

COMMISSION AGENDA

Item No: 6A
Meeting Date:
June 8, 2021

DATE: May 27, 2021

TO: Port of Tacoma Commission

FROM: Eric Johnson, Executive Director

PRESENTERS: Scott Francis, Port Real Estate Director

SUBJECT: Request Commission authorization for Port to pursue unlawful detainer litigation for Premises located at 3502 Lincoln Ave, Tacoma, WA

A. ACTION REQUESTED

Request Commission approval for the Port to file litigation where the Port is the party plaintiff to allow the Port to pursue unlawful detainer relief in response to Port month to month tenant's non-payment of rent for a term of nine months, with past due amount of \$28,717.01 as of June 1, 2021.

The Port's Master Policy Delegation of Authority Resolution 2021-08-PT at Section VI. *Policies Governing Legal Activities*, provides that the Executive Director shall first seek Commission approval prior to the Port initiating litigation as a party plaintiff. For purposes of this section, "litigation" shall mean the assertion of any position, right or responsibility by or against the Port which may reasonably lead to or has been filed in any court of general jurisdiction, be it state or federal, or any quasi-judicial or administrative forum.

B. SYNOPSIS

The Port seeks to work with its tenants with the goal of being partners to their success. The remedy of litigation is one of last resort. In this instance, the Port has worked extensively with the Lessee to address past due payments, without success, including entering into a payment plan to address past due amounts. No payments have been made since Lessee agreed to the Payment Plan. The Port seeks authorization to pursue unlawful detainer relief, to remove the tenant, seek recoupment of amounts due and re-let the Premises.

C. BACKGROUND

The Port of Tacoma ("Port") entered into a month to month Lease dated July 21, 2020 with Exquisite Mobile Detail LLC ("Lessee") ("Lease") for premises located at 3502 Lincoln Ave, Tacoma, WA.

Lease terms require monthly payments due on the first day of each month in the amount of \$3427.63 including rent, leasehold excise tax, and surface water fees. Lack of payment is cause for termination pursuant to Section 17(a) of the lease, which states in part: "Lessee fails to pay any installment of rent or any other amount

due under this Lease and such failure is not cured within ten (10) days after Lessee's receipt of written notice thereof from Lessor."

The Port issued the following notices to Lessee:

- 30-day past due notice sent on or about October 20th, 2020.
- 60-day past due notice sent on or about November 20th, 2020.
- 90-day past due notice sent on or about December 28th, 2020.
- Subsequent past due notices sent on about the 20th of each month.

The Port offered a Payment Plan, which was approved by Lessee on March 23, 2021. The Payment Plan required regular monthly rent payments plus catch up payments of \$2,993.39 with interest to bring the account current by September 15, 2021.

Since execution of the Payment Plan, no monthly payments and/or catchup payments have been paid. As of June 1, 2021, the account currently has a past due balance of \$28,717.01.

On May 14, 2021, the Port issued a ten-day notice to pay rent or vacate and has received no communication, response, or payment.

D. NEXT STEPS

Upon Commission authorization, the Port will pursue unlawful detainer relief, to remove the tenant, seek recoupment of amounts due and re-let the Premises. The Port will also remain open to a resolution short of litigation if that opportunity presents itself.