

## Study - Port of London Authority River Works Licences for Residential Use

### Issues list and commentary

Issues relating to value / the consideration for the licence		
Issue	Brief Description	Comment
1 Works licence / mooring value	Should the charge reflect the use to which the river works are put. If so why?	Yes, confirmed by legal opinion
2 Access agreements / riparian rights / ransom strip	Implications for fees where licence holder owns access land/river bank (cf Stokes V Cambridge). Disclosure of all access agreements and the fee paid up front or annually in respect of these rights? Study to consider the different scenarios and financial issues.	Three equal shares - land-owner, PLA and licensee. If licensee owns land then they have two thirds of the share. Refer to "Share of Net Value" section of report.
3 Gross or Net	Consider whether costs should be off set. If so which costs.	The proposal is a deduction of 15% of gross notional or actual mooring revenue for maintenance and repair costs (rather than use service charges or actual costs which would lead to disputes). Land access costs and the licensee's capital are taken into account with their one third shares - refer to "Costs" section of report.
4 Navigation licence fee	Relevance of navigation licence fees from BW and EA comparables and should the PLA receive the equivalent inside the RW fee?	Potential relevance confirmed in legal opinion. Comparisons between waterways is considered in the report and BW and EA licence fees have been taken into account. Refer to "Notional Annual Mooring Fee" section the of report.
5 Premium payments "key money"	Should, or to what extent should premium payments be taken into account for the RWL? including disclosure of all premium payments made to either riparian owners or licensee to secure mooring rights. Study to consider the different scenarios and values.	Review has assessed this issue - it is difficult to extract the RWL element from the 'package' but where possible, decapitalised sales prices of the mooring might be used as reference points of value. Refer to "Charging options" section of report.
6 Boat rental value / mooring rental value	Consider relevance	Legal opinion confirmed that mooring rental values are prime comparator. Boat rental values are variable depending on the type of boat and it is difficult to extract RWL element. Refer to "Charging options" section of report.
7 Leisure moorings	How valid are leisure mooring fees as comparables for residential ones, to what extent and why?	Not relevant as comparables - different product, demand and market to residential moorings. However leisure moorings which are occupied by houseboats or pied-a-terres are not subject to leisure demand, they will have their own value, although it is difficult to make a comparison with fully residential moorings.
8 Multi occupancy boats	How should multi occupancy boats let by residential landlords be considered?	The value created is in the room rental (not mooring fee), so letting income is the relevant revenue proposed to be used as the basis. Refer to "Large multi-tenanted houseboats" section of report.
9 Length or Area	Which is the fairest way to charge if charging boats?	By deriving a notional mooring fee from commercial operators, we must base charges on their practice. Proposals are that charges should be by metre length, adjusted for beam (for boats below 2.4m and above 5m wide). Refer to "Applying the actual or notional annual mooring fee to the boat(s)" section of the report.
10 Boat Shape	If charged by area should this include the missing corners for boat shaped boats?	No. The appropriate measurement would be the length occupied by the boat, with suitable width adjustments. The same length of mooring is occupied with or without missing corners, so deductions cannot be justified and this does not happen in the moorings market.

11 Multiple storeys	Should there be a differential for multiple storey boats?	There is insufficient evidence in the market for charges based on extra storeys - to create a specific charge could create unrealistic notional mooring fees. However by inflating the notional mooring fee with a weighting for beams above 5 metres, this factors in the potential for extra storeys which are more likely on wider boats. Refer to "Applying the actual or notional annual mooring fee to the boat(s)" section of the report.
12 Actual works usage or potential	Is charge based on actual size of vessels or potential size of moorings. What about visitor moorings?	Potentiality is set out in the legal opinion. If the boats at the site reflect the reasonable potential occupancy, then that should be the basis. When a mooring site is not fully occupied, it may be that the licensee is not operating the site efficiently and is not achieving its reasonable potential value. In this case, it would be more appropriate to use the total lettable metres as the basis, using pontoon length as the basis instead of the boats on site. Refer to "Applying the actual or notional annual mooring fee to the boat(s)" section of the report. Visitor moorings have a different value and should subject to a different basis for the charge.
13 Locational factors	Should location factors be included in the fee calculation if so how?	Yes, confirmed by legal opinion. Locational differentials and also site-specific factors are proposed in the recommendations. Refer to "Notional Annual Mooring Fee" section of the report.
14 Grounding	Should there be a reduction for those boats grounding?	River conditions such as wash, grounding and floating debris were found to affect <i>all</i> houseboats to some extent, albeit in different ways. They are a fact of living on the River and should not merit any specific reduction. No obviously quantifiable differences were identified between sites, other than above Richmond Half Lock. If exceptional circumstances can be identified which affect one site significantly more than others, they should be considered. Refer to "Notional Annual Mooring Fee" section of the report.
15 Boats v floating homes	Should houseboats resembling boats be encouraged by a fee differential?	The PLA does not have a remit for controlling the boat type. This is a matter for the local authority and should be dealt with through the planning process.
16 Enclaves/individual boats	Should enclaves pay more, less or the same as individual boats? Why?	No reason was identified to treat the two types of mooring differently, and neither did the licensees make any case for a distinction. Therefore the proposed formula treats them equally, although each assessment must take all circumstances into account and any site-specific issues will be identified through that process.
17 Ownership of Riverbed	what is the licence fee where the riverbed is not owned by the PLA?	This has been confirmed by the PLA - it is a Navigation Licence Fee.
18 Effect of history on current fees	Gain an understanding of the history behind the fee increases e.g. piggybacking comparables, threat and cost of arbitration, wide variation in fees currently charged.	The history has been researched from both the licensee and PLA perspectives -both are summarised in the report. Refer to the "Why was a review needed?" section of the report. The legal opinion addresses the potential relevance of settlements as comparables.
19 Double licensing issue (HRO)	Clarification that houseboat dwellers will never have to pay a river works licence fee and a mooring fee.	The intention of the HRO is not to charge a mooring fee to boats that are already subject to a River Works Licence.
20 Monopoly position	Consider and quantify the effect of monopoly position of PLA	The monopoly issue is discussed in the legal opinion. The proposed charging method is based on mooring fees with the PLA at arm's length from price-setting. The recommended share of value for the PLA is 'fixed' at one third of the net value which provides certainty and manages expectations between all parties. It provides a mechanism for the River Works Licence fees to remain the same proportion of the value of the mooring into the future.

**Issues relating to the terms of the licence**

Issue	Brief Description	Comment
21 Review mechanism	Consider options	Regular reviews are no longer necessary because the annual sum payable would always be current, i.e. it is calculated using the formula each year (and a recalculation of the London-wide notional mooring fee). Periodic reviews of site-specific factors are advisable. Refer to the "Reviews" section of the report.
22 Changes during the licence period	How should changes be dealt with and when?	Any changes to the works or moorings by the licensee would require notification to (and probably consent from) the PLA. In this way, changes will be taken into account when the formula is applied each year.
23 Transfer of licences	Consider the transfer process and any terms.	Many licences state that the PLA will not unreasonably refuse to grant a new licence on substantially the same terms, but ultimately the transfer depends on the specific licence and circumstances.
24 Security of licence	Clear information about licence terms relating to tenure, length of term, transfer etc that will be straightforward for bankers, buyers, estate agents and solicitors to understand	Many licences are 'open-ended' and run indefinitely, although some specify a fixed term, often requested by the licensee in order to secure investment funding. Preferences vary among licensees. General licence information could be provided on the PLA website.
25 Standard licence terms	Identify some recommendations for new clauses in the licence, or amendments to existing clauses.	This is now beyond the scope of the review which has focussed on a charging methodology. Furthermore, new licences are being negotiated between the prospective licensee and PLA with terms relating specifically to their circumstances.

**Issues relating to arbitration and resolving disputes relating to the consideration / fee**

Issue	Brief Description	Comment
26 Arbitration	What can we do instead of arbitration or to reduce the likelihood, cost and threat (unpredictability of cost) of arbitration?	A dispute resolution panel is proposed as a stage before arbitration. This should be simpler and more cost effective for all, while providing an independent view. Although the Panel's decision cannot be binding because either party still has the right to seek arbitration (as provided in the 1968 Act), it is anticipated that with the more open approach arbitration will be less likely once the matter has been heard by the Panel. Refer to the "Dispute resolution" section of the report.

**Issues relating to the implementation of any changes resulting from the review**

Issue	Brief Description	Comment
27 Adjustments as a result of review	If proposals result in significant changes in the fees paid, a proposal on how phasing could be implemented.	Principles for phasing have been proposed. The phasing will depend upon each licensee's last review date, next review date and amount of the increase or decrease.
28 Future licence holders v existing ones	Consideration of the merits of having a different approach to existing licences as opposed to future licences.	The proposed charging method relates to the existing licences. The report also refers to new licences and notes that the PLA those licensees are free to negotiate new licences on terms they mutually agree. Refer to the "New licence agreements" section of the report.
29 Outstanding reviews	What should be done about existing reviews.	The PLA have confirmed that reviews which should have taken place prior to 1st January 2009 will only be backdated to 1st January 2009. Those licences with reviews post 1st January 2009 will be implemented as from the review date in their licence.