



Legislation Text

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Clerk 09/16/2022

AN ORDINANCE related to financial investment properties; and amending Ordinance 10245, Section 6, as amended, and K.C.C. 4.56.075, and Ordinance 12045, Section 17, as amended, and K.C.C. 4.56.180.

STATEMENT OF FACTS:

1. Ardagh Glass Inc. is the current tenant of the county-owned financial investment properties located at 5409 Ohio Avenue S (Tax Parcel 1924049051), 5427 Ohio Avenue S (Tax Parcel 1924049043) and 5801 E Marginal Way S (Tax Parcel 1924049002), Seattle, Washington.
2. The current lease is set to expire on February 1, 2023.
3. The facilities management division successfully negotiated a new lease for the county-owned financial investment properties with Ardagh Glass Inc. and Ordinance xxxxx (Proposed Ordinance 2022-0280) would authorize the executive to enter into the lease agreement.
4. The new lease term would provide an option to extend the lease beyond ten years. However, current exceptions in K.C.C. 4.56.180.A. that permit the county to enter into a lease agreement beyond ten years for county-owned properties are not applicable to the terms of the new lease with Ardagh Glass Inc.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. Ordinance 10245, Section 6, as amended, and K.C.C. 4.56.075 are hereby amended to read as follows:

- A. The facilities management division shall determine which real properties within the inventory of

county-owned properties shall be considered "financial investment properties," including those properties classified as such in Ordinance 15570. All financial investment properties shall be inventoried at least every three years to coincide with the appraisal valuations required by this section. These properties are currently not needed for county use but are held to provide a financial return to the county. It is the ultimate objective of the county to dispose of this type of property. Disposal should not occur until optimal market conditions exist for maximizing financial return to the county.

B. All financial investment properties shall have an initial value established by an appraisal performed by an independent appraiser, except that for any financial investment property with an apparent value of less than five hundred thousand dollars, in lieu of an independent appraisal, the initial value may be established by the facilities management division.

C. Except as provided in subsection E. of this section, all financial investment properties with values of less than five hundred thousand dollars shall be revalued by independent appraisal or by the facilities management division every three years from when the initial value was established until the property is no longer owned by the county. If a financial investment property increases in value to more than five hundred thousand dollars, it is subject to the provisions in subsection D. of this section.

D. All financial investment properties with values of greater than five hundred thousand dollars shall be valued by an independent appraiser. Except as provided in subsection E. of this section, these properties shall be revalued every three years from when the initial value was established until the financial investment property is no longer owned by the county.

E. When existing leases provide for rental adjustments at greater than three year intervals, the revaluations required by subsections C. and D. of this section shall be performed no more than one year prior to the scheduled rental adjustment.

F. All appraisals of financial investment properties shall address the following factors:

1. Current market conditions and trends that affect the value of the property;

2. Potential market conditions;
3. Value of any improvements on the property;
4. Impact on property value of temporary and permanent encumbrances upon the property such as leases, easements and any other arrangement which encumbers any portion of the property; and
5. Any other factors that in the professional judgment of the appraiser affect the value of the property.

G. A proposal to dispose of a financial investment property shall be based upon an independent appraisal that has been performed within the past twelve months. A financial investment property shall be sold if analysis of its income producing potential and current market sales conditions demonstrates that a greater return to the public will be provided through sale of this property.

H. Financial investment properties shall be disposed of in accordance with this chapter. In no case shall a financial investment property be sold for less than its appraised value or a value that reflects the income producing analysis required in subsection G. of this section, whichever is higher. Any financial investment property that is under consideration for sale or exchange, or to be otherwise disposed of shall be evaluated by the executive for suitability to support transportation, and for each parcel that is proposed to be sold, exchanged or otherwise disposed of, a report containing the evaluation for transportation purposes shall be transmitted to the council with the necessary legislation authorizing disposal of the property.

I. In order to ensure that financial investment properties that are retained by the county provide the optimal return, all lease renewals and extensions shall be authorized by ordinance. ~~((Any financial investment property that is under consideration for sale or exchange, or to be otherwise disposed of shall be evaluated by the executive for suitability to support transportation, and for each parcel that is proposed to be sold, exchanged or otherwise disposed of, a report containing the evaluation for transportation purposes shall be transmitted to the council with the necessary legislation authorizing disposal of the property.))~~

J. If the financial investment property to be leased is necessary to support or expand an adjacent manufacturing facility, not owned by the county, the financial investment property may be leased to the owner

of the adjacent manufacturing facility for a term not to exceed twenty years if:

1. The owner of the adjacent manufacturing facility agrees to implement modifications and improvements to enhance the environmental performance of the adjacent manufacturing facility; and
2. The extended term is reasonably necessary to amortize the cost of those modifications and improvements for the lessee.

K. With each inventory of the financial investment properties as required by subsection A. of this section, the facilities management division shall provide the council with a copy of the inventory. The inventory shall be electronically filed with the clerk of the council, who shall retain an electronic copy and provide an electronic copy to all councilmembers, the council chief of staff, and the lead staff to the budget and fiscal management committee, or its successor. The inventory shall include for each financial investment property:

1. The physical address;
2. The tax parcel number;
3. The council district in which the property is located;
4. The name of the lessee, if any, and number of years remaining on the lease; and
5. The current value and the year in which the most recent appraisal was completed.

~~((K-))~~ L. If, in accordance with subsection A. of this section, the facilities management division determines that a property no longer should be considered a financial investment property and should be removed from the inventory of such properties, at least sixty days before removing a property from the financial investment property inventory, the facilities management division shall notify the council in writing. The notification shall be electronically filed with the clerk of the council, who shall retain an electronic copy and provide an electronic copy to all councilmembers, the council chief of staff and the lead staff for the budget and fiscal management committee, or its successor.

SECTION 2. Ordinance 12045, Section 17, as amended, and K.C.C. 4.56.180 are hereby amended to

read as follows:

A. The county may lease real property for a term of years and upon such terms and conditions as may be deemed in the best interests of the public and the county. A lease shall not be for a longer term in any one instance than ten years, except as follows:

1. If the county determines it to be in the best interest of the county, real property necessary to the support or expansion of an adjacent facility may be leased to the lessee of the adjacent facility for a term to expire simultaneously with the term of the lease of the adjacent facility, but not to exceed thirty-five years;

2. If the county determines it to be in the best interest of the county, if the property to be leased is improved or is to be improved and the value of the improvement is or will be at least equal to the value of the property to be leased, the county may lease the property for a term not to exceed thirty-five years;

3. If the property to be leased is to be used for public recreation and police training purposes, for parks and recreation purposes, for a hospital or a medical training and research facility, for a childcare facility to be improved with full or partial funding from a government-sponsored childcare bonus program, for the county's own use in accordance with a lease or leaseback arrangement entered into under K.C.C. 4.56.160.E., for major airport, industrial, office or other commercial purposes or transit-oriented development, requiring extensive improvements or by a nonprofit organization for a facility in which the nonprofit organization will provide some or all of the social and health services as listed in RCW 43.83D.120, the county may lease the property for a term equal to the estimated useful life of the improvements, but not to exceed fifty years; unless the property is leased to a public housing authority or nonprofit organization in accordance with RCW 36.34.135, in which case the term may extend to seventy-five years; ~~((and))~~

4. Leases entered into under K.C.C. 4.56.160.D. may extend for the period of years necessary to amortize the special purpose funds, not to exceed twenty-five years; and

5. Leases entered into under K.C.C. 4.56.075 may extend for the period of years necessary to support or expand an adjacent manufacturing facility, not owned by the county, not to exceed twenty years.

B. The lessee shall not improve or alter the leased property in any manner without the prior written consent of the county, but shall, before making improvements or alterations, submit plans and designs for the improvement or alteration to the county for approval. If the plans and designs are disapproved, the improvements or alterations shall be made only with such changes as may be required by the county. Unless otherwise stipulated, all improvements or alterations erected or made on the leased property shall, on expiration or sooner termination of the lease, belong to the county without compensation to the lessee, but the county shall have the option, to be exercised on expiration or sooner termination of this lease, to require the lessee to remove any or all of the improvements or alterations. If the lessee fails substantially to make the improvements or alterations required by the lease, the lease shall be terminated and all rentals paid shall be forfeited to the county. All green building requirements in K.C.C. chapter 18.17, except the annual reporting requirements in K.C.C. 18.17.070.B., shall apply to all new, renewed or extended leases of county-owned property that go into effect after March 21, 2022. The requirements shall be included in lease agreements managed by the department of executive services, facilities management division. The department of local services, permitting division, may review for compliance with the requirements during review of building permit applications.

C. Except for lease or leaseback arrangements entered into under K.C.C. 4.56.160.E., any lease made for a period longer than five years shall contain provisions requiring the lessee to permit the rents to be adjusted and fixed by the county every five years, but any lease may provide for more frequent readjustments. If the lease permits the county to adjust the rent, the county shall give the lessee written notice of the adjusted rent, in accordance with the terms of the lease. The rent as adjusted shall take effect thirty days after the date of the notice unless the lessee, within thirty days following the receipt of the notice from the county, gives the county written notice of the lessee's rejection of the adjusted rent. If the lessee and the county cannot agree upon the rental readjustment, the rent shall be adjusted by arbitration. For arbitration, the lessee and the county shall each select one disinterested arbitrator and the two selected arbitrators shall select a third. If the two arbitrators have not selected a third arbitrator within thirty days after the selection of the last selected of the two, either the

lessee or the county shall apply to the presiding judge of the superior court for King County for the appointment of a third arbitrator. Each arbitrator must be a member of the American Institute of Real Estate Appraisers, the Society of Real Estate Appraisers or other appraisal society or association having equivalent ethical and professional standards. If a licensing requirement for real estate appraisers is imposed by any legislative body, each arbitrator shall also be so licensed. The three arbitrators shall determine a fair rent for the premises based upon the fair market rental value of the property, as defined in K.C.C. 4.56.010. The decision of a majority of the arbitrators shall bind both the lessee and the county. At the conclusion of the arbitration, the arbitrators shall submit written reports to the lessee and the county. The cost of the arbitration shall be divided equally between the lessee and the county.

D. Except as provided in K.C.C. 4.56.150.D. and E. and 4.56.160.D., the rent of all leases of county real property shall be based upon fair market rental value, as defined in K.C.C. 4.56.010.

E. No lease shall be assigned or subleased without the assignment or sublease being first authorized by the county in writing. All leases, when drawn, shall contain this provision.

F. Notwithstanding the other provisions of this chapter and following such procedures as may be determined appropriate by the council, the executive may enter into long-term master leases of county property under which developers: would develop the property into office and other space required or approved by the county; would lease some of space back to the county and may lease space unneeded by the county to private or public entities for private or public uses as approved by the county council; and would convey all leasehold improvements to the county at the expiration or termination of the master leases. A master lease shall be subject to approval by the council.