Responses to Questions from 619 Western Building Tenants

August 2011

The following list of questions and answers was generated in response to recent changes in the relocation timeline for 619 Western Building tenants. Responses are divided into two sections. The first section addresses questions about WSDOT's continued commitment to provide relocation assistance to tenants. The second section addresses the Seattle Department of Planning and Development's determination that tenants must vacate the building earlier than would have been required as part of construction to replace the Alaskan Way Viaduct.

Tenant relocation questions

1. **What recourse do master tenants have when subtenants don't pay rent?**
   Relocation assistance supports moving and reestablishing tenants in a replacement location. WSDOT does not have a role in private lease agreements that exist within the building.

2. **Did DPD work with WSDOT to determine the new relocation timeline?**
   DPD made its determination about the future of the building independently. However, DPD and WSDOT did work together to develop a timeline that would meet DPD's goal of vacating the building as soon as possible, while still taking into consideration WSDOT's commitment to provide relocation assistance to tenants.

3. **When will contractors be paid by WSDOT to move specialized items?**
   Relocation specialists will minimize out-of-pocket costs for displaced tenants by, whenever possible, compensating contractors directly.

4. **What happens if a tenant's new space is not available by Oct. 1?**
   If a tenant's new space is not available on Oct. 1, WSDOT will pay to store property for up to six months. The costs of moving property from storage to the new space will also be covered by WSDOT.

5. **Would a temporary storefronts count as storage?**
   No. Spaces that allow tenants to operate their business do not qualify as storage.

6. **How are contractors chosen?**
   Relocation specialists will work with tenants to select contractors. Although each individual tenant's situation is unique, contractors typically are chosen through a competitive bidding process.

7. **What happens if a tenant wants to move to a space that is a long distance away?**
   WSDOT will cover expenses for moves within 50 miles. Compensation for moves of longer distances will be determined on a case-by-case basis.

8. **How does a tenant qualify as a business?**
   To qualify as a business for relocation purposes, a tenant must meet the following definition and report business income on an annual tax return that you will be required to provide to WSDOT. Definition of a business per WAC 468-100-002(4):

   > Primarily for the purchase, sale, lease, and/or rental of personal and/or real property, and/or for the manufacture, processing, and/or marketing of products, commodities, and/or any other personal property; or primarily for the sale of services to the public; or primarily for outdoor advertising display purposes, when the display must be moved as a result of the project; or by a nonprofit organization that has established its nonprofit status under applicable federal or state law.

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9. **Will WSDOT reimburse for loss of income if space is not available?**
   Per WAC 468-100-301(8)(d) a displaced person is not entitled to payment for a loss of profits or a loss of goodwill. Relocation assistance supports moving and reestablishing the business in a replacement location.

If you have questions about WSDOT relocation assistance, please contact Cyndi Whelpley at whelplC@wsdot.wa.gov or 206-440-4175.

Questions about DPD's decision to require vacation of the building by Oct. 1

1. **What is the definition of public assembly?**
   Per Section 303.1 of the Seattle Building Code, an assembly is "the use of a building or structure, or a portion thereof, for the gathering of persons for purposes such as civic, social or religious functions; recreation, food or drink consumption or awaiting transportation." Please note that any gathering of persons for the listed purposes is an assembly use. Based on the number of people and or the specific use, an occupancy classification is assigned, but they are all assembly uses. Additional information regarding occupancy classifications is available here.

2. **What changed for DPD in the last three months?**

   Nothing has changed. We learned of the owner's failure to repair the building earlier this year, inspected the building, performed research on this and other buildings damaged in the Nisqually earthquake and then reached a decision about what action should be taken. We also consulted with WSDOT on when tenants of the building would become eligible for relocation assistance.

3. **Why did the order coincide with negotiations between WSDOT and the building owners?**

   Negotiations between WSDOT and the owners were not a consideration in our decision.

4. **Why did it take eight or nine years until DPD conducted this inspection? Who required the inspection?**

   Unfortunately DPD did not follow up on some of the 569 structures citywide that were yellow-tagged after the earthquake. When WSDOT contacted us to discuss their plans for stabilizing the building during the tunneling we became aware that the building had been yellow-tagged but had not been repaired. We then researched our records and learned that we had 15 yellow-tagged buildings with no record of repairs. We inspected all of the buildings and learned that 13 of the buildings had been repaired and we had simply not been notified. The 619 Western building and one other remained unrepaired.

5. **What scale of seismic event would affect the building?**

   Unknown. If the engineers who have evaluated the building for settlement issues have determined that minimal settlement could cause the building to collapse, then it would appear ground movement from a very small event could cause serious problems and would certainly affect the building. What is also clear is that an event the size of the Nisqually earthquake caused significant damage to the building and we know the ground motions for that event were fairly low in the downtown area so any new event similar in magnitude to the Nisqually event would be a real problem for this building and could cause collapse.

6. **Why not require the building owner by law to make repairs?**

   The owner has been informed that continued occupancy of the building will require repairs. The owner has an option to either repair the building or discontinue occupancy.

7. **Why wasn't an emergency order issued?**

   Emergency orders are issued when there is an imminent hazard. It was the judgment of the engineers involved that there was no imminent hazard and therefore a Hazard Correction Order was the more appropriate action to take.

8. **Is there an appeal process for the October first deadline?**

   There is no formal administrative appeal mechanism for a Hazard Correction Order.

9. **Can tenants sign a waiver to stay in the building?**

   No.

10. **Could tenants potentially leave items in the building after Oct. 1, if they aren't able to move them out prior to that date?**

    Yes, if the owner agrees, tenants may leave items in the building after Oct. 1, as long as they are not working in the building or showing their wares. They can remove them at any time prior to the move out requirements of WSDOT and the owner. Only one or two artist will be allowed to remove their items at any one time after the Oct. 1 date. This will naturally occur given that there being only one elevator in the building, but if not, some sort of structured move out will need to occur that limits the number of occupants in the building at any one time.

Questions for DPD should be directed to Andrew Lunde (Lunde.Andrew@seattle.gov, 206-733-9267) or Steve Burns (Burns.Steve@seattle.gov, 206-684-7736).