

King County Real Property Acquisition Practices

Report No. 96-9 -- Report Summary

Bert Golla, Financial Auditor
Bobby Buyco, Management Auditor

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INTRODUCTION AND BACKGROUND

The management audit of King County's real property acquisition practices was requested by the Metropolitan King County Council and was included in the 1996 County Auditor's Office work program.

Under State law, municipal governments including the former Municipality of Metropolitan Seattle (Metro) and King County, have authority to acquire property rights that are deemed necessary for public-purpose projects by purchase or, if necessary, by condemnation. Both Metro and King County had acquired land, buildings, and property rights.

Effective January 1, 1994, King County assumed the rights, powers, functions, and obligations of the Municipality of Metropolitan Seattle. Currently, the former Metro functions reside in the County's Departments of Transportation and Natural Resources.

OBJECTIVE

The audit objective was to determine the reasonableness of Metro and King County's real property acquisition practices, including mitigation practices relevant to property acquisition.

GENERAL CONCLUSION

The general conclusion of the audit was that Metro and King County's real property acquisition practices, including relevant mitigation practices, were reasonable and were in compliance with the State law and the County's acquisition policies and procedures. However, the County needed to correct some weaknesses that were identified during the audit relating to acquisition, relocation, and accounting for land and buildings acquired.

MAJOR FINDINGS AND RECOMMENDATIONS

Finding 1 - King County and Metro generally acquired property in accordance with State law and the County's acquisition policies and procedures. Although in two cases, Metro paid property owners a price significantly higher than the appraised fair market value.

In order to implement approved projects undertaken by King County and Metro, real property and easement rights had to be acquired. King County and Metro established their need for the property, communicated their interest to property owners, obtained Council approval and authority to proceed and negotiate, obtained appraisals, established just compensation, and negotiated for the acquisition of the property.

Generally, the review of a sample of real estate acquisitions from 1985 to 1994 indicated that King County and Metro complied with State law and the County's acquisition policies and procedures. However, two instances were identified when Metro paid higher prices than appraisal warranted:

- *Lyon Building Acquisition:* In March 1987 Metro obtained two appraisals which determined that the market value of the property ranged from \$2,150,000 to \$2,620,000. The negotiations handled by Metro's legal counsel resulted in Metro paying \$3,500,000 for the Lyon Building. Metro's records indicated that the \$3,500,000 agreed upon price was arrived at by splitting the difference between Metro and the sellers' appraisal of fair market value. The sellers' appraisal reports were not in the file nor were they found and produced upon audit staff request.
- *YL Property Acquisition:* In January 1986, Metro's appraisals of the YL property indicated that the fair market value was between \$2,380,000 and \$2,465,000. Metro initially offered \$2,465,000 for the property. The owner did not accept the offer and a series of negotiations between Metro and the seller failed to reach an agreement. Eventually, Metro brought condemnation proceedings in King County Superior Court. The court heard both sides and decreed that just compensation for the property was \$4.3 million.

Finding 2 - Metro paid a homeowner \$25,000 for temporary relocation assistance to mitigate the impact of noise and dust from construction work, and to influence the owner to withdraw her opposition to the north base station that was scheduled for appeal hearing before the King County Council.

In 1986, Metro had ongoing construction work on the north base station. A homeowner who lived in a nearby house filed a written complaint to Metro about the noise and dust coming from construction work. She also filed written appeal to the King County Council expressing opposition to the Zoning Examiner's findings and recommendations relating to unclassified use permit application for the north base station facility.

After several contacts and a series of negotiations, an agreement was reached with the homeowner. The homeowner was to be temporarily relocated away from the construction site at a cost of \$25,000 to Metro. Another condition that Metro attached to the agreement was to require the homeowner to withdraw her letter of appeal to the County Council. The homeowner did withdraw her claim. But, because of an appeal filed by another person, the public hearing was held and the King County Council upheld the Hearing Examiner's findings and recommendations.

Audit staff have concerns about Metro's agreement with the homeowner obliging her, as partial consideration for the \$25,000 payment, to withdraw her written appeal to the King County Council. Audit staff believe that it was unethical for Metro to use public funds to dissuade a person from expressing an opinion on a public issue and participating in the government process.

The audit recommended that King County should develop policies and procedures that guide management and staff in making temporary relocation payments to persons who are adversely impacted by government construction projects. King County should ensure that the practice of using public funds to dissuade members of the public from expressing their views and opinions or participating in public discussions, hearings, or other governmental processes, does not occur.

Finding 3 - In 1986, King County bought a lot for the Issaquah District Court which was later determined not to meet the requirements for the new district court building.

In 1986, King County bought a lot located in Issaquah, Washington for \$310,000. The lot was intended for a proposed new district court. King County Property Services Division relied on the seller's architectural schematic site plan and consultation with the permitting agency which indicated that the site was adequate for a court facility and related parking.

Subsequent architectural and programmatic reviews disclosed that the existing site was physically unsuitable for the court project in that it was too small to accommodate the proposed 7,860 square foot court facility and associated parking spaces. In addition, the City of Issaquah imposed new setback standards.

The lack of thorough and independent architectural and programmatic reviews for lot development prior to its purchase led the County to end up with a surplus lot and unnecessary costs.

The audit recommended prior to making an offer to purchase the property, the County Property Services Division should, when appropriate, conduct or secure an independent assessment and objective architectural and programmatic reviews of real property that it is interested in buying to ensure that the real property meets the project requirements.

Finding 4 - There was a discrepancy between some of Metro's actual individual property costs and the costs that were capitalized in Metro's financial records.

The Real Estate Section and the Fixed Assets Section maintained accounting records, including individual listings, for land and buildings owned by Metro. Audit staff noted that the sections' listings and property account balances as of December 31, 1994 were not reconciled. Fixed Asset Section staff believed that the differences in property balances could have been caused by errors in the closing of the completed work-in-progress account to various capitalized asset accounts, including land and building. On the other hand, the Real Estate Section had not contemporaneously accounted for complete costs of the real property acquisition and other incidental costs in its management information system.

The audit recommended King County should review, analyze, and reconcile the real property records maintained by its Fixed Assets and Real Estate Sections. Furthermore, King County should contemporaneously record in its management information system the costs incurred and other information relevant to the acquisition of real properties. King County's Fixed Asset Section should review its procedures in closing work-in-progress accounts to completed fixed asset accounts for completeness and accuracy.

Finding 5 - The Departments of Transportation and Natural Resources lacked written policies and procedures relating to acquisition of real property.

Effective January 1, 1996, the County Department of Transportation and the Department of Natural Resources have authority to acquire and manage real property and property interests

necessary for the metropolitan public transportation and water pollution abatement functions. The acquisition of real property by these departments is governed in State law. The County lacked written policies and procedures to guide management and staff in acquiring real property.

The audit recommended that the County should develop detailed written policies and procedures to highlight key acquisition policies and guidelines and prescribe additional procedures, including identifying department staff involved, their responsibilities, step-by-step procedures, and a minimum list of documents that should be maintained in acquisition files.

The audit also recommended that the Department of Transportation and Department of Natural Resources should develop written policies and procedures that highlight the key legal acquisition policies and guidelines and prescribe additional procedures to guide staff and management in acquiring real property.

Finally, the audit recommended that the Real Estate Section of the Department of Transportation and Natural Resources should develop a checklist which enumerates key procedures in acquiring real property and should be completed, including noting the date and the signature of assigned staff, when the required procedure is accomplished. The checklist of procedures should be prominently filed in the main acquisition property files.

Finding 6 - The Property Services Division made an initial offer to a property owner to purchase a Bellevue Eastgate property for \$1,550,000 without first securing an independent appraisal of the property.

In 1990, King County was interested in purchasing a Bellevue Eastgate Property for potential use as a health clinic facility. The County made an initial offer through an option to the owner to purchase the property for \$1,550,000, which was rejected by the owner. No records in the file indicated that the Property Services Division conducted or secured professional services to appraise the property to determine the fair market value of the property prior to making an offer to the owner. The assessed value of the property at that time could have been used by the County staff as a basis to establish the price in the initial offer.

The Property Services Division reviewed the seller-secured appraisal report and concurred with appraiser's determination of \$2,200,000 fair market value of the property. As a result, the County bought the property for \$2,200,000.

Under State law, if the property is worth more than \$2,500, the County should establish the fair market value for the property by independent and objective appraisal. The County made an initial offer of \$1,550,000 for the Bellevue Eastgate property without first securing an independent appraisal of the property.

The audit recommended that the County should secure an independent appraisal to determine the fair market value of the property prior to entering into negotiation.

The Property Services Division disagreed with the audit recommendation. They believed that requiring a full appraisal prior to negotiating any purchase option would eliminate a valuable tool the Division has for securing property for the County that may be lost by sale to outside parties.

Audit staff believe, however, that if the County's option to purchase included a specified price for the real property, the price should reflect the fair market value of the property at the time it is being negotiated to be acquired, and an independent appraisal of the property is necessary to determine the fair market value.

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