



February 8, 2010

Ms. Patricia Bates
Supervisor, Fifth District
Orange County Board of Supervisors
333 West Santa Ana Boulevard
Santa Ana, CA 92701

Dear Supervisor Bates:

We briefly discussed during a meeting with you two weeks ago that the Dana Point Boaters Association is raising a legal issue regarding the Dana Point Tidelands Trust.

Please see the attached letter to Mr. Nicholas Chrisos, County Legal Counsel. As we indicated to you and as that letter discusses in more detail, funds are being misdirected from the Dana Point Tidelands Trust for purposes of reimbursement of OC Harbor Patrol funding. As stated in that letter, we do fully support the purposes and practices of the OC Harbor Patrol. However, utilizing the Dana Point Tidelands Trust as the funding mechanism in Dana Point is contrary to established law, and over allocates the burden of its cost upon the boaters and merchants of Dana Point Harbor. That letter requests that the funds removed in the most recent fiscal period be returned to The Trust, and the costs be borne by the County General Fund, as has properly been done in prior years, and is still being done for all but 15% of all other OC Harbor Patrol funding County-wide.

We believe that The County has clearly violated the law with respect to the misdirection of approximately 3.7 million dollars in Dana Point Tidelands Trust funds. Further, this violation has created a significant hardship to Dana Point Harbor boaters and merchants who provided the funding for this practice through slip rents and other rental assessments that are meant to fund Harbor operations only. Not coincidentally, this issue would not likely to have arisen if not for the fact that boaters are being significantly overcharged for their slip rent since the County took over the management of the Harbor Marinas operations. That is, overcharged from the date some 8-9 years previous to today (dates varies for each of the three marinas involved) when management of operations transitioned from master leases, held by "for profit" private companies, to operating agreements executed by these same private companies on behalf of OC Dana Point Harbor, a County Government department which is inherently "not for profit".

We are also attaching a recent email to Mr. Brad Gross, Director OC Dana Point Harbor which discusses slip rent overcharged in more detail. As our email states, The Dana Point Boaters Association has surveyed other government owned, and therefore comparable Southern California recreational marinas. Our survey indicates a nearly 50% premium being charged in Dana Point Harbor over all other marinas included in the survey. Please see the spreadsheet attached to our email, also attached here, for specific information. It seems apparent that if the Harbor was properly run on a cost recovery basis,

there would be no excess “profits” from which to plunder for purposes more appropriately paid through the General Fund.

In closing, thank you very much for your conscientious and dedicated stewardship of Dana Point Harbor. Thank you also for your assistance in gaining the earliest possible closure to this matter. We are of course anxious to assist in resolving the matter in any way that that you feel would be beneficial.

Respectfully,

Rodger Beard
President
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P O Box 461, Dana Point, CA 92629-0461

CC:

Mr. Nicholas Chrisos, OC Legal Council
Mr. Brad Gross, Director OC Dana Point Harbor
Board of Directors, Dana Point Boaters Association

Attachments:

Letter to Mr. Nicholas Chrisos
Case Law, 134 Cal. App. 3d 20; 184 Cal. Rptr. 423; 1982 Cal. App. LEXIS 1832
Email to Mr. Brad Gross
Survey Government Owned Marinas in Southern California