

**PORT OF SEATTLE**  
**MEMORANDUM**

**COMMISSION AGENDA**

**Item No.** 5a  
**Date of Meeting** April 28, 2009

**DATE:** April 22, 2009

**TO:** Tay Yoshitani, Chief Executive Officer

**FROM:** Joe McWilliams, Managing Director, Real Estate

**SUBJECT:** Removal of deed restrictions from former Port property located in the Lower Industrial Development District prior to its sale to Thorvald Hurlen in 1978.

**ACTION REQUESTED**

Request for the Port Commission to authorize the Chief Executive Officer to execute all documents necessary to remove deed restrictions on the Riverside Property (defined below and map attached) no longer required under RCW Chapter 53.25.

**SYNOPSIS**

On May 23, 1978, the Port Commission adopted Resolution No. 2737 deleting from the Lower Duwamish Industrial Development District (LDIDD) Port property consisting of a portion of the abandoned bed of the Duwamish Waterway, outside the 500 foot mark, and adjacent to the intersection of South Riverside Drive and 7<sup>th</sup> Avenue South in King County (Riverside Property), and authorizing its sale. The sale was subject to the procedures for properties in the LDIDD provided in Chapter 53.25 of the Revised Code of Washington (RCW). At the time, the RCW procedures required a restriction in the transfer deed limiting use of the Riverside Property to industrial or maritime purposes, but subject to any future amendment or repeal of the statute eliminating the requirements. On October 10, 1978, the Riverside Property was sold to Thorvald Hurlen (Hurlen) with the required use restrictions, including the Port's right to enforce the restrictions and cancel the sale.

Earlier this year, the City of Seattle (City) filed a condemnation action to obtain title to property owned by Hurlen that is contiguous to the Riverside Property. Hurlen's neighbor, Mark Hansen (Hansen), filed a third party claim in the condemnation action against Hurlen and the Port, claiming title by adverse possession to a portion of the Riverside Property. The claim against the Port stems from the Port's reversionary interest under the deed restrictions.

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In 1989, RCW Chapter 53.25 was amended to permit the deletion of land from the LDIDD without imposing use restrictions, so long as the land was not acquired with funds raised by the Port through the industrial development district levy. The Riverside Property was transferred to the Port at no cost when Commercial Waterway District No. 1 was dissolved. As a result of the statutory amendment and the provisions in the transfer deed, the Port's reversionary interest is no longer necessary. By formally removing the Port's restrictions from the deed, the Port will be dismissed from a lawsuit in which it has no interest.