, and explain the subsequent effects this Ordinance will have on coastal access, recreation, and coastal affordable housing.

To summarize my claims:

1. Newport Beach liveaboards are recreational and public trust-aligned.
2. Liveboard eradication will erode recreational opportunities in the Harbor.
3. Liveboard eradication will erode employment opportunities in the Harbor.
4. The housing crisis and the affordable housing priorities of the CCC implores this committee to prioritize, protect, and preserve affordable housing.

I hope the evidence below demonstrates why the Commission must act to prioritize, protect, and preserve the liveboard community to ensure coastal access is available to everyone, not the wealthy few.

A Brief Summary of Events

On July 9, 2024, the City Council of Newport Beach adopted Resolution No. 2024-47 setting a new “fair” market value of rent for moorings located upon tidelands in Newport Harbor and introduced Ordinance No. 2024-15, amending Sections 17.60.010, 17.60.020, 17.60.040, and 17.60.045 of the

Newport Beach Municipal Code (NBMC), thus revising the permit requirements and rules related to transferability for mooring permits and licenses in Newport Harbor.

The local community of mooring holders expressed major concerns with the City's changes. Most notably, the ordinance increases the price of monthly mooring rent by 500% or more – depending on a mooring's length – and converts all mooring permits to City licenses. City licenses are very different from Mooring Permits. For example, the City licenses do not allow liveaboards. As a result of these changes, the rent of current liveaboards will increase over 500% while future liveboard options on mooring balls will be eradicated from the Harbor, removing a 100-year tradition.

Given concerns expressed by the mooring community, the California State Lands Commission (SLC) decided to investigate. On July 22, 2024, Commission staff sent a letter asking the City to delay the second reading of the ordinance with the alternate proposal so that Commission staff could conduct a management review of the City's granted lands and present it to the Commission.

In December 2025, the State Lands Commission completed this review. The SLC staff determined that the City is potentially violating their duties in managing the tidelands of Newport Beach. Specifically, the SLC found that the City may be violating the California Constitution and Public Trust Doctrine as a result of their management of the tidelands; staff concluded in one of their findings that some of their decisions appear to be political in nature, benefiting wealthy homeowners with lower rates of coastal access on private piers. The SLC is giving the City of Newport Beach up to a year to resolve concerns in their approach to managing the tidelands.

“Overall, when reviewing the City's actions over the last several decades, it is evident that the City has not adequately explained how its granted lands management decisions related to their mooring and residential pier programs comply with the City's obligations as the State's trustee under the granting statute.”¹

Concerns with the Treatment of Liveaboards:

Although the SLC spent a tremendous amount of time reviewing Newport Beach's management of the tidelands, the SLC decided to focus their review on the methodology for rates charged to permittees (i.e., moorings and private docks) in the Harbor. The SLC took a confusing stance on liveaboards, simultaneously claiming that they would not address concerns with liveaboards, while also making concerning legal statements against the presence of the liveboard community.

On August 21st, during a review of the draft version of the staff report, Chair Kounalakis asked Commission Staff and Counsel why the removal of liveaboards was not addressed in the draft of the report. Chief Counsel for the SLC, Seth Blackmon, responded to Chair Kounalakis stating that liveaboards are most likely not allowed in the Harbor because it is a privatized use of public land. Chief Counsel explained that this reasoning was based on a letter from the Attorney General's office

¹ B. Johnson, J. Plovnick. State Lands Commission Staff Report 105. December 16, 2025.

with regard to a case of houseboats in Redwood City, California. This letter was made available to the public on January 4th, 2016².

A week later, I responded to Counsel's comment with an 8-page memorandum which outlines the legal and historical precedent of liveaboards³. In this letter I demonstrated how (1) Newport Beach liveaboards are recreational and public trust-aligned, (2) the Granting Act of Newport Beach enables private use on public tidelands, (3) The State has historically allowed private use on public land for specific purposes, including historical examples of the SLC approving liveaboards in the tidelands across California, and (4) The housing crisis implores the CSLC to prioritize, protect, and preserve affordable housing.

The goal of this letter was to ensure that staff had ample information to ensure liveaboards were addressed and protected in the staff's final report. Instead – despite providing clear evidence of concerns with the Chief Counsel's conclusions – staff decided not to address the majority of the contents of my letter. Rather, staff wrote the following statement in the final staff report:

“The Report does not discuss the legal issues surrounding liveaboards. In general, liveaboard use is inconsistent with the Public Trust Doctrine, although there are some cases where the Commission allows a limited number of liveaboards when the use supports another Public Trust-consistent use, such as providing security services in a marina. Nevertheless, even if liveaboard use was consistent with the Public Trust Doctrine, the City has discretion to choose between competing Public Trust uses. Therefore, even if liveaboards were entirely consistent with the Public Trust Doctrine (which as explained, they are not), the City could decide to not allow liveaboard use in favor of increasing the quantity of moorings for solely recreational use.” – CSLC Staff Report, Dec 16th 2025, Agenda 105, pg9.

Before the December meeting and after this staff comment was published, I followed up with staff and SLC Executive Officer Dr. Matthew Dumlao with a second letter⁴. In this letter, I outlined my concerns with the opinions and language used in the above paragraph, as I strongly believe them to be misguided and legally dubious. Dr. Dumlao replied privately by email, noting that staff believed this is a prevailing view among “legal experts.” Dr. Dumlao did not specify who those experts were or where those ideas came from in the legal literature, heightening my concern that the SLC came to these decision without legal assurance. The final staff report cited no evidence to support their claims.

² Letter from Andrew M. Vogel, Deputy Attorney General, to Jennifer Lucchesi, Executive Officer, California State Lands Commission (June 19, 2015).

³ See State Lands Commission Archives, December 16th Meeting, Agenda 105, Public Comments pg213 and pg 222, as well as Newport Bay Management – Response to Comments Exhibit D “Comments from Samantha McDonald”

⁴ I can provide this letter and follow-up emails upon requests, as the SLC did not publish this letter in the public comments.

The two letters I wrote to the SLC clearly state why the removal of the liveaboard is unjustified and potentially illegal. The SLC decided to ignore these claims and provide little evidence for their own counter-claims. It is now up to the CCC to take a stance of liveaboards.

For the rest of this letter, I outline why the CCC must take action given its legal authority given by the State of California. The CCC must help review the situation in Newport Beach and protect the liveaboard community from eradication as it pertains to recreational opportunities and affordable housing on the California Coast.

1. Newport Beach liveaboards are recreational and public trust-aligned.

As outlined in my letter to the SLC, Newport Beach liveaboards are recreational-first, fully navigational boats, consistent with the public trust doctrine of boating recreation recognized by California courts. Every boat is a navigable sailboat or motorboat designed and used primarily for coastal access and recreation⁵. By contrast, Newport Beach's Harbor Code, Title 17, prohibits houseboats⁶, and living aboard your vessel is incidental to recreational boating, not a substitute for it. Evidence for recreation by the liveaboard community can be seen in both the City rules and practices of the community.

City Rules:

The City of Newport Beach permits a system in which empty mooring balls can be rented out by the City while the mooring holder is away. This is due to the fact that all Newport Beach vessels on moorings are navigable and for recreation, as moored vessels often leave the Harbor for recreational use. There are multiple instances in which the City has rented out or mooring when we were sailing.

The City of Newport Beach also requires liveaboards to pass an annual inspection in which they must prove navigability and safety standards to ensure that such boats are maintaining their designed use and standards for recreational boating and safety⁷. No other boats in the harbor – including non-liveaboard boats that utilize the public moorings, yacht clubs moorings, marina boats, or boats on residential piers – undergo this annual inspection.

Liveaboards do not block recreational access for others. Unlike prior issues in Redwood City where 80% of berths in the marina were used for residential purposes on stationary, non-recreational houseboats, the City of Newport Beach currently only allows 7% of vessels in Newport Beach for liveaboard use and all such vessels must be recreational and navigable; liveaboards are not the primary users of the mooring fields.

In addition, there are typically 100 empty mooring balls available each day for the public to rent from the City. Liveaboard mooring balls do not block public access, they enhance it, as any public boater

⁵ Marks v. Whitney (1971) 6 Cal.3d 251, 259.

⁶ Newport Beach, Cal., Mun. Code tit. 17, § 17.35.020 (2025).

⁷ Newport Beach, Cal., Mun. Code tit. 17, ch. 17.40 (Live-Aboards) (current through Ordinance No. 2025-6).

can use empty mooring balls while unused by the permittee. Proceeds from fee-use through sublet are collected and kept by the City.

For example, when my partner and I sailed to Mexico to cruise, our mooring ball was rented out to another sailor. We continued to pay our mooring and liveaboard fee to the tidelands, and paid for the maintenance of our mooring tackle, while the City collected additional tidelands income from the visiting vessel at no additional cost to the City.

Finally, and most importantly, the Attorney General and the State Lands Commission have a recorded history of allowing liveaboards due to their public-trust alignment.

The Attorney General's letter to the SLC regarding Redwood City cites a historical letter from William Northrop, Commission Executive Director, to State Sen. Dennis E. Carpenter on January 10, 1978. In that case, the State Lands Commission staff reviewed an ordinance to approve liveaboards in Berkeley.⁸ The CSLC staff and the Attorney General's Office determined it was not in violation of the public trust and the general policy prohibiting residences on public trust land to have liveaboards in Berkeley.⁹ This is because the liveaboards were a trust use serving a state-wide purpose. From what I understand, the City of Berkeley still maintains this liveaboard opportunity¹⁰.

Today, many cities in California allow berths in private marinas to be liveaboards, including cities like Monterey, Morro Bay, and Ventura.¹¹ The San Francisco Bay Conservation and Development Commission (BCDC) created a 10% liveaboard allowance in the "Bay Plan" of 1969, and this commission authorizes liveaboard use across the San Francisco Bay Area.¹² In both Monterey and the BCDC, it is made clear that liveaboards are incidental to regular use of the open water, but service state-wide purposes that align with the public trust doctrine.¹³

Lastly, the City of Newport Beach has no restrictions on the number of liveaboards that can exist in private marinas.¹⁴ The Newport Beach City Council specifically rejected the Harbor Commission's proposed 7% limit for commercial marinas when they updated Title 17 on January 28, 2020, leaving commercial marinas without numerical restrictions on liveaboards.¹⁵ These liveaboards, among many

⁸ Letter from William Northrop, Commission Executive Director, to State Sen. Dennis E. Carpenter (Jan. 10, 1978). It is interesting to note that the reasoning for liveaboards in this case requested for security and surveillance, which the Newport Beach Liveaboards community has pointed out multiple times in meetings as a primary benefit to liveaboards. The liveaboard community of Newport Beach has used CSLC public comment to share their stories of life saving and boat-saving experiences in the Harbor.

⁹ Cal. State Lands Comm'n, Minutes of the Meeting of December 20, 1978, at 2660-61.

¹⁰ A liveaboard waiting list is still available for liveaboards on the City of Berkeley's website. <https://berkeleyca.gov/sites/default/files/documents/Liveaboard%20App%26Notice.pdf>

¹¹ Monterey, Cal., Mun. Code § 17-43; Morro Bay, Cal., Mun. Code § 15.40; Burgh, J. Office of the Auditor-Controller - County of Ventura California. Audit of the Harbor Department's Management of Channel Islands Harbor Boat Slip Inventory. (October, 2023)

¹² Bay Conservation and Development Commission. San Francisco Bay Plan (January 1969, as amended).

¹³ See Monterey, Cal., Mun. Code § 17-43 D.6 ; Bay Conservation and Development Commission. San Francisco Bay Plan (January 1969, as amended) p.24.

¹⁴ Newport Beach, Cal., Mun. Code tit. 17.

¹⁵ Newport Beach City Council Approves updates to Title 17 – Harbor Code, THE LOG, <https://www.thelog.com/local/newport-beach-city-council-approves-updates-to-title-17-harbor-code/>

other marinas in California, have not been contested by the State Lands Commission, and such denial would create disparity between liveaboards on moorings in Newport Beach and other instances in California and within the City.

It is also very concerning to see the City of Newport Beach allow unlimited liveaboards in private, expensive marinas while limited current liveaboards to 7% and eradicating all future liveaboards in the Harbor in the mooring field.

Community Practices:

Many liveaboards are cruisers (i.e., boaters who take extended voyages out to sea and other locations). My partner and I spent two cruising seasons in Western Mexico. Our liveboard neighbors sailed to French Polynesia and back last year; another liveboard couple sailed their vessel from South East Asia to Newport Beach. This is only a few examples.

This form of recreation, cruising, is inextricably linked to residence aboard, and therefore directly tied to navigation and recreation under the trust.

Liveboard's recreational use of the Harbor also occurs on a daily basis. Many of our liveboard neighbors are daily kayakers, swimmers, dinghy sailors, and recreational fisherman. Just last month, my partner sailed our home to Catalina Island for a week to enjoy the island with a friend and visit the backside of Two Harbors for the first time. In October, our boat went to Ensenada, Mexico for a haul-out for regular maintenance work and a fresh coat of bottom paint. Liveboard vessels are a means to recreation that we could not afford otherwise.

Conclusion:

The evidence of public-trust alignment for liveaboards is substantial. That is why it's hard for me to understand why the SLC had determined the liveaboards are not public trust consistent use, especially when comparing us to private docks. At the August 2024 SLC Meeting, Chief Counsel stated:

"...We generally highlight the fact it is a public trust consistent use, the piers are, because it's actually access for waterborne activities with boats. [sic]" - Chief Counsel Blackmon, State Lands Commission Meeting, August 21st"

It's unclear to me how the Chief Counsel for the SLC could determine that private docks attached to a person's home (which blocks public coastal access) is a public trust consistent use, but liveaboards, who do not block public access to the contrary—enhance it, are not-public trust consistent use. Both instances have people living and paying for a place with recreational access opportunities.

2. Liveboard eradication will erode recreational opportunities in the Harbor.

The City's conversion of individual mooring permits to City-owned licenses reduces recreational opportunities in the tidelands. For example, according to Newport Beach Code 17.60.045 G,

“Extended Vessel Absence. Vacancy or absence from the mooring by the assigned vessel for at least 25 consecutive days shall be deemed abandonment of the mooring and shall result in automatic termination of the mooring license. Termination of license based on abandonment shall not be appealable to the harbor commission.”

As I explained to the Coastal Commission on April 9th, 2025 during public comment, this rule for licenses severely limits recreation for boaters. One of the primary reasons why mariners have boats is to go on extended journeys out to sea. Whether it be fishing trips, long-term cruising, or summer vacations to Catalina Island, there are a multitude of reasons why a boater would leave a mooring ball for extended periods of time. Most important, most, if not all, vessels need to be hauled out of the water every other year for inspection and repairs. These repairs can take months if the damage is severe enough.

A blanket rule that provides the City with authority to take away your license when the vessel is not on your mooring is a highly concerning practice, especially when Staff consider that an empty mooring is always available for the City to rent to tideland users while the license holder is away.

The community of mooring holders filed a public records request to the City of Newport Beach to learn more about the City’s explanation of this policy. As a result of this record request, the community learned that SLC Staff reached out to the City and requested that City Staff explain the Extended Vessel Absence concern. On June 30th, 2025, Newport Beach Staffer Lauren Wooding Whitlinger responded to SLC Staffer Jeff Plovnick,

“[Harbormaster Blank] confirmed the rule is intended to prevent licensees from holding a license without actively using it or actively boating. The licensee can simply write to the Harbormaster (via email) with why they will be absent from the mooring and the anticipated timeframe. Possible reasons an extended absence may be approved include:

- Extended renovation, repair, or upgrades being performed to the vessel in a boatyard*
- Extended cruise to other destinations (i.e., a TransPac race), however, a cruise with no planned return would NOT be a valid reason for the vacancy*
- A delay resulting from the acquisition of a new vessel, with proof of a valid purchase (someone shopping would not qualify) [sic]”*

This response, although reasonable on the surface, sheds light into the community's ongoing concerns.

Although it is a positive sign that the City recognizes the need to leave a mooring for extended periods of time for recreational reasons such as cruising, yacht races, repairs, or purchasing logistics, this communication by City Staff makes it clear that the list of possible reasons, not guaranteed reasons.

Given the community’s tumultuous relationship with the Harbormaster, the Harbormaster’s conflict of interest with his yacht club mooring, and recent examples of both the Harbormaster and Harbor

Commission not following through with verbal promises, the community is skeptical that the City will follow-through with such extended absence approvals.

Second, the communication by Newport Staff did not mention that no matter what approvals the City provides, a vessel's absence shall not exceed six months¹⁶. It does not matter if a boat needs a year-long repair job after a nasty Santa Ana windstorm, or if the vessel is stuck in another country for next season's weather window. **The City maintains the right to revoke your safe shelter and home for your recreational vessel.**

For anyone who has cruised on their vessel, this code is particularly damaging. Cruising is dependent on weather and seasons. Sailboats, in particular, must travel when it is safe. The old adage of sailing is, "*I can give you a time or a place, but never both.*" Weather windows can take weeks, if not months, to arrive. Sailing back from locations such as Mexico or the South Pacific can also take months on its own just to make the voyage home.

Here is a real example to illustrate our concerns:

The closest popular cruising ground from Newport Beach is the Gulf of California, Mexico (also known as the Sea of Cortez). The safest time to sail from California to the Sea of Cortez is early winter after Hurricane season (roughly October to November). This is the ideal time of year when hurricanes in the South have subsided and winter storms in Alaska have not created strong gales blowing South to California. Hundreds of boats undergo this voyage from Southern California to Mexico every year. Colloquially, this is known as the 'Baja Ha Ha.'¹⁷

My partner and I sailed our vessel to and from the Sea of Cortez, twice. Our sailboat moves at an average speed of 4–6 knots, which is roughly equivalent to 4–6mph; a very slow ride. At this rate, it can take 2–3 weeks minimum to safely and slowly make your way down the coast, stopping in ports, and arriving in Cabo San Lucas, the gateway to the Sea of Cortez. This sail is typically downwind, which is the most comfortable point of sail. Once you arrive in the Gulf of California, the cruising season (i.e., the most optimal time to sail within the water of Mexico) is between November and June, which is eight months.

Sailing back to California within the six months window required by the City is unsafe and unlikely. Winter storms that form in Alaska barrel down the Pacific Coast and create strong and consistent southerly winds. These winds make it near impossible to return home to California before late spring. This voyage is colloquially known as the 'Baja Bash' given both the dangers and discomfort of sailing or motoring upwind back to California.¹⁸

It is well known in the sailing community that you cannot leave Baja safely until these strong winds dissipate in late spring to early summer. As a result, it is near impossible to return home to Newport

¹⁶ Title 17, 17:60:45 G1 and G2

¹⁷ <https://www.baja-haha.com/>

¹⁸ See Capt. Jim Elfers's book "The Baja Bash II: The Essential Survival Guide for Boats, Spirits & Marriage Returning Up Baja"

Beach before this safe weather window opens, which is well after the 6-month time limit proposed by the City license program.

The example above is the closest popular cruising ground to Newport Beach. One could imagine that cruising to other locations such as the South Pacific can take much longer to return safely. The Harbor Department is well aware of these cruising needs, and they are aware of these typical timelines. That is why the community is concerned with the license rules that appear to intentionally harm cruising, a primary form of recreation for boat owners.

The CCC must work to guarantee cruising recreation is not limited by the rules set forth by the City. There is no way of knowing how the City may subjectively choose who gets to keep their license and whose license will be revoked based on the recreation that is undertaken.

For the California Coastal Commission, protecting public access to the coast for all recreational opportunities is a core mandate of the Coastal Act. It is the commission's responsibility to ensure that City rules practices do not violate the California constitution, public trust doctrine, and granted lands statute. **If the City license program is reducing recreational opportunities, and putting boaters at risk of license termination for conducting regular forms of recreation, it is the duty of this commission to address it.**

3. Liveaboard eradication will erode employment opportunities in the Harbor.

In *People v. City of Long Beach*, 51 Cal.2d 875 (1959), the California Supreme Court determined that residence of persons that maintain the “*the harbor and commerce, fishery, and navigation*” are “*not only consistent with but in direct aid of the basic trust purpose to establish and maintain a harbor and necessary.*” at 879.¹⁹

Liveaboards in Newport Beach are fishermen, delivery captains, charter captains, and harbor tour guides who directly aid basic trust purposes. My partner, Michael, and I just delivered a vessel across the Atlantic Ocean this summer, and Michael delivered another vessel in the Chesapeake Bay this winter. Neither of these job opportunities would have been possible unless we lived on our vessel and consistently engaged in the maritime community.

These forms of employment would not exist if liveaboards could not live where they work. Their opportunities for employment are inextricably linked to the Harbor. Imagine a boat mechanic attempting to afford rent in the City of Newport Beach, or a fisherman who sets out to sea for long stretches of time. The only reasons why these economic opportunities are possible is because we live in the harbor.

Many of these jobs would not be economically sustainable in light of the affordable housing crisis of the California coast and California generally, which I will describe in the next section. **Thus, the eradication of the liveaboard opportunities means the eradication of jobs that are in direct aid of**

¹⁹ *People v. City of Long Beach* (1959) 51 Cal.2d 875.

the basic trust purposes necessary to maintain the recreational and economic opportunities of the harbor.

4. The housing crisis and the affordable housing priorities of the CCC implores this committee to prioritize, protect, and preserve affordable housing.

Without a doubt, the liveaboard program provides one of the last affordable means of boating recreation and living in the coastline of California. While our neighbors on land reside on homes coasting tens of millions of dollars, the current permit program allows the community to live off of average and lower-income salaries while maintaining our access to the coast.

Attorney General Concerns:

To quote the Attorney General's (AG) website

"California is in dire need of additional housing... Housing shortages and rising costs are increasing inequality and limiting advancement opportunities for all Californians. For California's vulnerable populations, racial discrimination and inadequate accommodations for people with disabilities are worsening affordability challenges and equal access."

The AG's website also notes that as of 2025, California faces a severe housing affordability crisis, with a shortage of millions of homes needed to meet demand. Over half of California renters are considered "rent burdened," spending more than 30% of their income on housing, and nearly a third are "severely rent burdened," allocating over 50% of their income to rent. Additionally, thousands of affordable housing units are stalled due to lack of funding. This crisis disproportionately affects low-income and marginalized communities, exacerbating homelessness and housing instability across the state.

Governor + State Legislature Concerns:

The Governor's Executive Order N-06-19 from February 2029 orders the State to seek uses of public land to address housing concerns.

Gavin Newsom also signed Senate Bill 484 in October 2025, which directs the California Coastal Commission to identify areas suitable for affordable housing and waive coastal development permits in those zones. The bill recognizes that California's severe lack of affordable housing is both a social and an environmental crisis. The State must ensure environmental protection and additional housing is done at in conjunction.

The Newport Beach ordinance undermines both, and runs afoul of California's No Net Loss provision. By eliminating liveaboard housing, the city is removing a form of affordable housing during an ongoing housing crisis.

Coastal Commission Concerns:

The California Coastal Commission also recognizes concerns with affordable housing on the coast. As stated on the Commission's website, "the Commission remains committed to finding new opportunities to protect and promote more equitable and affordable housing outcomes along California's coast... Coastal Act Section 30604(f) requires the Commission to encourage housing opportunities for persons of low and moderate income. The Commission takes this requirement very seriously."²⁰ In November 2025, the Commission approved a rule change to make it easier to build affordable housing in Monterey and elsewhere along the hundreds of miles of the Pacific coast.²¹

If the commission takes the eradication of affordable housing seriously, then the Commission must intervene in the eradication of the liveaboard community.

I believe it is important to reiterate here: the liveaboard community is a legal and recreational aligned community. Unlike prior state issues with illegal anchor-outs in Sausalito or Houseboats in Redwood City, the liveaboard community in Newport Beach is annually inspected, pays regular rent to the tidelands, recreational. By working in the Harbor and using our vessels, we aid and enable public trust purposes that must be protected by the CCC. Living on a vessel is not easy, and those that choose to do so give up typical land-based luxuries. But in return, the liveaboard system provides unparalleled access to recreational, economical, and housing opportunities that the City seeks to eradicate.

Legal Precedent - Rental Restrictions:

There is legal precedent in California for regulation around rent and affordability of people residing on their vessels. In *Interstate Marina Dev. Co. v. County of L.A.*, 155 Cal. App. 3d 436 (1984), the Court of Appeal of California determined that rent laws in California which aim to restrict rent increases are valid and constitutional as it applies to liveaboards.²² Thus, California courts recognize not only the existence of liveaboards but the application of state rent limits to those that live on their vessels in the tidelands.

In August 2024, the City increased the live-aboard permit fee by 11.65% from the previous year. The Tenant Protection Act places limits on annual rent increases.²³ Rent may not be increased more than 5% plus the change in the cost of living (pursuant to the Consumer Price Index) or 10% total, whichever is lower, over the course of any 12-month period.²⁴ Starting in August 2024, the maximum

²⁰ www.coastal.ca.gov/Housing/

²¹ <https://documents.coastal.ca.gov/reports/2025/11/w6g/w6g-11-2025-report.pdf>

²² *Interstate Marina Development Co. v. County of Los Angeles* (1984) 155 Cal.App.3d 435.

²³ Civil Code, § 1947.12

²⁴ California General Attorney, Department of Justice, "The Tenant Protection Act Your Obligations as a Landlord or Property Manager"

<https://oag.ca.gov/system/files/media/Tenant-Protection-Act-Landlords-and-Property-Managers-English.pdf>

rent increase for both L.A. and Orange counties was 8.9%.²⁵ Thus, the City of Newport Beach increased our rent by more than the state-mandated limit.

This increase was enacted with no public notice and no direct communication by the Harbor Department or the City of Newport Beach. This is confirmed by multiple liveaboard neighbors; none of whom had received notice of the fee increase. The Tenant Protection Act also requires landlords to provide at least 30 days' written notice.²⁶ Again, the City's actions are in clear violation of the Tenant Protection Act.

Despite our complaints, the City decided to reject our claim without an explanation, ignoring affordable housing regulation for liveaboards. Our complaint to the City only included the liveaboard fee changes. This complaint does not include the potentially 500% increase in mooring permit rent, which is the majority of our regular payments to the tidelands. It's unclear to me how a 500% increase in rates will improve coastal access, but this explanation would, in itself, require an additional lengthy letter.

The CCC should take the rental limitation of liveaboards into account as the City attempt to increase mooring rent to 500% or more. Although the SLC has determined the City needs to account for current mooring holders financial investment in their re-evaluation of the tidelands management, it's unclear that these rates will change without state intervention.

Newport Beach's Affordable Housing Requirements:

The community of liveaboards in California falls within this realm of affordable housing and the need for state-mandated rate limits. Many liveaboards are retirees on fixed income, including at least one disabled veteran. Many liveaboards will not be able to afford residences on land at the current rates in California. Newport Beach's liveaboard system allows these individuals to pay their own way, and not further burden the limited land based subsidized housing inventory. It does not make economic sense for the State to allow the City to push more people into subsidized housing.

It should be noted that the City of Newport Beach is required to create affordable housing set forth by the State of California Housing Element. Newport Beach has been allocated 4,845 new housing units which need to be created with varying affordability levels between 2021 and 2029 under the Regional Housing Needs Assessment (RHNA). By eliminating liveaboard housing, the City is stripping away a vital source of affordable housing during a severe statewide housing crisis.

If the City were to double the number of liveaboards to 14%, instead of removing them from the Harbor, the City could create hundreds of new affordable housing opportunities that not only align with the public trust but with the affordable housing needs of California. Yet, the City has decided to

²⁵ Consumer Price Index, Los Angeles area — April 2025

https://www.bls.gov/regions/west/news-release/consumerpriceindex_losangeles.htm

²⁶ California General Attorney, Department of Justice, "The Tenant Protection Act Your Obligations as a Landlord or Property Manager"

<https://oag.ca.gov/system/files/media/Tenant-Protection-Act-Landlords-and-Property-Managers-English.pdf>

remove these currently existing affordable housing units, while falling behind on their Housing Element duties.

If the Commission allows the City of Newport Beach to remove liveaboards, the commission risks violating the intent—and potentially the letter—of the State's own regulations and the Governor's executive orders by removing affordable housing from State lands.

Conclusion and Request

Given the above legal and historical precedent, it is clear to me that the CCC must require the City of Newport Beach to file a CDP. Changes to the mooring permit program will substantially change recreation, coastal, and economic access to California's tidelands and coastline. Despite clear evidence that the City of Newport Beach's liveaboards are recreational and public trust-aligned, that liveaboard eradication will erode recreational and employment opportunities, and that the removal of liveaboards will strengthen opportunities only for the wealthy coastal community members, the State has done nothing to interfere.

I hope this evidence implores this committee to prioritize, protect, and preserve the liveaboard community, to ensure coastal access is available to everyone, not the wealthy few.

Thank you for your consideration.

Respectfully,

Samantha A. McDonald, PhD