

(STATE OF WASHINGTON)
(COUNTY OF KING)

Janet Masuo, Deputy Records Manager, Seattle, Washington, being first duly sworn on oath, says that on March 18, 2016, notice of the hearing on Proposed Ordinance 2016-0099, set on Monday, April 4, 2016 at 1:30 p.m. in the King County Council Chambers, 1001 King County Courthouse, 516 Third Avenue, Seattle, WA, was sent by certified mail to the attached list of each and every property owner of record as indicated on the tax rolls of King County to the address provided on the tax rolls. A copy of the notice is also attached to this affidavit.

I DECLARE UNDER PENALTY OF PERJURY THAT UNDER THE LAWS OF THE STATE OF WASHINGTON THAT THE FOREGOING IS TRUE AND CORRECT.

Dated this 19th day of April, 2016.



Janet Masuo, Deputy Records Manager

Masuo, Janet

From: Noris, Anne
Sent: Friday, March 18, 2016 11:10 AM
To: Masuo, Janet
Subject: FW: Notices for Georgetown WWTS April 4 hearing at Council

Here are the rest of the addresses. Probably easiest and best to send the letters to everyone certified and regular and email. We can scan all the communications as one pdf for the file.

Anne Noris
Clerk of the Council
W 1200 516 3rd Ave.
MS KCC-CC-1200
Seattle, WA 98104-3272
v: 206-477-1024

This email is a public record and may be subject to public disclosure



Please consider the environment before printing this e-mail.

From: Oughton, Marla
Sent: Friday, March 18, 2016 10:42 AM
To: Noris, Anne <Anne.Noris@kingcounty.gov>
Subject: RE: Notices for Georgetown WWTS April 4 hearing at Council

Anne,
Per your request, please see the contact information below:

- Jeff Broihier with the Broadway Law Group (Mike Winters Attorney)
 - Email: jtb@bwseattlelaw.com
 - Mailing Address: 707 East Harrison, Seattle, WA 98102

- Alia Abboud (McDonald's USA Franchisee)
 - Email: abboudalia@aol.com
 - Mailing Address: 4521 SW Admiral Way, Seattle, WA 98116

- Glenda Hollenbeck (McDonald's USA NW and Pacific Sierra Region Property Manager),
 - Email: glenda.hollenbeck@us.mcd.com
 - Mailing Address: 15738 NW Graf St., Portland, OR 97229

Marla Rivas Oughton | Assistant to the Division Director | King County Wastewater Treatment Division
201 S. Jackson Street, Suite 500, Seattle, WA 98104 | MS: KSC-NR-0501 | 206-477-4435
<http://www.kingcounty.gov/environment/wtd.aspx>



From: Noris, Anne
Sent: Friday, March 18, 2016 9:17 AM
To: Oughton, Marla <Marla.Oughton@kingcounty.gov>
Subject: FW: Notices for Georgetown WWTS April 4 hearing at Council

Marla, can you help with this? we need the addresses asap.

Anne Noris
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MS KCC-CC-1200
Seattle, WA 98104-3272
v: 206-477-1024
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Please consider the environment before printing this e-mail.

From: Noris, Anne
Sent: Friday, March 18, 2016 9:16 AM
To: Bromley, Verna <Verna.Bromley@kingcounty.gov>; Mountsier, Beth <Beth.Mountsier@kingcounty.gov>
Cc: Brewer, Jim <Jim.Brewer@kingcounty.gov>; Herrin, Sharman <Sharman.Herrin@kingcounty.gov>; Masuo, Janet <Janet.Masuo@kingcounty.gov>; Blossey, Linda <Linda.Blossey@kingcounty.gov>; Soohoo, Wendy <Wendy.SooHoo@kingcounty.gov>
Subject: RE: Notices for Georgetown WWTS April 4 hearing at Council

Verna, thanks, this is very helpful.

Sharman, in light of this advice, can you please provide a mailing address for McDonald's and, if you have it, the franchisee? We will need that today so we can send out the letters this afternoon.

Thanks.

Anne Noris
Clerk of the Council
W 1200 516 3rd Ave.
MS KCC-CC-1200
Seattle, WA 98104-3272
v: 206-477-1024
This email is a public record and may be subject to public disclosure



Please consider the environment before printing this e-mail.

From: Bromley, Verna
Sent: Friday, March 18, 2016 8:59 AM
To: Mountsier, Beth <Beth.Mountsier@kingcounty.gov>
Cc: Brewer, Jim <Jim.Brewer@kingcounty.gov>; Herrin, Sharman <Sharman.Herrin@kingcounty.gov>; Noris, Anne <Anne.Noris@kingcounty.gov>; Masuo, Janet <Janet.Masuo@kingcounty.gov>; Blossey, Linda <Linda.Blossey@kingcounty.gov>; Soohoo, Wendy <Wendy.SooHoo@kingcounty.gov>
Subject: FW: Notices for Georgetown WWTS April 4 hearing at Council

Beth,

My responses to your questions are below in red. Jim has reviewed and agrees with the analysis below. I have to run off to a meeting this morning, but will be available this afternoon, should you have any additional questions. Thanks, Verna

Verna P. Bromley | Sr. Deputy Prosecuting Attorney | King County Prosecuting Attorney's Office |
Civil Division | 500 Fourth Avenue, 9th Floor, Seattle, Washington 98104 | (206) 477-1097

From: Mountsier, Beth
Sent: Thursday, March 17, 2016 1:31 PM
To: Brewer, Jim; Bromley, Verna
Cc: Herrin, Sharman; Noris, Anne; Masuo, Janet; Blossey, Linda; Soohoo, Wendy
Subject: Notices for Georgetown WWTS April 4 hearing at Council

Jim and Verna –

Just doing one more check in and verification regarding advertising and mailed notices for the condemnation hearing at the Council's April 4 meeting for the Georgetown WWTS properties. It would be helpful to have a response by 10am tomorrow morning before advertising is arranged and the notices go out.

A copy of RCW 8.25.290 Condemnation final actions — Notice required — "Final action" defined. is at the end of this email for reference. I have highlighted portions of it.

I have two issues or areas of questions.

Issue 1

The Clerk's office is planning to send certified mail notices (and regular mail) to the property owners tomorrow. The Clerk's office plans to send copies of the mailed hearing notices by email to the McDonalds USA and tenant/franchise owner who 'occupy' the Winters property.

1) Please verify there is no requirement for a mailed notice to the lease holder (McDonalds USA) and tenant/franchise owner. Technically I think only Winters Investment LP is entitled to certified mailed notice, as it is the property owner of record as indicated on the tax rolls. But I would err in sending certified mailed notice to McDonald's as well because it's interest in the property is recorded with the County recorder's office in a memorandum of lease. There is not a recorded interest of the franchise owner, so certified mailed notice to the franchisee is not required.

The statute requires that "certified mailed notice must be sent to each and every property owner of record as indicated on the tax rolls. If no address is provided for a property on the tax rolls of the county, then the potential condemnor shall conduct a diligent inquiry for the address for each and every property owner of record and send the notice to that address."

Here the tax rolls list only WINTERS INVESTMENT LP, but the County knows from its title report that McDonald's Corporation owns the building improvements on the site. A recorded memorandum of lease is referenced in the title report. So an argument can be made that McDonald's is a property owner (it owns the improvements) "of record" not because of the tax rolls, but because of the recorded memorandum of lease.

Issue 2

RCW 8.25.290 says “The notice must also describe the date, time, and location of the final action at which the potential condemnor will decide whether or not to authorize the condemnation of the property.”

I have bolded the issue/question that I have.

2) Must the Council take action on the date of the advertised hearing – since the statute says the hearing notice is for the date the “condemnor will decide whether or not to authorize the condemnation” ? We have interpreted “takes a final action” to mean the date on which the Council does take a final action on the ordinance. In this matter, the Council could take a final action approving the condemnation ordinance on April 4. So the notice should reference that date. If however, the Council delays action and does not act on April 4, then we recommend that a new 15-day notice be sent referencing the date on which the Council is intended to take action on the condemnation ordinance.

There are a number of outstanding issues with regard to PO 2016-0099. A member could ask for a courtesy delay of a week (or can they not ask for a delay?). I just want to understand what the statute requires.

In addition – I want to make sure the hearing notice is written correctly.

3) Is it ok that the hearing notice says the hearing will be held to “consider adoption” of PO 2016-0099? Yes that is fine.

The hearing notice as written says:

NOTICE IS HEREBY GIVEN, that a public hearing will be held before the Metropolitan King County Council, Room 1001, King County Courthouse, Seattle, Washington, on the 4th day of April at 1:30 p.m., to consider adoption of Proposed Ordinance 2016-0099 Georgetown Wet Weather Treatment Station Project Condemnation, authorizing the condemnation of real property to obtain easements, fee ownership, and other rights in property for the construction of the Georgetown Project, located in the Georgetown neighborhood of Seattle, Washington in King County. The King County parcel numbers that are the subject matter of this ordinance are 5367200447 and 5367200300.

SUMMARY

The Georgetown Project is needed to reduce combined sewer overflows into the Duwamish River and to protect public health and the environment. The property interests to be obtained are necessary for developing the project proposal and determining the site’s feasibility for construction of the treatment facility. The Georgetown Project is necessary for a public purpose and is in the best interest of the residents and wastewater ratepayers of King County.

A copy of Proposed Ordinance 2016-0099 will be mailed upon request to the Clerk of the Council, Room 1200, King County Courthouse, 516 Third Avenue, Seattle, WA 98104, telephone 206-477-1020. It is available on the Internet at

<http://mkcclegisearch.kingcounty.gov/LegislationDetail.aspx?ID=2561287&GUID=786EE33C-B52A-492A-95B8-E220A64307A5&Options=ID|&Search=2016-0099>

or http://www.kingcounty.gov/council/clerk/ordinances_advertised.aspx.

DATED at Seattle, Washington, this 23rd day of March 2016.

METROPOLITAN KING COUNTY COUNCIL
KING COUNTY, WASHINGTON

Anne Noris
Clerk of the Council

Thanks for your assistance with this matter.

Beth

Beth Mountsier I Senior Legislative Analyst I King County Council
206-477-0885 (o) I 206 -909-0583 (c) I 516 Third Avenue, Seattle, 98101 Please note new office phone
number.

This e-mail is a public record and may be subject to public disclosure.

From: Herrin, Sharman
Sent: Friday, March 11, 2016 3:46 PM
To: Mountsier, Beth <Beth.Mountsier@kingcounty.gov<mailto:Beth.Mountsier@kingcounty.gov>>
Subject: Georgetown on April 4 Council agenda

Beth – Looking at the applicable RCW below, 15-days notice by mail to the property owner is required. So April 4th is the earliest date for final action on Georgetown. Should probably check with your Clerk's office though.

RCW 8.25.290
Condemnation final actions — Notice required — "Final action" defined.

(1) The condemnor must provide notice as required by this section before:

(a) A state agency or other entity subject to chapter 8.04<<http://apps.leg.wa.gov/rcw/default.aspx?cite=8.04>>
RCW takes a final action to authorize the condemnation of a specific property;

(b) A county or other entity subject to chapter 8.08<<http://apps.leg.wa.gov/rcw/default.aspx?cite=8.08>>
RCW takes a final action deeming a specific property to be "for county purposes" as provided in RCW
8.08.010<<http://apps.leg.wa.gov/rcw/default.aspx?cite=8.08.010>>;

(c) A city or town or other entity subject to chapter 8.12<<http://apps.leg.wa.gov/rcw/default.aspx?cite=8.12>>
RCW takes a final action authorizing condemnation as provided in RCW
8.12.040<<http://apps.leg.wa.gov/rcw/default.aspx?cite=8.12.040>>;

(d) A school district or other entity subject to chapter
8.16<<http://apps.leg.wa.gov/rcw/default.aspx?cite=8.16>> RCW takes a final action selecting property for
condemnation as provided in RCW 8.16.010<<http://apps.leg.wa.gov/rcw/default.aspx?cite=8.16.010>>;

(e) Any other corporation authorized to condemn property takes a final action to authorize condemnation as
provided in RCW 8.20.010<<http://apps.leg.wa.gov/rcw/default.aspx?cite=8.20.010>>; or

(f) Any other entity subject to chapter 8.04<<http://apps.leg.wa.gov/rcw/default.aspx?cite=8.04>>,
8.08<<http://apps.leg.wa.gov/rcw/default.aspx?cite=8.08>>,
8.12<<http://apps.leg.wa.gov/rcw/default.aspx?cite=8.12>>,
8.16<<http://apps.leg.wa.gov/rcw/default.aspx?cite=8.16>>, or

8.20<<http://apps.leg.wa.gov/rcw/default.aspx?cite=8.20>> RCW takes any final action to authorize the condemnation of a specific property.

(2)(a)(i) Notice of the planned final action shall be mailed by certified mail to each and every property owner of record as indicated on the tax rolls of the county to the address provided on such tax rolls, for each property potentially subject to condemnation, at least fifteen days before the final action. If no address is provided for a property on the tax rolls of the county, the potential condemnor shall conduct a diligent inquiry for the address for each and every property owner of record and send the notice to that address. In case the property sought to be appropriated is school or county land, such notice shall be mailed to the auditor of the county in which the property sought to be acquired and appropriated is situated.

(ii) The notice must contain a general description of the property such as an address, lot number, or parcel number and specify that condemnation of the property will be considered during the final action. The notice must also describe the date, time, and location of the final action at which the potential condemnor will decide whether or not to authorize the condemnation of the property.

(iii) Mailing of the certified letter to the proper addressee or addressees is deemed to be sufficient notice under this subsection (2)(a).

(b)(i) Notice of a planned final action described in subsection (1) of this section shall also be given by publication in the legal newspaper with the largest circulation in the jurisdiction where such property is located once a week for two successive weeks before the final action. A second publication must also be given in the legal newspaper routinely used by the potential condemnor, where such newspaper does not also have the largest circulation in the jurisdiction. Proof of circulation shall be established by publisher's affidavit filed with the potential condemnor. Such publication shall be deemed sufficient notice in lieu of a certified letter for each property owner of record for the property whose address is unknown and cannot be ascertained after a diligent inquiry.

(ii) The notice published under this subsection (2)(b) shall contain the same information as is required under (a) of this subsection.

(3) In a condemnation action subject to this section in which a condemnee alleges insufficient notice under this section, the court may determine whether the condemnor made a diligent attempt to provide sufficient notice and issue a finding on the sufficiency of the notice. Lack of sufficient notice under this section shall render the subsequent proceedings void as to the person improperly notified, but the subsequent proceedings shall not be void as to all persons or parties having been notified as provided in this section, either by publication or otherwise. A potential condemnor may cure insufficient notice under this section by providing an additional sufficient notice prior to taking a new final action, and filing a new petition if one was previously filed, for condemnation for the property owner of record who received insufficient notice. In such a case, RCW 8.12.530<<http://apps.leg.wa.gov/rcw/default.aspx?cite=8.12.530>> shall not apply and a subsequent proceeding may be filed sooner than one year after discontinuance.

(4)(a) For potential condemnors subject to chapter 42.30<<http://apps.leg.wa.gov/rcw/default.aspx?cite=42.30>> RCW, the open public meetings act, "final action" has the same meaning as that provided in RCW 42.30.020<<http://apps.leg.wa.gov/rcw/default.aspx?cite=42.30.020>>.

(b) For state agencies not subject to chapter 42.30<<http://apps.leg.wa.gov/rcw/default.aspx?cite=42.30>> RCW, the office of the attorney general shall publish procedures that define "final action" for state agencies to ensure that property owners of record are provided with notice and opportunity for comment before the agency makes a final decision to authorize the condemnation of specific property.

(c) For all other entities subject to chapter 68, Laws of 2007, "final action" means a public meeting at which the entity informs potentially affected property owners of record about the scope and reasons for a potential condemnation action. A meeting must be held in each county where property being considered for condemnation is located. The meeting must be open to the public and conducted by a duly authorized representative of the entity.

[2007 c 68 § 1.]

Masuo, Janet

From: Noris, Anne
Sent: Thursday, March 17, 2016 10:42 AM
To: Masuo, Janet; Mountsier, Beth
Cc: Blossey, Linda
Subject: GWWTS condemnation.docx
Attachments: GWWTS condemnation.docx

You probably have already done this, but here are all the addresses we got from WTD.

Anne Noris

Clerk of the Council
W 1200 516 3rd Ave.
MS KCC-CC-1200
Seattle, WA 98104-3272
v: 206-477-1024

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WINTERS INVESTMENT LP
Attn: Mike Winters
PO BOX 80462
SEATTLE WA 98108

WINTERS INVESTMENT LP
Attn: Mike Winters
6145 4TH AVE S
SEATTLE WA 98108-3216

chromonaut@aol.com
jtb@bwseattlelaw.com

EAST MARGINAL TT LLC
Attn: Robby Tonkin and Frank Tonkin Jr.
3300 MAPLE VALLEY HWY
RENTON WA 98058

EAST MARGINAL TT LLC
Attn: Robby Tonkin and Frank Tonkin Jr.
6442 EAST MARGINAL WAY S
SEATTLE WA 98108
RTonkin@TacoTimeNw.com

Email copy of notice to:

- Alia Abboud (McDonald's USA Franchisee), abboudalia@aol.com
- Glenda Hollenbeck (McDonald's USA NW and Pacific Sierra Region Property Manager), glenda.hollenbeck@us.mcd.com

METROPOLITAN KING COUNTY COUNCIL
NOTICE OF PUBLIC HEARING
2016-0099

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DATED at Seattle, Washington, this 23rd day of March 2016.

METROPOLITAN KING COUNTY COUNCIL
KING COUNTY, WASHINGTON

Anne Noris
Clerk of the Council