

King County, Washington
Wastewater Treatment Division

Property Acquisition and Relocation Information



*For Businesses, Farms,
and Non-profit
Organizations*

April 2004



King County

Department of Natural Resources and Parks
Wastewater Treatment Division
Right-of-Way & Permits

*Property Acquisition and Relocation Information for
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INTRODUCTION

This booklet has been prepared to help explain the acquisition process used by King County's Wastewater Treatment Division (WTD). It also describes relocation information as set forth in the federal Uniform Relocation and Real Property Acquisition Policies Act, (the Uniform Act), as it applies to displaced business and farm owners, non-profit organizations and tenants. A companion booklet has been developed that describes the acquisition and relocation process for residential owners and tenants.

In planning wastewater system facilities, WTD strives to be a good neighbor and has developed an acquisition and relocation process that is fair and equitable. The information in this booklet will help you understand more about the process and how WTD works with property owners to minimize any disruption or inconvenience.

If all or some portion of the property you own or occupy must be acquired by WTD, a member of our real estate team will contact you to discuss the process in more detail.

ACQUISITION OF PROPERTY

Introduction

Quality wastewater treatment is essential to protect public health and the environment. King County provides wastewater treatment services to citizens of King County and to parts of Snohomish and Pierce counties. In order to maintain and expand the wastewater treatment and conveyance system, sometimes WTD must purchase property for its treatment plants, pipelines, pump stations, and related facilities.

In addition to acquiring property, the county often needs to purchase “easements,” or the right to use property owned by another person for a particular purpose. For example, some people have an easement for a driveway on a neighbor’s property. For King County, this could include easements to cross private property for access, drainage, utilities, pipeline or tunnel crossings.

Typically, the property King County WTD can acquire falls into three categories:

- **Temporary construction easements:** This type of easement is used when WTD needs access to property for only a short time, typically less than a year. WTD purchases a temporary construction easement from the property owner to use the easement area for a specific period of time and for specific activities. Easement areas are restored after construction is complete.
- **Permanent utility easements:** Many times pipelines and tunnels will be constructed within existing public rights of way. When it is not possible to stay on public rights of way the county may need to purchase the rights to permanently cross or use a piece of private property. These easements are used for permanent pipelines, tunnels or other facilities. These easements will always specify the width and location of the easement.
- **Ownership:** Sometimes WTD will need to buy (outright purchase) an entire piece of property or a portion of property to construct a permanent facility such as a treatment plant, construction site, portal or pump station.

The remainder of this booklet focuses on procedures and benefits where WTD purchases entire pieces of property.

WTD's real property acquisition procedures are designed to provide consistent and equitable treatment of all affected property owners and tenants. Relocation assistance will be provided to eligible owners or tenants who are displaced as a result of an acquisition in accordance with federal law (See Relocation Benefits and Services). WTD staff and agents are available to assist owners and tenants and to answer questions.

Determining Purchase Price

In most cases property owners will be aware of the possibility that WTD may be interested in their property, either through public notices about a specific project or because WTD has contacted them about an impending action. In some cases WTD may need to contact you as part of a preliminary investigation or feasibility study that may or may not lead to an offer to purchase property.

Owners of property that might be needed by WTD will be notified and will be asked for permission to access the property for appraisal and investigation purposes. If WTD determines that it will need to acquire property, then WTD will offer an amount determined to be "just compensation" for the land and improvements. The value is determined by an independent real estate appraiser based on fair market value.

The appraiser will consider all appropriate methods to determine a value. Any increase or decrease in the value of the property resulting from public knowledge of the project will be disregarded in the valuation process.

After a determination of just compensation is made, a WTD representative will meet with the owners to present an offer to purchase the property. They will be prepared to explain the details of the offer.

The offer will be in writing and will include an acquisition summary statement describing the basis for the amount of the offer. Property owners will be provided a reasonable opportunity to consider and respond to the offer.

Payments and Benefits

After the purchase and sale agreement is signed by the property owner and is authorized by WTD, an escrow account will be opened. An escrow officer will obtain all necessary releases of liens and, with the assistance of WTD, will prepare all documents for transfer of title.

WTD will pay all normal expenses of sale, including escrow fees, title insurance, prepayment penalties, mortgage release fees, recording fees and other typical costs incurred that are part of conveying title. In most cases, the seller will not be responsible for paying real estate excise tax on the sale. WTD will not pay any real estate commissions.

Under certain conditions, property owners may not have to pay federal income tax on some or all of the amounts paid to the property owner by WTD. Property owners should check with their tax advisors to determine the benefits that may be available.

The transaction will close at the earliest possible time. Funds remaining after payment of mortgages, judgments, taxes and other liens will be released to the property owners at the close of escrow.

Even though WTD has the power of eminent domain (the right to acquire property for public use upon payment of just compensation), whenever possible, WTD will try to acquire property through voluntary negotiations. If it is necessary to use eminent domain, the process used to determine just compensation and applicable relocation services and benefits will still apply.

Moving from the Property

In some cases, an owner or tenant may be required to move from the property as a result of the acquisition. This move may be temporary or permanent. A written notice will be given to any owner or tenant at least 90 days prior to the moving date.

The following section provides additional information regarding relocation services, assistance, and moving benefits that will be provided by WTD to eligible owners and tenants.

RELOCATION BENEFITS AND SERVICES

In most cases, people will be eligible for relocation assistance if they are forced to move from the property they occupy, either as an owner or a tenant, as a direct result of a written notice from WTD that the property will be acquired. WTD will apply the statutory guidelines of the Uniform Act to determine if the owners or tenants qualify for relocation assistance.

Owners and tenants become eligible for relocation assistance on the day WTD makes a written offer to buy the property they are occupying.

If an owner or tenant is required to move, written notice will be given at least 90 days in advance of the date people are required to move. In many cases more than 90 days notice will be given. The notice will either state the earliest day they will be required to move, or it will state that they will receive additional notice at least 30 days in advance of the date by which they must move.

There may be times when WTD acquires property where owners or tenants do not have to move. For example, when WTD is only acquiring a portion of the property that is not being occupied or is acquiring construction or access easements. Some relocation benefits may still be available in these cases if personal property must be relocated.

Even if you are notified that WTD will acquire the property you occupy, you should not move or move any personal property from the land until you receive WTD's written offer to purchase your property or notification of eligibility for relocation benefits.

Also, before moving, you will need to sign a "Moving Expense Relocation Agreement." If you move without signing this agreement, you may jeopardize your entitlement to relocation assistance.

We suggest you talk with a WTD real estate representative before moving to learn about your options and benefits. This way you will be sure to receive all benefits to which you may be entitled.

WTD will work with displaced people to facilitate a move that causes the least amount of disruption. Once WTD has made payment for the property, occupants will be required to rent from WTD if they choose to remain on the property.

The Uniform Act states that people need not report relocation payments as part of their gross income for Federal Tax purposes. For information on State or local taxes, individuals should check with the State or local income tax officials in their area or with their personal tax advisor.

In most cases, people will be reimbursed for relocation expenses after they have moved or incurred an eligible expense. However, in some cases, progress payments (payments made prior to the completion of the relocation) can be made if WTD determines that it is necessary.

Filing Claims for Relocation Benefits

All claims for relocation benefits must be filed with WTD within 18 months after:

- The date you move from the acquired property, if you are a tenant; or
- The date you move or the date you receive final payment for your property, whichever is later, if you are an owner.

Relocation Advisory Assistance

For eligible displaced businesses, farm operations or non-profit organizations, a WTD representative is available to:

- Explain relocation assistance and payments available, eligibility requirements, and procedures for obtaining assistance.
- Determine the relocation needs and preferences for specific businesses and operations.
- Provide information on the availability, purchase prices, and/or rental costs for suitable replacement sites. This information may be useful in obtaining and becoming established in a replacement location.
- Provide advice as to other sources of assistance and technical help.

It is important to understand that the law does not require WTD to find a replacement for a business or farm operation. WTD will offer assistance, but ultimately it is the business owner's responsibility to locate a suitable replacement site.

Moving Options

You may move yourself, be professionally moved, or choose a combination of both. For any of these moving options, you can select to be paid for direct moving expenses (including reestablishment and related moving expenses), based on county approved moving estimates.

Alternatively, if you meet certain requirements, you may select a fixed payment move that is based upon your average annual net earnings for the last two years. The maximum payment is \$20,000 and the minimum payment is \$1,000.

These different reimbursement and benefit options are explained more fully in the next section.

Types of Relocation Payments

Relocation payments are broken down into four types listed below.

1. Direct Moving Expenses
2. Reestablishment Expenses
3. Related Moving Expenses
4. Fixed Moving Payment

Direct Moving Expenses

Costs reimbursable as Direct Moving Expenses

Eligible expenses for moving personal property include:

- Transportation costs for distance up to 50 miles.
- Packing, crating, unpacking, and uncrating.
- Disconnecting, dismantling, removing, reassembling, and reinstalling relocated machinery, equipment, and other personal property.
- Modifications to personal property required by code.

Packing and Crating includes only the work necessary to accomplish the move of the personal property. This may include the cost necessary to box, bundle, or palletize the personal property.

Reinstallation of equipment includes connection to utilities. This may include installing utilities from the relocated equipment to the box or meter depending upon your particular situation. Reinstallation also includes modifications to the equipment necessary to adapt it to the replacement structure, site, or utilities, or adapting the utilities at the replacement site to the relocated equipment.

Costs not reimbursable as direct moving expenses

- Modifications or improvements made to the replacement real property are not reimbursable as direct moving expenses.

Reestablishment Expenses

Costs reimbursable as Reestablishment Expenses

You may be eligible to receive a payment, not to exceed \$50,000, for all expenses actually incurred in reestablishing your business at a replacement site. These may include, but are not limited to, the following:

- Repairs or improvements to the replacement real property as required by local law, code, or ordinance.
- Modification to the replacement property to accommodate the business operation.
- Construction and installation costs for exterior signing to advertise the business.
- Provision of utilities from the right of way to improvements on the replacement site.
- Redecoration or replacement of soiled or worn surfaces at the replacement site, such as paint, paneling, or carpeting.
- Licenses, fees, and permits when not paid as part of moving expenses.
- Feasibility surveys, soil testing, and market studies.
- Advertisement of replacement location.
- Professional services in connection with the purchase or lease of a replacement site.

- Estimated increased costs of operation during the first two years at the replacement site for such items as:
 - a. Lease or rental charges
 - b. Personal or real property taxes
 - c. Insurance premiums
 - d. Utility charges
 - e. Impact fees or one-time assessments for anticipated heavy utility usage.

***Note:** Payment of Reestablishment Expenses cannot be made to a part-time business in the home, which does not contribute materially to the household income.*

Related Moving Expenses

In addition to Direct Moving Expenses, people may be eligible to receive a payment for related moving expenses, including:

- **Replacing printed material and business items**
Expenses to replace existing stocks of printed materials and business items made obsolete by the move that require an address or phone number change are eligible for reimbursement. This includes such items as invoices, stationery, business cards, and promotional items.
- **Search expenses**
Expenses incurred in searching for a replacement property not to exceed \$1,000 are eligible for reimbursement. Expenses may include transportation, meals, and lodging when away from home; reasonable value of the time spent during search; fees paid to real estate agent, broker, or consultants; and other expenses determined to be reasonable and necessary by WTD.
- **Loss of tangible personal property or purchase of substitute personal property.**
Expenses incurred if personal property is abandoned or replaced as result of your move or if you discontinue your operation are eligible for reimbursement.

If you choose to **abandon** an item of personal property rather than relocating the item, the payment is based upon the lesser of (1) the cost to move the item, or (2) the value of the item for continued use at the displacement site, less any proceeds from the sale of the item.

If you choose to promptly **replace** an item of personal property rather than relocating the item, the payment is the lesser of the cost to move the item, or the cost of providing the substitute item, less any proceeds from the sale of the item. A county representative will explain these options in greater detail if you are faced with this situation.

- **Insurance for the move**

Expenses incurred for property insurance for its full replacement value (over and above the mover's standard coverage) in connection with the move are eligible for reimbursement.

- **Licenses, permits, and certificates**

Licenses, permits, or certification requirements that are eligible for reimbursement are those that are required to operate the business. The payment will be based upon the remaining useful life of the existing license, permit, or certification. **Eligible expenses do not include** general occupancy licenses, occupancy permits, building permits, or one-time assessments that any business would have to pay for occupancy of the property, except as provided under reestablishment expenses.

- **Planning expenses**

If your move is particularly large or complex, you may wish to hire a professional to help with: (a) planning the move of your personal property, (b) moving your personal property, or (c) installing your relocated personal property.

Planning expenses include only those expenses necessary to plan the move, placement, and layout of the personal property. Planning expenses are eligible for reimbursement only if they are pre-approved by WTD.

- **Supervision expenses**

Supervision expenses for your time to supervise the move are eligible for reimbursement. Supervision is sometimes necessary to direct the placement of personal property and to facilitate the moving process. Your time to supervise the move is limited to no more than the length of time it would take a professional mover to complete the actual physical move. All expenses must be actual, reasonable, and necessary, as determined by WTD.

- **Temporary storage**

You may be eligible for the cost to store your personal property in a commercial storage facility. Storage expenses, up to 12 months, will be eligible for reimbursement **only if they are considered reasonable and necessary** by WTD and if pre-approved by WTD.

Fixed Moving Payment

A displaced business may be eligible to choose a fixed payment instead of payment for Direct and Related Moving Expenses and Reestablishment Expenses. A WTD representative can help you calculate which payment option provides you with the most benefit and meets your needs. If you choose the Fixed Moving Payment option you will be ineligible to receive reimbursement of any other relocation expenses.

For you to be eligible for a Fixed Moving Payment, your business must move and you must meet the following requirements:

- You must have personal property to move and you must actually move from the displacement site.
- Relocating your business will result in a substantial loss of existing patronage.
- Your business at the displacement site must not be solely for the purpose of renting a dwelling or site to others.
- Your business must have contributed materially to your income during the two taxable years prior to displacement.
- Your operation must not be part of a larger commercial enterprise having more than three other entities which are not being acquired by WTD, and which are under the same ownership and engaged in the same or similar business activities.

CALCULATION OF THE FIXED MOVING PAYMENT

The fixed payment is based upon the average annual net earnings of your operation for two taxable years immediately preceding the taxable year in which you were displaced.

Example:

2000 Annual Net Earnings:	\$8,000
2001 Annual Net Earnings:	\$10,000
2002:	(Year Displaced)
Average:	\$9,000 Fixed Payment

You must provide information to WTD to support your claim. Proof of net earnings can be documented by providing copies of income tax information as reported to the IRS.

For a nonprofit organization, the amount of the fixed payment is based on the average of two years annual gross revenues less administrative expenses.

Examples of relocation expenses that are not reimbursable

- The cost of moving items not considered to be personal property. WTD cannot pay you to move any items considered to be part of the real estate or any personal property or real estate purchased by WTD as part of the real estate acquisition.
- Loss of business, profits, good will, or trained employees (includes loss due to downtime).
- Personal injury.
- Additional operating expenses because of operating in a new location, except as allowed as reestablishment expenses.
- Any legal fee or other cost for preparing a claim for a relocation payment or for any appeal of your relocation benefits.
- Physical changes to real property at the replacement location except as allowed as reestablishment expenses.
- Costs for storage on real property already owned or leased by you.

COMPLAINTS AND APPEALS

If you disagree with WTD's decision as to your eligibility for relocation payments or the amount of any relocation payment, then you may appeal the decision to the county. The county will advise you of its appeal procedures. Your appeal must be in writing. You will have 60 days to file your appeal with the county after you receive written notification of the county's determination on your claim.

DEFINITIONS

Appraisal

An estimate of the value of a piece of property as of a particular date. Also called valuation.

Appraiser

A person who estimates value of a piece of property, especially an expert qualified to do so by training and experience.

Business

The term “business” means any lawful activity, except a farm operation, that is conducted:

1. Primarily for a) the purchase, sale, lease, or rental of personal or real property; b) the manufacture, processing, or marketing of products, commodities, or any other personal property; or c) any combination of these activities;
2. Primarily for the sale of services to the public;
3. Primarily for outdoor advertising display purposes, when the display must be moved as a result of the project; or
4. By a nonprofit organization that has established its nonprofit status under applicable federal or state law.

Condemnation

Taking private property for public use through the government's power of eminent domain.

Easement

The right to use some part of another person's property for a particular purpose.

Eminent Domain

The government's constitutional power to take (or condemn) private property for public use, as long as the owner is paid just compensation.

Farm operation

The term “farm operation” means any activity conducted solely or primarily for the production and/or sale of one or more agricultural products or commodities, including timber, and customarily producing such products or commodities in sufficient quantity to be capable of contributing materially to the operator’s support.

Just Compensation

The compensation that the Constitution requires the government to pay a property owner when the property is taken under the power of eminent domain. The legal theory is that in order to be “just”, the property owner should be no richer or poorer than before the taking.

Nonprofit organization

The term “nonprofit organization” means an organization that is incorporated under the applicable laws of a state as a nonprofit organization, and exempt from paying federal income taxes under section 501 of the Internal Revenue code (26 U.S.C. 501).

Public Right of Way

Typically it is a publicly owned strip of land which is used as a roadbed, utility corridor, or trail. It may be an easement or it may have been purchased outright.

Real Property

Lands and anything permanently affixed to the land, such as buildings, and fences.

Title

Lawful ownership of property. Also, the deed or other document that is evidence of that ownership.

Uniform Act

The term “Uniform Act” means the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970 (84 Stat. 1894; 42 U.S.C. 4601 et seq.; Pub. L. 91-646), and amendments thereto. WTD will use the Uniform Act to determine eligibility for relocation benefits and services.



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