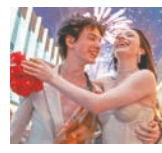


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Judge to balance interests

Dec. 20 hearing is latest in case between Kitsap Bank, Fort Worden PDA

BY JAMES ROBINSON

Jefferson County Superior Court Judge Brandon Mack said at a Dec. 20 hearing that he would craft a new order to better balance the interests of Kitsap Bank and the receiver he put in place with the needs of Fort Worden Public Development Authority (PDA), its tenants and the park's ultimate owner, the taxpayer.

"We can't have people working for free, and we can't have every asset that's available to us just go to pay the professionals while the park languishes," Mack said, adding that he would put language in the order that requires payment of "reasonable and necessary" operational and maintenance expenses, along with administrative expenses.

Mack's order was not available for review by press time Dec. 23.

The hearing and order came following a flurry of filings, including motions and counter motions, in the Kitsap Bank versus Fort Worden Public Development Authority (PDA) case. Key issues include extending the deadline on negotiations for the PDA master lease with the Washington State Parks and Recreation Commission, payment for professional services and who is financially responsible for park maintenance and upkeep.

Mack, who put the PDA into receivership on Oct. 4 and named Elliott Bay Asset Solutions as the receiver, approved a 90-day extension on Dec. 2 for the receiver to come up with a new business model for Fort Worden. Part of that model included the receiver negotiating terms of the state's master lease. But Mack granted the extension ex-parte, a legal term meaning for the benefit of one party, which triggered a response

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PDA: Tenants say they can't plan for 2025

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from the Washington State Attorney General's Office, the catalyst for the Dec. 20 hearing.

"The reason we're here is because the parties were blindsided by this ex-parte motion," said Andy Woo, assistant attorney general.

Representatives for Centrum and Fort Worden Hospitality, who were also present, said the extension had made it impossible for them to plan and prepare a budget for 2025, preventing them from taking deposits or approving contracts.

"We were glad to have the opportunity to demonstrate harm to us if decisions were deferred until March — that is an unworkable situation for most of the businesses at Fort Worden and, as the State said in their objection, it was tantamount to the Receiver demanding to have their cake and eat it too," wrote Robert Birman, Centrum's executive director, in an email to the Leader.

"What is clear to me is that Elliott Bay wanted all of the authority and little

to none of the responsibility," wrote Birman. "That seems in opposition to the point of a PDA."

During the proceedings, an attorney for the receiver said that Fort Worden and the PDA had been mismanaged, was "hopelessly insolvent" and that "no restructuring can occur with this lease intact."

"The receiver cannot assume this lease," he said. "The PDA is in the position it is today because of this lease. This lease would have been crippling."

Mack's decision to put PDA assets into receivership followed a complaint filed by Kitsap Bank on Sept. 27 that plans were underway for the PDA to be dissolved that didn't include the repayment of \$6.2 million for previous loans. Since then, the receiver has been tasked with finding ways to recoup the money, with the bank paying an average of \$310 an hour for the firm's services.

In addition to writing an order intended to balance the interests of the state and the receivership, Mack also approved two motions for payment

of professional services to Elliott Bay Asset Solutions.

According to court documents, the receiver has billed \$218,704 for professional services for the months of October and November.

Mack said the parties would revisit his order in January, to ensure that negotiations were continuing and that bills were getting paid.

Meanwhile, Centrum's ability to plan for 2025 remains unclear.

"The judge's decisions on Friday seemed to affirm State Parks' prerogative to now decide what it desires with respect to future operations at the Fort," wrote Birman. "The Parks Commission has been a forthright and reliable partner with Centrum since 1973, and we are comfortable proceeding into the new year if the Commission decides to return to an operating model akin to what was in place before the PDA was created. We plan to make decisions regarding opening enrollment for our 2025 programs as soon as possible in the new year, hopefully by mid month."